



CANADA

# House of Commons Debates

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VOLUME 135 • NUMBER 154 • 1st SESSION • 36th PARLIAMENT

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OFFICIAL REPORT  
(HANSARD)

**Wednesday, November 18, 1998**

**Speaker: The Honourable Gilbert Parent**

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# HOUSE OF COMMONS

Wednesday, November 18, 1998

The House met at 2 p.m.

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*Prayers*

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• (1400)

**The Speaker:** As is our practice on Wednesday we will now sing O Canada, and we will be led by the hon. member for Saint John.

*[Editor's Note: Members sang the national anthem]*

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## STATEMENTS BY MEMBERS

*[English]*

### MULTIPLE SCLEROSIS

**Mr. Joe McGuire (Egmont, Lib.):** Mr. Speaker, there certainly are times when perseverance pays off. A classic example of this is Margaret Penwarden from Victoria West, which is in my riding of Egmont in Prince Edward Island.

Margaret was diagnosed with multiple sclerosis almost three years ago. She started taking Betaseron in July 1996. This drug produced a substantial improvement in her condition. The problem, however, was that Betaseron was a very expensive drug, with an average annual cost of approximately \$17,000. Even with a drug plan she had to pay \$6,000 out of her own pocket.

Many P.E.I. MS sufferers had no drug plan and therefore could not afford the drug. Margaret, supported by the Atlantic division of the MS Society of Canada, started a crusade to have these drug costs covered by the provincial health plan.

While it was a long and arduous fight, ranging from a letter writing campaign to an actual sit-in at the provincial legislature, Margaret and her MS sufferers eventually prevailed. In October of this year the provincial government finally announced that the cost of Betaseron and three other MS treatment drugs would, in part, be covered under the provincial plan.

### EMPLOYMENT FUND

**Mr. Monte Solberg (Medicine Hat, Ref.):** Mr. Speaker, I recently received the following letter from the owner of Toby Theatre & Video Rental in Invermere, B.C.: "Regarding this EI fund that our government thinks it has a right to use however it sees fit, what really upsets me is the fact that high school students who work for me have to pay EI even though the government admits that they are eligible to collect EI but do not qualify as long as they are going to school. Doing this to a group of Canadians that do not even have a vote is, if not legal fraud, certainly moral fraud. As to the rest of the EI fund, it belongs to the workers and business people of this country and not to the federal government. I think that it should be given back to the people that it is"—euphemistically—"borrowing it from, especially our young people".

It is signed by Ron Peters, Invermere, B.C., and it is well said.

**The Speaker:** I would remind all hon. members that we cannot use words in here which are used by someone else which we ourselves are not permitted to use. I would caution all members in their statements.

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### NATIONAL CHILD DAY

**Mr. John Godfrey (Don Valley West, Lib.):** Mr. Speaker, Friday, November 20 marks the sixth anniversary of National Child Day, a day to increase awareness and understanding of healthy child development.

As chair of the National Children's Agenda Caucus, I believe that by providing a warm, loving and responsive environment for young children our society can provide a better and more promising future for children.

November 20 was chosen as National Child Day because it is the anniversary of two historic events for children: the United Nations Declaration of the Rights of the Child in 1959 and the United Nations adoption of the Convention on the Rights of the Child in 1989. The convention recognizes children's basic human rights, protects them from harm and addresses the important role of the family in bringing up children.

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But National Child Day does something else. It reminds us that all children need love and respect to grow to their full potential. That is why healthy child development is everyone's concern and responsibility.

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**HOLOCAUST**

**Ms. Elinor Caplan (Thornhill, Lib.):** Mr. Speaker, I am honoured today to pay tribute to the 50 holocaust survivors seated in the gallery of the House of Commons. They are here representing all Canadian holocaust survivors.

These distinguished men and women who survived unimaginable horrors have contributed to making Canada the greatest country in the world.

These heroes in the gallery today and other holocaust survivors living throughout Canada have moved forward to help us learn from the past. They have seen, firsthand, the consequences of discrimination and have pledged to do their part to see it is erased forever.

While many would have simply given up, these brave Canadians are working to eradicate discrimination, bigotry, hatred and violence that we still face today.

• (1405)

They want us to learn from our mistakes so that we may enter the next century free from the intolerances of the past.

I would ask all members of the House to join me in thanking these heroes in our presence. Only if the horrors are never forgotten can we say "Never again".

*[Editor's Note: Members rose and applauded]*

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**HOLOCAUST**

**Mr. Joseph Volpe (Eglinton—Lawrence, Lib.):** Mr. Speaker, I too today rise to honour these survivors of the holocaust. The Canadian Society for Yad Vashem today honours these survivors.

Canada has been enriched by the decision of those survivors who have made our country their home. Theirs has been no mean contribution. After a dehumanizing challenge unparalleled in history, after losing property, family and friends, these men and women, survivors of the worst infamy perpetrated by humanity on its own kind, came to Canada to seek out a society wherein they could help build regard for tolerance, respect for diversity and the elimination of discrimination and bigotry.

Their lives in Canada read like a model of good citizenship. In short, they came, they saw and they made a difference, in business, in education and in community building.

I am proud to be associated with true heroes like those in the gallery and like my constituents, Alex Grossman, Elas Chandler, Fanny Silberman and my good friend Michael Rosenberg. Like all other Canadians, I thank them.

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**RIGHTS AND FREEDOMS**

**Mr. Jake E. Hoepfner (Portage—Lisgar, Ref.):** Mr. Speaker, on November 11 Canadians honoured and remembered the sacrifices that veterans made to protect our freedom.

World War II veteran, Stuart Scott, a Radville, Saskatchewan farmer was fined \$1,500 on November 6 and was ordered to surrender his 1988 car to Canada Customs for moving four bags of hullless, waxy barley into the U.S. According to Mr. Scott, "While I was fighting for the freedom of my country, my country took my freedom away".

Students have been pepper sprayed for protesting against a dictator and farmers have been jailed for selling their own grain. History can only judge this government harshly for neglecting to protect the freedom for which so many Canadians fought and died.

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*[Translation]*

**ELECTION CAMPAIGN IN QUEBEC**

**Mrs. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** Mr. Speaker, there is no doubt about it now: a PQ government would keep working for another four years at preparing the next referendum and promoting Quebec's separation.

It is clear. The leaders debate enlightened Quebecers on the future of Quebec. On the PQ side, there is this will to hold a referendum and to work hard to make it happen. They want to expend time, effort and money to this end and ultimately achieve separation, even if it goes against the interests of Quebecers, who object to a referendum.

So, let us be clear: a vote for the PQ is a vote for holding a referendum. And a vote for the Liberal Party is a vote for economic growth and a better quality of life in Quebec.

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**MARGUERITE-ROSE PESANT-BÉDARD**

**Mr. René Laurin (Joliette, BQ):** Mr. Speaker, I am pleased to congratulate Marguerite-Rose Pesant-Bédard of Notre-Dame-des-Prairies on being awarded the Governor General's Caring Canadian Award at an official ceremony held last Sunday at the Quebec Citadel.

The founding president of the Quebec fibromyalgia association, Mrs. Pesant-Bédard has conducted research, participated in television programs, helped her members stand up for their rights, organized funding drives, published a newsletter and performed

other most helpful tasks to bring hope and comfort to persons with fibromyalgia.

Mrs. Pesant-Bédard deserves our admiration for her remarkable dedication and exceptional community spirit, which do the citizens of my riding of Joliette, and indeed all Quebeckers, proud.

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#### ELECTION CAMPAIGN IN QUEBEC

**Mr. Yvon Charbonneau (Anjou—Rivière-des-Prairies, Lib.):** Mr. Speaker, two days ago I was wondering which Lucien Bouchard would be turning up at the leaders' debate, which was held last evening.

• (1410)

Now we know. We were treated to a Lucien Bouchard who repeated his commitment to a referendum, provided he would win. First ambiguity.

We were also treated to a Lucien Bouchard who did not dare remind people that his party's reason for being is sovereignty and independence. Not a word on that. Second ambiguity.

We were treated to an ambiguous Bouchard, one who was on the defensive and, if re-elected, promises another period of political uncertainty and unproductive confrontation.

On the other hand, we saw very clearly that a vote for the Liberal Party is a vote for a strong Quebec, one that is open to the world, a Quebec which believes that the best way to develop fully is within Canada.

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[English]

#### CANADIAN WHEAT BOARD

**Mr. Charlie Penson (Peace River, Ref.):** Mr. Speaker, Canada sends observers to third world countries to make sure elections are fair and above board.

Canada recently supervised elections in Chiapas to ensure, among other things, the principle of a secret ballot. Yet in Canada the Canadian Wheat Board is holding elections for board members and every single ballot is identified with a number on the return envelop.

Stephanie Mainil, who lives in Saskatchewan, is No. 8-8948. Her father is 8-8938. If this happened in Mexico everyone would suspect intimidation and tampering. Added to this problem is the matter of ballots being sent to people who have been dead for several years.

Now we hear that the minister is going to appoint the scrutineers for this election. In a democracy it is the candidates who appoint

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the scrutineers. Is it any wonder why farmers are complaining that this whole process is corrupt?

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[Translation]

#### ELECTION CAMPAIGN IN QUEBEC

**Mr. Claude Drouin (Beauce, Lib.):** Mr. Speaker, Lucien Bouchard finally showed his true colours last night. He did not hesitate one second in announcing that, in a coming PQ mandate, the Government of Quebec would do everything possible to hold another referendum on Quebec independence.

If the PQ received another mandate, the separatists would again set to work to convince the people of Quebec that separation is the way to go, and they are prepared to use any means to achieve it.

The problem is that the people of Quebec do not want this referendum. In order to fend off this threat, the people of Quebec should give a majority vote to the Liberal Party so that attention can finally be focussed on the real priorities, which are health, education and employment.

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[English]

#### THE ECONOMY

**Mr. Chris Axworthy (Saskatoon—Rosetown—Biggar, NDP):** Mr. Speaker, Canada's economy is falling behind. We are drifting to the bottom of the class in innovation and R and D investment.

Our productivity growth in recent years has been the lowest of the G-7 and we have the second lowest investment in R and D of all the G-7.

The Liberals have presided over an economy that has failed to invest in new skills and technologies that are the basis for success for the future, thus handing Canada's economic competitors a huge advantage.

The time has come for this government to recognize that we cannot afford as a country to continue with the policies that deepen our innovation and productivity gap. Canadians are asking why this government has presided over this travesty and when it will do something about it to improve the lives of Canadians and ensure they have the resources to pay for the social programs we all need.

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[Translation]

#### MONTREAL ECONOMY

**Mr. Benoît Sauvageau (Repentigny, BQ):** Mr. Speaker, a number of federalists even among Quebeckers take pleasure in disparaging Quebec's and more specifically Montreal's economic potential.

*Oral Questions*

These federalists envisage the worst possible scenarios, which they link to the so-called political uncertainty in Quebec.

Ironically, it was a Toronto paper that brought the doomsayers back into line.

Last week, the *National Post* reported that Montreal had resumed its role as Canada's business capital. While Toronto lost 119 head offices in 10 years, Montreal increased the number of big businesses in its environs by 6%.

The evidence speaks for itself: business people, investors and Quebecers are no longer impressed by alarmist and apocalyptic talk.

I would therefore like to congratulate the PQ government on its efforts to revitalize Quebec and Montreal's economy.

I too am confident.

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[English]

**DRUGS**

**Mr. Greg Thompson (New Brunswick Southwest, PC):** Mr. Speaker, November 15 to 22 is Drug and National Addictions Awareness week. Ironically, it is also the week that the Minister of Health brings into this place the bill allowing tobacco manufacturers to lure our young Canadian people into a lifestyle of addiction, specifically tobacco usage.

• (1415)

The tragic use of tobacco and illicit drugs by young Canadians is clearly on the rise. For example, in Nova Scotia the number of students using illicit substances has doubled in the past seven years. In my home province of New Brunswick a survey conducted last spring of 3,925 public school students reported that 31% had used cannabis and 56% had used alcohol. What is even more frightening is that most of the students when asked said they did not need help.

The Government of Canada must take a leadership role in combating youth addiction. We can begin today in this—

**The Speaker:** The hon. Leader of the Opposition.

**ORAL QUESTION PERIOD**

[English]

**HEALTH CARE**

**Mr. Preston Manning (Leader of the Opposition, Ref.):** Mr. Speaker, let us talk about the Liberal assault on health care: thousands of hepatitis C victims hung out to dry, 188,000 sick

people on the waiting list, 1,400 doctors have left the country in the last two years, and \$7 billion in transfer cuts to the provinces.

How bad does the record have to get before the health minister acknowledges that he has a problem?

**Hon. Allan Rock (Minister of Health, Lib.):** Mr. Speaker, Canadians across the country are concerned about the future of medicare. They have seen changes in recent years. They have seen cutbacks. The government has made it clear that the era of cuts is over.

The Prime Minister has made it clear that health care will be the subject of our next major reinvestment. We have said that in the next budget the government will reinvest the dividends that we have earned through years of fiscal discipline.

**Mr. Preston Manning (Leader of the Opposition, Ref.):** Mr. Speaker, no one believes these Liberal stock answers any more. Canadians are looking at what the Liberals have done to health care, not what they say.

Financial transfers from the health minister to the provinces are at an all time low. Federal funding for Ontario hospitals alone has fallen from 50% of federal funding to 11.5%.

With \$10.4 billion in the bank why have the Liberals not done anything to follow up on their so-called number one priority?

**Hon. Allan Rock (Minister of Health, Lib.):** Mr. Speaker, we have done a great deal, from the health transition fund to the \$1.5 billion increase in the transfer last year, to increases in health research in the last budget. I urge the Leader of the Opposition to await the next budget to see proof of our commitment to this reinvestment.

On the subject of transfers, since he refers to Ontario let the record show that the tax cuts which Ontario chose to implement instead of paying off its deficit have cost \$4 billion in revenue. That is the real source of the problem that Harris and his crew are having.

**Mr. Preston Manning (Leader of the Opposition, Ref.):** Mr. Speaker, the minister defends his own abysmal record by attacking others, but it was the Liberal government that cut the \$7 billion in transfers. This minister is the one who is responsible for 188,000 sick people being on waiting lines.

I want to know how long those waiting lines have to get—250,000, 300,000 or 500,000—before the minister acknowledges he has a problem that he is not fixing.

**Hon. Allan Rock (Minister of Health, Lib.):** Mr. Speaker, quite apart from the errors in the numbers cited by the leader of the Reform Party, I think there is something more significant that Canadians should focus on, which is the irony of the leader of the Reform Party standing in the House to ask about the state of medicare.

*Oral Questions*

Canadians will remember that he is the man and that is the party which promised to amend the Canada Health Act to provide for what they call a choice. We know what they mean. They want American style health insurance. They want American style health care. We are here to say that we shall never throw away medicare like the Reform would do.

**Mr. Grant Hill (Macleod, Ref.):** Mr. Speaker, talk about mixing up numbers. Does the minister not know that the Harris government raised finances for medicare? I am sure he knows that.

The government is sitting on a \$10 billion surplus and yet we have the longest waiting lines in Canadian history. The government is sitting on a \$10 billion surplus and yet we have doctors leaving the country.

How big does the surplus have to get and how long does the waiting line have to get before the minister will act?

• (1420)

**Hon. Allan Rock (Minister of Health, Lib.):** Mr. Speaker, it is hard to take the member seriously because we know he has no commitment to medicare and no commitment to the Canada Health Act.

It was the Liberal government that introduced the Canada Health Act. It was the Liberal government that invented national medicare in the country, and it is this Liberal government that will show once again its commitment to the principle of the Canada Health Act when it tables its budget next year and follows through on the Prime Minister's commitment to demonstrate that health care will be the subject of our next major re-evaluation.

**Mr. Preston Manning (Leader of the Opposition, Ref.):** Mr. Speaker, the health minister attacks the commitment of the member for Macleod to health care, but let us make a comparison.

The member for Macleod spent seven years in medical school. He spent 25 years as a practising surgeon seeing 25 sick people per day. The lawyer turned health care minister, the closest he got to health issues was chasing ambulances in Toronto.

**Some hon. members:** Hear, hear.

**Some hon. members:** Oh, oh.

**Mr. Preston Manning:** I have a question, Mr. Speaker. If you were a sick person, to which of these two members would you go?

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[Translation]

**BUDGET SURPLUS**

**Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ):** Mr. Speaker, the numbers are in: after six months, the federal budget

surplus has reached \$10.4 billion, with half of that amount coming from the employment insurance fund. Also, the auditor general has already stated that the minister does not have the right to take money out of the employment insurance fund. It is both illegal and immoral.

When will the Minister of Finance tell us whether he will comply with the auditor general's advice or amend the act to get his way?

**Hon. Paul Martin (Minister of Finance, Lib.):** Mr. Speaker, what the government is doing is implementing the recommendations of the auditor general who, in 1986, told the previous government that it should consolidate the employment insurance fund in the government's consolidated fund.

**Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ):** Mr. Speaker, if the government wants to follow the auditor general's advice, how about acting on his comments of the past two years to the effect that the minister has no right to take money out of the employment insurance fund, which is money contributed by workers? That is what the auditor general said.

Is the minister, a ship salesman, going to wait until the holiday season, when the House is not sitting, to tamper with the figures in an illegal and immoral fashion, so he can avoid our questions?

**Hon. Paul Martin (Minister of Finance, Lib.):** Mr. Speaker, since we took office, we have lowered employment insurance premiums every year. It is our intention to continue to do so in the future, and also to reduce taxes for Canada's middle class and invest in growth sectors.

**Mr. Yvan Loubier (Saint-Hyacinthe—Bagot, BQ):** Mr. Speaker, there are always limits. Is the minister going to understand that the employment insurance surpluses belong to the unemployed who were denied benefits and to the contributors who overpaid?

I would like him to answer the following question: What does he want to do with the billions of dollars he has accumulated on the backs of the unemployed? Let him answer us today and not slip us a lump of coal on December 23 when the House is not sitting.

• (1425)

**Hon. Paul Martin (Minister of Finance, Lib.):** Mr. Speaker, I have just answered. We intend to lower contributions, to lower taxes, to lower the debt and to invest in the sectors of the future, to build a growth economy—the economy that last month created over 51,000 new jobs.

**Mr. Yvan Loubier (Saint-Hyacinthe—Bagot, BQ):** Mr. Speaker, the Minister of Finance is working on a good one: minuscule drops in the EI contribution rates. Then he will take off with most of the surplus and reduce taxes for the rich.

*Oral Questions*

Does the Minister of Finance know that the ministers, the members and certain professionals do not pay into the employment insurance plan? Does he not find it shameful that the unemployed are being made to pay for the ministers' reductions in taxes?

**Hon. Paul Martin (Minister of Finance, Lib.):** Mr. Speaker, last year, we reduced contributions by \$1.5 billion. That may not be a lot of money to the Bloc, but it is a huge amount to Canadians.

As a result, over the first 10 months of 1998, 321,000 new jobs were created. Planned investments, housing starts and all Canadian economic indicators point to an upswing. Things are fine in Canada.

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[English]

**HUMAN RIGHTS**

**Mr. Svend J. Robinson (Burnaby—Douglas, NDP):** Mr. Speaker, my question is for the Minister of Foreign Affairs.

United States Vice-President Al Gore spoke out strongly at the APEC summit in support of Malaysians like Irene Fernandez fighting for democracy and fighting against the repressive internal security act and other gross human rights violations.

Why is Canada's Prime Minister silent on these issues and is instead defending Malaysia's great democratic elections? Does Canada support Gore's call for democracy, or will we let Bombardier and other corporate interests silence the prime minister in Malaysia just as they have done in China and in Asia?

**Hon. Lloyd Axworthy (Minister of Foreign Affairs, Lib.):** Mr. Speaker, as usual the hon. member has provided a very selective and a very mistaken interpretation of what was there.

I was in Malaysia and met directly with Irene Fernandez, with Anwar's wife and with a whole series of people who have been detained in prison. We raised those issues with the ministers of the Malaysian government. The Prime Minister just said that he raised those issues with Mahathir himself. Unlike the hon. member who is full of bluster and rhetoric, we get down to business and raise the real issues.

**The Speaker:** I would ask members to be very judicious in their choice of words during question period, both in their questions and in their answers.

**Mr. Svend J. Robinson (Burnaby—Douglas, NDP):** Mr. Speaker, the minister knows the Prime Minister did not raise those issues with Mahathir.

My supplementary question is for the solicitor general. Today is the day of truth for this minister at the APEC inquiry. My colleague, the hon. member for Palliser, has sworn under oath an affidavit documenting the minister's prejudging of the outcome of the inquiry.

Will the minister swear his own affidavit and finally come clean with Canadians about exactly what he did say on that Air Canada flight?

**Hon. Andy Scott (Solicitor General of Canada, Lib.):** Mr. Speaker, I have filed an affidavit.

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**TAXATION**

**Mr. Scott Brison (Kings—Hants, PC):** Mr. Speaker, yesterday the finance minister told the House that disposable incomes had increased between 1996 and 1997. He failed to tell the House that disposable incomes have actually decreased between 1997 and 1998.

Under his leadership taxes are higher, take home pay is down and consumer debt is at an all time high. Does the minister understand that by using high taxes to pad his books and by relying on a high tax policy, the future of Canadians' prosperity has been completely destroyed?

• (1430)

**Hon. Paul Martin (Minister of Finance, Lib.):** Mr. Speaker, I am sure the hon. member knows that the net worth of Canadians has increased year after year under this government. The Canadian standard of living has also increased substantially under this government. We did bring taxes down, \$7 billion over the next three years in the last budget, and we will continue to do that. What we are doing is coming down from the mountain of taxes created by the previous government.

**Mr. Scott Brison (Kings—Hants, PC):** Mr. Speaker, the minister is wrong.

The fact is under his leadership Canadians are paying higher taxes than they have ever paid before and the poorest Canadians are paying the highest tax burden under his leadership.

He used to call the GST a regressive tax. In fact, he has used the GST to help pay off his deficit. The same policies he criticized as an opposition critic he has used to pay off the deficit.

Will he reduce taxes now and give Canadians the future they deserve?

**Hon. Paul Martin (Minister of Finance, Lib.):** Mr. Speaker, if I understood the hon. member correctly, he just said the government is using the GST to help pay off the deficit.

When the Conservatives introduced the GST they said it was to reduce the deficit. They set up a deficit reduction plan.

What we are doing is what his government set up. He is now objecting to it and I can understand why he would object to what his government had set up. But the big difference is that they clucked about it and we eliminated it.



*Oral Questions***HEALTH CARE**

**Mr. Keith Martin (Esquimalt—Juan de Fuca, Ref.):** Mr. Speaker, if the health minister had one of his loved ones on a waiting list suffering or dying, he would be singing a different tune today.

This government has been saying for five years that it wants to fix health care. Instead it has eviscerated it to the tune of \$7 billion.

Let us see if it has proof behind those convictions. How much of this \$10 billion surplus will the minister put back into health care?

**Hon. Allan Rock (Minister of Health, Lib.):** Mr. Speaker, it is apparent that when all else fails they will resort to empty rhetoric. When all else fails and they cannot make their points on the merits, they resort to that kind of imagery.

We have made clear that health care will be the subject of the next major reinvestment of this government. We have shown even through the difficult last five years a continuous resolve in the area of health whether through increasing funding to health research, increasing the transfers by \$1.5 billion—

**The Speaker:** The hon. member for Esquimalt—Juan de Fuca.

**Mr. Keith Martin (Esquimalt—Juan de Fuca, Ref.):** Mr. Speaker, as an emergency room physician, I can tell the minister that a person waiting two days to get into an intensive care unit is not good care.

I ask the minister once again. While Canadians dawdle, people die. People want hospital beds. They want surgery when they need it. They do not want more rhetoric from this government. They want action, not more words.

Again I ask the minister will he put money back in health care and if so, how much? Tell the Canadian people right now how much money will go back into health care after you have taken \$7 billion out of it.

**The Speaker:** Colleagues, be sure to always address your questions through the Chair.

**Hon. Allan Rock (Minister of Health, Lib.):** Mr. Speaker, the member will know that provincial governments are responsible for delivering services. He will also remember that this is the government whose first step after it reached solvency was to increase transfers to health by \$1.5 billion.

There is something else that has to be remembered. These questions emerge from an unlikely source. They emerge from the party that would gut medicare, that says the Canada Health Act is an outdated piece of legislation, that wants to impose user fees to have Canadians pay for medical services out of their own pockets. This is the party—

**The Speaker:** The hon. member for Trois-Rivières.

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[*Translation*]

**ICEBREAKING POLICY**

**Mr. Yves Rocheleau (Trois-Rivières, BQ):** Mr. Speaker, just to show how absurd the icebreaking policy is, the ships providing ferry service between Quebec City and Lévis, Baie-Comeau and Matane, and Rivière-du-Loup and Saint-Siméon will have to pay icebreaking fees this winter, while federal government vessels and Newfoundland ferries will not.

• (1435)

Why is the Minister of Fisheries and Oceans unfairly discriminating against Quebec ferries and treating them differently from Newfoundland ferries and federal government vessels?

**Hon. David Anderson (Minister of Fisheries and Oceans, Lib.):** Mr. Speaker, the current proposal would not apply to the Quebec City-Lévis ferry because the kind of intraharbour transit services provided in the Quebec City harbour would be exempt.

**Mr. Yves Rocheleau (Trois-Rivières, BQ):** Mr. Speaker, could the minister tell us whether this exemption would apply only to the Quebec City-Lévis ferry or to all ferries in Quebec?

**Hon. David Anderson (Minister of Fisheries and Oceans, Lib.):** Mr. Speaker, discussions are under way concerning ferry service not covered by a constitutional guarantee like the services between Newfoundland and harbours in other Atlantic provinces and in Quebec. No decision has been made, in spite of what the Bloc Québécois is telling the public and this House.

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[*English*]

**HEALTH CARE**

**Mr. Monte Solberg (Medicine Hat, Ref.):** Mr. Speaker, I cannot believe the Minister of Health. His government has the worst record on health care in Canadian history.

The government has cut \$7 billion out of transfers to the provinces for health care. Fourteen hundred doctors have left Canada for the U.S. We have a situation where 190,000 sick people are on waiting lists today.

How big does the surplus have to grow and how long do the waiting lists have to get before the minister puts a number on what he claims is his number one priority? What is his number? How much for health care?

**Hon. Paul Martin (Minister of Finance, Lib.):** Mr. Speaker, the Reform Party today is saying that it would devote the \$10 billion surplus entirely to health care.

*Oral Questions*

Two days ago the leader of the Reform Party said he would devote 100% of the surplus to tax cuts. Three weeks ago he would devote it to debt reduction. The only thing Reform has not promised to do is use the surplus to pay for the wallpaper at Stornoway.

**Mr. Monte Solberg (Medicine Hat, Ref.):** Mr. Speaker, it is nice to see the other Kevorkian twin up, the man who actually administers the lethal injection to health care. It is nice to see him taking a little credit for that.

The minister has a stage right now. He can tell us right now after all these questions how much money he wants to contribute back into health care. He claims it is his number one priority.

If it really is his number one priority, what is his number? How much will he kick back into health care?

**Hon. Paul Martin (Minister of Finance, Lib.):** Mr. Speaker, the Minister of Health has already answered. In the last budget we increased transfers to the provinces primarily for health care by \$1.5 billion. After we had done that, the Reform Party then came out and said that \$3.5 billion should be taken out of the CHST.

If we want to look at Reform's real agenda, look at what it said in its taxpayer's budget in addition to that. It would take \$3 billion out of old age pensions. It would take—

**The Speaker:** The hon. member for Mercier.

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[Translation]

**BILL C-54**

**Mrs. Francine Lalonde (Mercier, BQ):** Mr. Speaker, my question is for the Minister of Industry.

Yesterday, the Minister of Industry stated the following in connection with Bill C-54:

This is not an intrusion into provincial jurisdictions. It does not even apply in the Province of Quebec, where such legislation already exists.

• (1440)

How could the Minister of Industry have made such a statement, when he knows all provincial and territorial ministers of justice say the exact opposite, and it has been demonstrated that Bill C-54 will indeed have a negative impact on Quebec?

**Hon. John Manley (Minister of Industry, Lib.):** Mr. Speaker, we discussed this bill last week at the meeting of consumer affairs ministers.

I explained the situation to them. They accepted that it was necessary for the federal government to introduce a bill to protect the interests of consumers and individuals and their privacy.

Quebec already has a bill which impacts on businesses coming under provincial jurisdiction, and this bill will not apply. It is as simple as that.

**Mrs. Francine Lalonde (Mercier, BQ):** Mr. Speaker, the minister knows that, according to the bill, it will apply in Quebec, and the Quebec access to information commission is of the opinion that Bill C-54 lessens the protection enjoyed by Quebecers at the present time.

What is his response to the Commission d'accès à l'information du Québec?

**Hon. John Manley (Minister of Industry, Lib.):** Mr. Speaker, the legislation currently in place in Quebec, which was passed by the former Daniel Johnson government, protects the interests of Quebecers very well, except for sectors such as telecommunications, banking and so on which come under federal jurisdiction.

We are going to protect the interests of Quebecers, even in sectors that do not fall under provincial jurisdiction, as well as those of all other Canadians in provinces where there is no protection in provincial sectors.

\* \* \*

[English]

**TAXATION**

**Mr. Jason Kenney (Calgary Southeast, Ref.):** Mr. Speaker, this government's planned proposal to replace Revenue Canada with a mega tax agency is unnecessary, expensive and could become an unaccountable mess like the IRS in the United States.

I have a question for the revenue minister. If the public service hates it, if the provinces do not want it, if Canadians do not want it, why is the government imposing an American style tax collection agency on this country?

**Hon. Harbance Singh Dhaliwal (Minister of National Revenue, Lib.):** Mr. Speaker, in the last year and a half I travelled across the country to talk to Canadians, to the provinces and our stakeholders. Canadians have been saying that the federal government and provincial governments should be working together. Canadians want us to reduce overlap and duplication. They want us to get rid of the red tape. Provinces are supportive. This is what Canadians wanted. We have listened to Canadians. We heard and we are responding to Canadians.

**Mr. Jason Kenney (Calgary Southeast, Ref.):** Mr. Speaker, if the provinces are interested it must be something like the Prime Minister's homeless friends because they do not exist. They are a figment of his imagination. I would like the minister to name one province which is committed to participating in this IRS style tax agency.

Why is the minister pressing ahead when he has been criss-crossing this country and not a single province has indicated its

*Oral Questions*

willingness to support this plan? The provinces in fact are going in the other direction. Why does the minister not stop, take a minute and consult with Canadians before he makes a terrible mistake in adopting an unaccountable IRS style tax agency?

**Hon. Harbance Singh Dhaliwal (Minister of National Revenue, Lib.):** Mr. Speaker, as we have been consulting with Canadians this is the first time since February 23 this hon. member has put up this question. We signed an agreement with the province of Nova Scotia to look at collecting WCB premiums. The member should read what the finance minister of New Brunswick had to say. He should read what the finance minister of Saskatchewan had to say. If the member paid more attention to what is going on in revenue than in the united alternative he would know a lot more about what is going on in this department.

\* \* \*

[Translation]

**ROAD TRANSPORTATION**

**Mr. Michel Guimond (Beauport—Montmorency—Côte-de-Beaupré—Île-d'Orléans, BQ):** Mr. Speaker, the Minister of Transport, in response to the repeated requests by the Government of Quebec to reinstate the strategic highway improvement program, keeps passing the blame for his inaction on to the provinces.

Will the minister agree that a number of projects essential to economic development and highway safety, such as highway 175 between the Saguenay and Quebec City and highway 389 between Baie-Comeau and Labrador, are threatened because he is refusing to budge in this matter? When is he going to budge?

• (1445)

[English]

**Hon. David M. Collenette (Minister of Transport, Lib.):** Mr. Speaker, the two highways in question are part of a national road network. I have said publicly not only here but also to the provincial ministers that if funds are available, then there will be another national highway program. If the provinces allocate funds to those particular highways, that would be their decision, if those funds are available.

\* \* \*

**CANADIAN BROADCASTING CORPORATION**

**Ms. Sarmite Bulte (Parkdale—High Park, Lib.):** Mr. Speaker, my question is for the President of the Treasury Board.

Bill C-44 proposes that the board of directors of the Canadian Broadcasting Corporation be named at pleasure by the governor in council in lieu of the current practice of being appointed to hold office on good behaviour.

What assurances can the minister give this House that the independence of the CBC will not be compromised?

**Hon. Marcel Massé (President of the Treasury Board and Minister responsible for Infrastructure, Lib.):** Mr. Speaker, the CBC's independence is recognized in the Broadcasting Act. However, the government wants to reduce the uncertainty. In this case there have been consultations with our caucus colleagues, including the member for Parkdale—High Park. I am grateful for their suggestions. The government has decided to amend Bill C-44 to continue to name the order in council appointments to the CBC on a good behaviour basis.

[Translation]

I want to mention here that the government has decided to change Bill C-44 to retain the type of appointment—

**Some hon. members:** Oh, oh.

**The Speaker:** The hon. member for Lethbridge.

\* \* \*

[English]

**ENVIRONMENT**

**Mr. Rick Casson (Lethbridge, Ref.):** Mr. Speaker, a year has passed since Canada went to Kyoto and signed the environmental agreement and this government still refuses to admit how much it is going to cost Canadians. We have been asking that question for over a year.

The results of a study that Standard and Poor's prepared for this government, and which the government had in its hands before it went to Kyoto, indicated that compliance with Kyoto could cost Canadians up to \$7,000 per household.

How does the environment minister think that already overtaxed Canadians are going to come up with another \$7,000?

**Hon. Christine Stewart (Minister of the Environment, Lib.):** Mr. Speaker, it is incredible how out of step the Reform Party is on the issue of climate change.

Since Kyoto we have seen a lot of movement across Canada from coast to coast to coast. The vast majority of Canadians tell us that they are concerned about this issue. They want action and they will take action. We are providing them with the tools to do so.

I am gratified that other Canadians feel it is a very important issue and do not take their guidance from that party.

**Mr. Rick Casson (Lethbridge, Ref.):** Mr. Speaker, nothing was achieved in Kyoto or in Argentina.

The U.S. Senate has stated that it will not sign the deal regardless of what Canada does. Developing countries will not buy into it.

Once again I ask the question. Where are Canadian families that are already overtaxed and with dwindling take home pay going to find another \$7,000?

*Oral Questions*

**Hon. Christine Stewart (Minister of the Environment, Lib.):** Mr. Speaker, the member is very ill informed about what this government has been doing in the international community.

The developing nations are onside. They agreed in Buenos Aires to a timetable and the development of definitions for three mechanisms. One of them is the clean development mechanism which they understand will bring them great environmental and sustainable development advantages.

Canada is working with all parties internationally to make sure that we can all meet our climate change objectives. This is important for the security not only of Canada but the world.

\* \* \*

**TOBACCO**

**Ms. Judy Wasylycia-Leis (Winnipeg North Centre, NDP):** Mr. Speaker, on June 3, 1998 the health minister said publicly that he supports the principles of Bill S-13. He said it is a clever bill and it ties money from smoking to prevention programs.

This past Monday the minister refused to answer a question about his intentions with respect to a levy on cartons of cigarettes.

I ask the minister, and I hope that he does not evade the question today, does the minister still believe that a levy of 50 cents a carton for prevention purposes is a good thing or not?

**Hon. Allan Rock (Minister of Health, Lib.):** Mr. Speaker, since 1994 this government has introduced taxes on cigarettes three times with the result that taxes have gone up between \$2.50 and \$5 per carton, depending on the province.

• (1450)

Since 1994 we have introduced the toughest anti-smoking legislation in the western world. We have committed \$100 million to reduce smoking in this country. We have shown time and time again our commitment to tackling smoking in Canada and we will continue to do so.

**Ms. Judy Wasylycia-Leis (Winnipeg North Centre, NDP):** Mr. Speaker, for the record, on June 3 the minister said "S-13 is a good bill, a clever bill, a valid bill and I think we should go forward with it". But he also said interestingly that there is some institutional resistance to the idea of a 50 cents a carton levy on the tobacco industry.

I want to ask the minister today, is that resistance coming from his own government?

**Hon. Allan Rock (Minister of Health, Lib.):** Mr. Speaker, we all support the principle of reducing smoking particularly among young people. That is something we all agree with, but that is not

the issue. The member well knows there are procedural and constitutional issues with respect to that bill.

I want to say that regardless of what may happen to that bill, we are going to be examining the principles behind it to see how they can be adapted in the plans we already have, to spend money and energy and all the forces we can muster to tackle smoking among young people. We will take the principles of that bill, no matter what happens to it, and direct it to those efforts.

\* \* \*

**APEC INQUIRY**

**Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC):** Mr. Speaker, in June 1991 while the Prime Minister was in opposition he said "If the system of ministerial accountability and integrity is not respected, people will never have confidence in the Public Service of Canada".

By refusing to give a full accounting of his irresponsible and indiscreet discussions of October 1 the solicitor general and his leader are yet to stand by this principle.

I ask the solicitor general, now that he has filed an affidavit, is he willing to go before the public complaints commission and testify under oath and submit himself to cross-examination?

**Hon. Andy Scott (Solicitor General of Canada, Lib.):** Mr. Speaker, as I said earlier, I filed an affidavit. As such the public complaints commission is now responsible for what happens from here. I will be co-operating in any way it deems appropriate.

**Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC):** Mr. Speaker, I hope that does include testifying.

A blanket denial from the solicitor general will not cut it with Canadians. They want truth and accountability. Canadians want credible details on this issue from the solicitor general who is unfamiliar with candour.

The member for Palliser—

**The Speaker:** Be very judicious in the choice of words. Go directly to the question, please.

**Mr. Peter MacKay:** Mr. Speaker, the solicitor general is quoted as having discussed the financial matters of Gerald Morin. I am asking the solicitor general now if he will confirm or deny that those discussions took place. If he will not tell us here, will he tell us if it is in the affidavit?

**Hon. Andy Scott (Solicitor General of Canada, Lib.):** Mr. Speaker, surely the hon. member with his background would know that now that I have filed an affidavit it is now part of the process. Basically I am waiting on the public complaints commission to determine what will happen from here, as is appropriate.

*Oral Questions***CENTRAL AMERICA**

**Mr. Pat O'Brien (London—Fanshawe, Lib.):** Mr. Speaker, my question is for the Minister of Citizenship and Immigration.

Considering the devastation which hurricane Mitch has wreaked on Central America and the social and economic upheaval which has been left in its wake, will the minister commit to delaying deportations to that troubled part of the world?

**Hon. Lucienne Robillard (Minister of Citizenship and Immigration, Lib.):** Mr. Speaker, I want to assure the member for London—Fanshawe and all members of parliament that we are monitoring the situation very closely in Central America. All removals to that part of the globe are being reviewed on a case by case basis. It is clear that we do not want to put people at risk.

I must add that for the people also from Central America who are on our territory right now on a legal basis, and I am thinking about the visitors, foreign students or temporary workers, there is a possibility to extend their visas.

\* \* \*

**HEALTH**

**Mr. Eric Lowther (Calgary Centre, Ref.):** Mr. Speaker, Canadians have heard a lot lately about the climate of fear in the health protection branch. Scientists are supposed to be independent. They are supposed to be protectors of the health of Canadians.

● (1455)

These same scientists have testified about intimidation tactics in the department. The deputy minister himself has said there are problems that must not be swept under the rug. An internal investigation has been promised. Will the minister commit today in this House that he will make that report public?

**Hon. Allan Rock (Minister of Health, Lib.):** Mr. Speaker, as the deputy minister acknowledged, there are difficulties in the health protection branch which must be addressed and which are being addressed.

Even in the last year and a half look at what has happened. We have cut back on the reductions in the food labs. We have appointed an arm's length science advisory board. We have undertaken an intensive three-year transition process involving public consultations to renew the health protection branch.

We have put \$125 million over the next five years into improving the regulations of blood supply. We are committed to ensuring the health protection branch does its job for the safety of Canadians.

[Translation]

**AUGUSTO PINOCHET**

**Mr. Daniel Turp (Beauharnois—Salaberry, BQ):** Mr. Speaker, Augusto Pinochet, the former Chilean dictator, has been accused of crimes against humanity by Spanish courts and is today being held in a London hospital awaiting a verdict on his release or extradition.

My question is for the Minister of Foreign Affairs. If the government considers that human rights are more than just rhetoric, and given the request by a Canadian torture victim, is the government prepared to support the request to charge General Pinochet with crimes against humanity and seek his extradition to Canada?

[English]

**Hon. Lloyd Axworthy (Minister of Foreign Affairs, Lib.):** Mr. Speaker, I think that goes under the general political rubric of a hypothetical question.

The fact is that Mr. Pinochet is at present in Great Britain. The matter is being considered by the House of Lords legal committee. We expect we will have a decision by that committee under the British law at that point in time. How it would apply under the present Canadian law would be a matter that would have to be examined if, when and how it ever happened here.

I would like to remind the House that a major bill dealing with extradition is going through the House of Commons at the present moment. It would substantially change the rules under which extradition would be applied.

\* \* \*

**NATIONAL DEFENCE**

**Mr. Gordon Earle (Halifax West, NDP):** Mr. Speaker, the government is in the process of trying to cut a deal with the province of Nova Scotia to sell assets associated with the Shearwater base, including land and property rights from the jetty to the airfield, including some downtown property.

It is time for the government to come clean regarding the impact of its closed door negotiations on workers in the Halifax region. How many jobs would be lost? Would any work be contracted out and if so, which jobs?

**Hon. Arthur C. Eggleton (Minister of National Defence, Lib.):** Mr. Speaker, our effort here and our discussions with the province of Nova Scotia and with Shearwater Development Corporation is to use lands that are no longer required for Department of National Defence purposes for the benefit of the people of that province, of that community and to create economic development opportunities so that jobs can be created there. We will continue with those discussions and bring about that very positive outcome.

*Routine Proceedings***IMMIGRATION**

**Mr. Norman Doyle (St. John's East, PC):** Mr. Speaker, my question is for the minister of immigration. A number of persecuted Turkish Kurds have reached Canada and have been granted refugee status.

The minister should be aware that being a Kurd in Turkey often involves the use of false papers. Two of these refugees were caught using false papers by Turkish authorities. Even though they are now safely in Canada, the immigration department is charging them \$1,000 each as a rehabilitation fee for having used these documents.

How does the minister justify that fee to penniless refugees whose only crime was to use false papers to escape repression in their own country?

[*Translation*]

**Hon. Lucienne Robillard (Minister of Citizenship and Immigration, Lib.):** Mr. Speaker, as everyone knows, our refugee determination process is one of the most generous in the world, and our legislation enables us to welcome people from the world over who have been persecuted.

That said, it is clear that persons seeking asylum in Canada must provide Canadian authorities with accurate information.

\* \* \*

[*English*]

**FOREIGN AFFAIRS**

**Ms. Jean Augustine (Etobicoke—Lakeshore, Lib.):** Mr. Speaker, the secretary of state for Africa, Latin America and the Caribbean recently returned from Trinidad, Suriname and Guyana. Could he tell us what was accomplished to advance bilateral relations and Canadian interests in the region?

• (1500)

**Hon. David Kilgour (Secretary of State (Latin America and Africa), Lib.):** Mr. Speaker, in all three countries I pursued co-operation on combating drug trafficking and organized crime, promoting trade and investments, and negotiating a free trade area of the Americas.

In Trinidad I participated in the launch of a Canadian trade and investment mission. In Guyana and Suriname I met with their presidents to discuss these and other subjects.

In short, I believe it was a useful trip for both Canadians and the residents of the three countries. I thank my hon. friend for the question.

**BUSINESS OF THE HOUSE**

**Hon. Don Boudria (Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, I wish to advise the House that tomorrow, November 19, 1998, will be designated as an allotted day when we will debate a motion to be moved by a member of the Bloc Quebecois.

I also wish to advise the House that the last allotted day for the supply period will be Tuesday, December 1, 1998.

**THE ROYAL ASSENT**

[*English*]

**The Speaker:** Order, please. I have the honour to inform the House that a communication has been received as follows:

Government House  
Ottawa

November 18, 1998

Mr. Speaker:

I have the honour to inform you that the Right Honourable Roméo LeBlanc, Governor General of Canada, will proceed to the Senate chamber today, the 18th day of November, 1998 at 15:00, for the purpose of giving royal assent to a bill of law.

Yours sincerely,

Judith A. LaRocque  
Secretary to the Governor General

• (1505)

While we are waiting for the messenger to come from the Senate, I propose that we begin Routine Proceedings and I will interrupt Routine Proceedings when the time comes.

**ROUTINE PROCEEDINGS**

[*Translation*]

**ADMINISTRATION OF THE HOUSE OF COMMONS**

**The Speaker:** I have the honour of tabling the performance report on the administration of the House of Commons for the period between April 1997 and September 1998.

\* \* \*

[*English*]

**EXPORT OF MILITARY GOODS**

**Hon. Lloyd Axworthy (Minister of Foreign Affairs, Lib.):** Mr. Speaker, pursuant to Standing Order 32 I am pleased to table, in both official languages, the annual report for 1997 on the export of military goods from Canada.

*Routine Proceedings***ORDER IN COUNCIL APPOINTMENTS**

**Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, I am pleased to table, in both official languages, a number of order in council appointments made recently by the government.

Pursuant to the provisions of Standing Order 110(1), these are deemed referred to the appropriate standing committees, a list of which is attached.

\* \* \*

[Translation]

**GOVERNMENT RESPONSE TO PETITIONS**

**Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, pursuant to Standing Order 36(8), I have the honour to table, in both official languages, the government's response to 20 petitions.

\* \* \*

**INTERPARLIAMENTARY DELEGATIONS**

**Mr. Bernard Patry (Pierrefonds—Dollard, Lib.):** Mr. Speaker, pursuant to Standing Order 34, I have the honour to table, in both official languages, two reports by the Canadian section of the Assemblée parlementaire de la Francophonie and the accompanying financial report.

The first report is of the office meeting held in Abidjan, Ivory Coast, on July 4, 1998 and the second, the 24th ordinary session held from July 7 to 9, 1998 in Abidjan as well.

\* \* \*

• (1510)

[English]

**TOBACCO INDUSTRY RESPONSIBILITY ACT**

**Ms. Carolyn Bennett (St. Paul's, Lib.)** moved that Bill S-13, an act to incorporate and to establish an industry levy to provide for the Canadian Anti-Smoking Youth Foundation, be read the first time.

She said: Mr. Speaker, I rise today to move first reading of the Bill S-13, an act to incorporate and to establish an industry levy to provide for the Canadian Anti-Smoking Youth Foundation. Bill S-13 is important in that it provides for an industry levy that provides \$120 million to combat youth smoking through educational programs.

The funds from the levy are to provide an arm's length foundation, the Canadian Anti-Smoking Youth Foundation, and are controlled by its board made up of specialists in the area of

advertising to children. I am pleased to be the sponsor of this bill in the House of Commons.

(Motion agreed to and bill read the first time)

**Hon. Don Boudria (Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, I rise on a point of order concerning this issue. I am at the disposition of the Chair with regard to the fact that we could be interrupted momentarily. If it is the Chair's intention I could rise and express my opinion on the issue now or somewhat later.

**The Speaker:** I have information that the messenger will be here shortly. We will probably have a number of interventions on this point of order. That would be my deduction.

I would like to hear all of the information, if I could, at one time. I would propose to wait to hear the point of order of the government House leader. Then it is my intention to listen to members for advice as to how we should proceed.

With your indulgence that is the way we will proceed. We will hold everything in abeyance until after we have had royal assent.

**Mr. Peter Adams:** Mr. Speaker, could we continue with Routine Proceedings.

**The Speaker:** I am prepared to do that but I want to put it to the House.

Is there unanimous consent to continue with Routine Proceedings and then come back to the point of order?

**Some hon. members:** Agreed.

\* \* \*

**COMMITTEES OF THE HOUSE**

## CHILD CUSTODY AND ACCESS

**Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, there have been consultations among all parties in the House and I believe you would find unanimous consent for the following motion to be adopted without debate:

That the first report of the Special Joint Committee on Child Custody and Access, presented to the House on November 17, 1998, be concurred in.

(Motion agreed to)

\* \* \*

• (1515)

**PETITIONS**

## THE ENVIRONMENT

**Mrs. Rose-Marie Ur (Lambton—Kent—Middlesex, Lib.):** Mr. Speaker, pursuant to Standing Order 36, I am honoured to present a petition signed by residents of Grand Bend, Forest and Sarnia who note that the use of MMT in gasoline has been proven

*Routine Proceedings*

to stall emission control devices, resulting in higher smog levels which will hurt our Kyoto climate change policies.

The petitioners call upon parliament to ban the use of MMT.

## PAY EQUITY

**Mr. Howard Hilstrom (Selkirk—Interlake, Ref.):** Mr. Speaker, I have two petitions from constituents of mine who say that the Government of Canada has yet to comply with article 11 of the Canadian Human Rights Act regarding equal pay for work of equal value.

The petitioners feel that this parliament should instruct the government to immediately comply with the orders of the Canadian Human Rights Tribunal in the matter of pay equity.

## APEC

**Mr. Svend J. Robinson (Burnaby—Douglas, NDP):** Mr. Speaker, I have the honour to present two petitions today. The first petition is signed by residents of British Columbia and expresses concern about APEC involving an economic relationship with countries that have deplorable records of human rights abuses.

The petition notes that APEC provides no forum for discussion of social conditions, including human rights and labour, that APEC is undemocratic and involves only business and political elites who meet behind doors.

Therefore, the petitioners call on parliament to discontinue APEC and its discussions until APEC includes issues of human rights, labour and other social concerns, and to democratize the process by including representatives from labour and other segments of society to participate in the discussions.

## CONSCIENTIOUS OBJECTION

**Mr. Svend J. Robinson (Burnaby—Douglas, NDP):** Mr. Speaker, I have the honour to present a second petition which notes that the Constitution Act of Canada guarantees freedom of conscience and religion in the charter of rights, and that even before this the recognition of conscientious objection existed in Canada. The petitioners urge parliament to establish peace tax legislation by passing into law the conscientious objection act which I have tabled.

This bill recognizes the right of conscientious objectors to not pay for the military and within which the government would declare its commitment to apply the portion of taxes that was to be used for military purposes toward peaceful purposes such as peace education, war relief, humanitarian and environmental aid and housing.

**THE ROYAL ASSENT**

[English]

A message was delivered by the Usher of the Black Rod as follows:

Mr. Speaker, it is the desire of His Excellency the Governor General that this honourable House attend him immediately in the Senate chamber.

Accordingly, the Speaker with the House went up to the Senate chamber.

• (1525)

*And being returned:*

**The Acting Speaker (Mr. Earle):** I have the honour to inform the House that when the House did attend His Excellency the Governor General in the Senate chamber, His Excellency was pleased to give, in Her Majesty's name, the royal assent to a certain bill:

Bill C-37, an act to amend the Judges Act and to make consequential amendments to other acts—Chapter No. 30.

**ROUTINE PROCEEDINGS**

[English]

**PETITIONS**

## TAX REFORM

**Mr. Nelson Riis (Kamloops, Thompson and Highland Valleys, NDP):** Mr. Speaker, it is an honour to rise pursuant to Standing Order 36 to present a petition on behalf of a number of residents of Kamloops, British Columbia, who have analyzed the tax system and have a set of recommendations for tax reform.

Rather than go into each one individually, I will simply say that they are calling for a major change to the tax system along the lines of the Carter Commission of the 1960s.

## CRUELTY TO ANIMALS

**Mr. Nelson Riis (Kamloops, Thompson and Highland Valleys, NDP):** Mr. Speaker, on another topic petitioners from various communities of central British Columbia point out their concern regarding the courts' rather lackadaisical approach to people who inflict various forms of cruelty upon animals.

• (1530)

They feel that the sentences that have been meted out are woefully inadequate and judges should have a course on the seriousness of this crime.

## APEC MEETING

**Mr. Nelson Riis (Kamloops, Thompson and Highland Valleys, NDP):** Mr. Speaker, I have another petition on the APEC gathering. The petitioners are concerned that the implications of the potential agreements coming out of APEC inevitably eliminate any concerns about human rights or environmental or labour standards.

They point out that hopefully all agreements taken by the Government of Canada in the future will include these crucial elements.



**Mr. Peter MacKay:** Mr. Speaker, I rise on a point of order. I want to say as a fellow Nova Scotian how heart warming it is to see you in the chair today.

BILL C-68

**Mr. John Cummins (Delta—South Richmond, Ref.):** Mr. Speaker, I am pleased to present a petition today from citizens of Delta who wish to draw the attention of the House to their concerns with Bill C-68.

They would like to see the hundreds of millions of tax dollars that are wasted on licensing redirected to putting more police on the streets.

\* \* \*

[Translation]

#### QUESTIONS ON THE ORDER PAPER

**Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, I move that all questions stand.

[English]

**Mr. John Cummins (Delta—South Richmond, Ref.):** Mr. Speaker, I rise on a point of order.

I have three questions. Question No. 119 was asked on September 17. Question No. 132 was asked on September 21. Question No. 138 was asked on September 24. Time has gone by and I have had no response.

Two of those questions have to do with the government's use of the drug mefloquine and the fact that a veteran's family has been denied pension benefits because it has not been provided with the necessary information to support its case. Some of that information should be forthcoming from these questions. I would like to know when I will get them answered.

**Mr. Peter Adams:** Mr. Speaker, I have noted questions Nos. 119, 132 and 138. I can assure the member I will look into their whereabouts as soon as possible.

I point out that this week, among other things, we have tabled replies to almost 100 petitions. It has been a very busy and productive week. I will look into the whereabouts of those questions.

**Mr. John Solomon (Regina—Lumsden—Lake Centre, NDP):** Mr. Speaker, I rise on a point of order.

We have seen on many occasions in the House of Commons since the 1997 election a total disregard by the government with respect to responding to questions that the standing orders obligate it to respond to in a certain time limit.

I wonder whether the parliamentary secretary could not only look into these matter but report back tomorrow on when these

#### Points of Order

questions will be answered. These are very important questions, whether they are from the Reform Party, the Conservative Party, the Bloc Quebecois or the New Democratic Party.

These questions are put on the order paper with reference in accordance with the standing orders that allow us to put questions to obtain information from the government. It continues to refuse to adhere to the regulations.

I ask that the parliamentary secretary report back tomorrow on when these questions will be answered.

**Mr. Peter Adams:** Mr. Speaker, the members are quite rightly concerned about these questions. I will continue to do everything I can.

• (1535)

At present we are at 85% response on petitions and at almost 75% on these questions. I will continue to do my very best to obtain these responses.

**The Speaker:** Is it agreed that all questions be allowed to stand?

**Some hon. members:** Agreed.

\* \* \*

#### MOTIONS FOR PAPERS

**Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, I ask that all Notices of Motions for the Production of Papers be allowed to stand.

**The Speaker:** Is it agreed?

**Some hon. members:** Agreed.

\* \* \*

#### POINTS OF ORDER

BILL S-13

**Hon. Don Boudria (Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, I rise on a point of order concerning Bill S-13.

The bill has been passed in the other place and is currently at first reading. Even though the bill is not presently being debated, it has now been introduced and it is my first opportunity to speak on it under a point of order. I wish to discuss what I believe to be the constitutional and procedural propriety of this bill's being initiated in the other place.

I want to make it clear at the outset that I am not in any way taking the position at the present time on the policy embraced by this bill, as there will be ample opportunity to do that. What I am doing is responding in my duty as Leader of the Government in the House of Commons to defend the rules, the rights and the privileges of the House and all members who sit here.

*Points of Order*

The difficulty with Bill S-13, which has been initiated in the other place, as I intend to demonstrate, is that it constitutes in fact a tax bill and as such constitutionally and procedurally may be initiated only in the House of Commons and only after the House has concurred in the notice of ways and means tabled by a minister of the crown.

I am aware that the Speaker of the other place had occasion to rule on this question when the bill was in the other place. The question before us, however, concerns the constitutional rights of the House of Commons and only the Speaker of the House of Commons has the authority to assert these rights, no one else.

In addition, there are standing orders of the House of Commons that I maintain are violated by this bill and no ruling in the other place or anywhere else can have any impact on the decision of the presiding officer of this House in interpreting the rules of this House.

There are two principles that come into play in this case. The first is stated in Bourinot's parliamentary practice, fourth edition at page 491:

As a general rule, public bills may originate in either house; but whenever they . . . involve directly or indirectly the levying or appropriation of any tax upon the people, they must be initiated in the popular branch, in accordance with law—

This is based on section 53 of the Constitution Act, 1867:

Bills for appropriating any part of the public revenue, or for imposing any tax or impost shall originate in the House of Commons.

The second principle is stated at Bourinot's page 430 which reads as follows:

It is now a fixed principle of constitutional government that all propositions for the imposition of taxes should emanate from the ministry.

The first proposition then is that the bill must start in the House of Commons and, second, from the ministry.

This principle is embodied in our own rules governing tax bills. Standing Order 83(1) permits that only a minister of the crown is able to table a notice of ways and means which, under our procedures, must be concurred in before a tax bill may even be introduced. Since Bill S-13 clearly meets the test of neither of these principles, the question revolves around the issue of whether it does qualify as a tax bill. In my opinion it does not meet these tests and it is a tax bill.

● (1540)

I say this for the following reasons. Bill S-13 proposes what it refers to as a levy of 50 cents per carton on the manufacture of cigarettes and other tobacco products. This levy would raise, so we are told, \$70 million to be paid into a non-government foundation that would support health and education and anti-smoking pro-

grams as well as transitional funding for arts and sports groups and tobacco farmers.

Proponents of the bill assert that this is not a tax but a levy and as such is not subject to our ways and means procedures and lends itself to initiation in the other place. This assertion is based, so they claim, on citation of Erskine May's parliamentary practice, 22nd edition, on page 779:

Levies upon an industry for purposes beneficial to that industry are regarded as not covered by the rules of financial procedure and so do not require authorization by ways and means resolution.

Even if Erskine May stopped there one would dispute whether the proposal meets the criterion of proposing a levy for the purpose beneficial to that industry.

But it goes on:

Modern legislation frequently makes provision for the imposition of other types of fees or payments which, although not taxes in the strict sense, have enough of the characteristics of taxation to require to be treated as 'charges upon the people' and therefore to be authorized by ways and means resolution moved by a Minister of the Crown.

This distinction between the two types of payments which are or are not covered by the rules of financial procedure is not always straightforward in practice. In particular, May suggests: "Where payment is imposed in order to meet the cost of enforcing a new regulatory scheme which is for the general benefit, rather than for the benefit of the industry", such a regime is one that requires the use of a ways and means procedures.

Erskine May makes it clear that a levy must be narrowly based and must also have a narrow purpose benefiting the industry on which the levy is made. This is not the case today.

The fact is the very commendable objectives of the bill are of broad public policy, namely to reduce smoking related health costs for young people and for supporting tobacco farmers and others. It is not the tobacco manufacturers who would obviously benefit from this levy on them but of course smokers, farmers and indeed the general public. That is the pith and substance of the bill.

Even the summary of the bill states that the mandate is to reduce the use of tobacco by young persons in Canada. This certainly does not meet Erskine May's test of being a levy on an industry for the narrow and specific benefit of the same industry. As a matter of fact, it is the direct opposite.

[Translation]

Those in the other place who support Bill S-13 relate it to last session's Bill C-32 amending the Copyright Act, which imposes a levy on an industry, but was not preceded by a House of Commons ways and means motion. A comparison of the two bills, S-13 and

*Points of Order*

last session's C-32, emphasizes the ineligibility of Bill S-13 as far as procedure is concerned.

Last session's Bill C-32 imposed a levy on the manufacturers or importers of blank tapes into Canada and provided for the distribution of royalties to writers and performers, whose creativity would result in increased demand for the blank tapes distributed by manufacturers and importers.

• (1545)

This is to the advantage of all those affected by the levy, unlike Bill S-13, which is advantageous to all except those having to pay the levy.

The objective of Bill S-13 is not to increase the demand for tobacco, of course—if it were, we would not be discussing it—but rather to reduce the demand, or in other words to bring about the opposite of a benefit.

There are in fact several examples of bills, like the old C-32, which imposed levies for limited purposes, for the benefit of certain specific industries. These include expenditure and other levies in connection with marketing plans, broadcasting licence fees, and charges for insurance forms relating to specific activities within specific industries.

In each case, however, when ways and means procedures were not required, these levies were very specific, their purpose narrowly defined, their direct benefits as far as the levy is concerned, directly and specifically apparent.

Erskine May, 22nd edition, makes reference to a case that illustrates our subject on page 780. It relates to a bill concerning shipping, which was examined in the British House of Commons in 1973-74. This bill required oil importers to contribute to an international reserve to be used as compensation for damage caused by pollution, and these funds were not part of the consolidated fund. This bill required a ways and means resolution.

There is an obvious parallel with Bill S-13. Like the levy proposed by Bill S-13, this levy was not to be part of the consolidated fund and, as in Bill S-13, the sums amassed would be advantageous only to those who are not part of the industry and have provided the funds in question. As I have already indicated, this bill was subject to the ways and means procedure.

As I indicated at the start, I do not wish to see my objections to the procedure for Bill S-13 misinterpreted. They probably will be, anyway.

I believe the objectives of this bill are highly desirable. The policies proposed by the bill are creative and innovative. I, however, have problems with this bill, namely that the implications relating to procedure are totally regressive and undemocratic.

[English]

For more than 300 years it has been a fundamental of parliamentary democracy that a taxation measure may not be initiated in the upper house. It must be initiated by this House on a motion of responsible government. That is equally true in the United Kingdom and it is even true in the United States of America.

No matter how interesting I may find a program proposed in a bill that comes to us from the other place, it is my duty, Your Honour, to draw to your attention the fact that this bill violates the constitutional practices and more important the rules of the House.

The fact that the presiding officer of the other place thought the bill was in order is not material to the discussion. It is our constitutional system, and in this constitutional system only Your Honour as Speaker of the House and no one else can determine what a money bill is or what a tax bill is.

Mr. Speaker, I submit to you that Bill S-13 is indeed a taxation measure. As such it should have been initiated and can only be initiated in the House of Commons after concurrence in a ways and means motion and furthermore proposed by the minister of the crown.

I ask Your Honour to consider this and to rule that the House cannot consider this bill for the reasons that I have just stated.

• (1550)

**The Speaker:** We will have quite a few interventions on this. Those of you in the House at this point who wish to intervene will please stand so I can see who you are.

This is how I would propose to attack this particular problem. I caution members to begin with that we are not going to discuss the 44 or 45 clauses of the bill. I would like your advice on a very narrow interpretation, which is whether or not this bill should be introduced into the House of Commons. If I find that the arguments members are putting forward are going to be dealing with the clauses, I will intervene. I would ask you, my colleagues, to stick to that very narrow point. I want your advice. I want your very best advice.

This is how I am going to proceed. I am going to take the mover of the bill. I will hear from her first. Then I am going to hear from a spokesperson for the Reform Party. If there is a spokesperson for the Bloc Québécois, I will hear from him or her. Then I will hear from an intervener for the New Democratic Party. I will hear from an intervener for the Conservative Party. I will then come back to the Liberal side. At that point, I will go back and forth from the Liberal side to the opposition side until we have the information put in front of the House.

*Points of Order*

I would ask you, my colleagues, to stick to that very narrow point. Please do not get into the clauses of the bill because that may come later if we, or if I decide that this will come before the House.

The hon. member for St. Paul's.

**Ms. Carolyn Bennett (St. Paul's, Lib.):** Mr. Speaker, I am very pleased to rise to speak on this point of order concerning Bill S-13, an act to incorporate and to establish an industry levy to provide for the Canadian anti-smoking youth foundation.

Mr. Speaker, I rise as you suggest, not to speak to the merits of this bill but to address the four main concerns which have been raised by the House leader. I intend to address each of the concerns individually. There is some overlap between those concerns. I hope we can deal with this carefully and that we can put the proper clarity on this issue.

I agree that the government has the prerogative of financial initiative in respect to the imposition of taxes by the convention and as the hon. minister pointed out proposed by section 53 of the Constitution Act. They must be introduced in the House of Commons.

The issue today is whether the levy as established in part II of the bill is indeed a levy or a tax. The principal authority, Erskine May, says that a levy on an industry for its own purposes is not a tax.

The four issues that the House leader has raised are: what is the criteria to determine a levy; what is the stated industry purpose; whether this bill proposes a levy or a tax in relationship to a ways and means motion; and does the beneficiary group of the levy have to be specific as in Bill C-32 to which the House leader referred.

Simply because the benefits of the levy are not narrowly identified, we do not believe that it constitutes any procedural justification to rule Bill S-13 out of order. Nothing in Erskine May supports the notion that beneficiaries of the levy need to operate on the model of Bill C-32, i.e., be directed to a specific group.

I am afraid that the hon. member was referring to a previous version of the bill. I would like to point out that the version passed in the Senate in June of this year has nothing to do with sponsorship or farmers. This is purely to set up the foundation. I think the hon. House leader has referred to an older version of this bill.

First I want to talk about levy criteria. In British practice as followed here in Canada, a levy is in order procedurally. We have to remember we are only talking about procedural issues and the definition of a levy. The levy must be imposed on the industry. It must serve an industry purpose. The funds from the levy never

form any part of government revenues. I can say that Bill S-13 was very carefully drafted to meet these three criteria.

● (1555)

The purpose of this bill is the tobacco industry's publicly stated purpose. Mr. Robert Parker stated before the Standing Senate Committee on Legal and Constitutional Affairs in April 1997:

The member companies are prepared to work with any responsible agency on the issue of youth smoking to further reduce it. . . . As I have said, I have some legitimate questions of how credible we can be. . . . A program started voluntarily by the industry when it is selling cigarettes to tell kids they should not smoke would be attacked most vocally by. . . the anti-tobacco people.

Thus we have S-13 to help them out here.

Imagine next year the public relations benefit to the industry if Mr. Parker gets to hold a copy of the bill and say "We are spending \$120 million a year to stop Canada's youth from smoking".

It is quite clear that the first two paragraphs of clause 3 refer to the industry's objectives. Clause 3 deals with the purpose which is that of the industry.

Regarding clause 3(a), the industry would like to be involved in initiatives to reduce youth smoking but it does not have the credibility to do so. It would participate in 3(b) however in any initiative of a credible agency.

As recently as October of this year, Mr. Don Brown the chairman and president of Imperial Tobacco, made similar comments regarding youth smoking and the industry's absence of credibility to the Vancouver Board of Trade. He said:

We believe children should not smoke. . . . We might achieve more if we tried working together. Perhaps a better approach would be for like-minded groups to take a fresh look at the issue of underage smoking.

We know we cannot be the messenger; we simply just do not have the credibility.

Bill S-13 is a measure that has been created to assist the industry in accomplishing this publicly stated objective. Six explicit industry purposes are listed in Bill S-13. Clause 3(1) gives the purpose of the act:

The purpose of this Act is to enable and assist the Canadian tobacco industry to carry out its publicly-stated industry objective of reducing the use of tobacco products by young persons throughout Canada—

Clause 3(1)(c) addresses the lack of credibility:

the industry is incapable of addressing on its own the problem of tobacco use by young persons because, by its own admission, its members and agents lack credibility as advocates for a reduction in the use of tobacco products;

Clause 3(1)(e) talks about pre-empting further restrictions:

it is foreseeable that the industry's ability to manufacture and sell tobacco products will be further restricted if the rate of use of tobacco products by young persons is not reduced—

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The industry is well aware of the flood of legislation attacking the use of tobacco in the U.S. and recognizes that it will not be long before it arrives here in Canada, for example the recent B.C. and Quebec legislation.

Clause 3(1)(f) deals with co-ordination:

industry efforts to reach this objective need national co-ordination.

In as much as tobacco companies market their products nationally, there needs to be national co-ordination of industry efforts to reduce or eliminate youth smoking.

Clause 31 is about sponsors:

—a sponsor of the Foundation may use the name of the Foundation—

Even with the debate around this the bill allows the industry to use the name of the foundation for the purpose of seeking recognition for the sponsorship. There is no point in the industry being a party to the legislation without receiving appropriate recognition for its contribution. Clause 31 specifically entitles the industry to seek recognition of its sponsorship of this foundation.

Clause 32(1) is about independence:

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

It is the very independence of the foundation that provides the legislation with the credibility Mr. Parker said the industry lacked in his statement of April 1, 1997.

The bill is also beneficial to the industry in a number of less specific ways. It is likely to help improve its negative public image. It will probably reduce the possibility of civil litigation and restrictive legislation being enacted, both of which restrict the industry's very existence.

It is well accepted that smoking is addictive, toxic and in many cases fatal. The industry's defence to liability lies in the smokers' voluntary acceptance of these risks. The industry recognizes that addiction is more likely when smoking starts in youth who are less likely to make informed decisions regarding this risk.

Bill S-13 could contribute to a successful defence against liability for causing the addiction of youth. It is evidence of the industry's efforts to combat youth smoking.

• (1600)

The levy purpose need not be exclusive for the industry.

Broader purposes are served by Bill S-13 as well.

The purpose of the levy in Bill S-13 is to provide the tobacco industry with a credible claim that it does not deliberately market its products to youth and that it supports efforts to curb youth smoking.

The fact that any reduction in youth smoking also serves a public policy objective does not challenge the procedural acceptability of the bill.

Nothing in Erskine May's *Parliamentary Practice* suggests that an industry purpose cannot also coincide with a public policy. Indeed, the precedents cited in May have both a private and a public purpose. They include the Industry Training Act of 1964. This bill was to establish a mechanism for the creation of a number of industry boards, the purpose of which was to provide training opportunities for the employees. Such a scheme not only benefited the particular industry, but served a public purpose.

One of my favourite ones is the Betting Levy Act of 1961. This bill was designed to improve horse breeding and to further the advancement of veterinary science. This clearly goes beyond the private industry purpose and is in the interest of the public at large.

In the Sea Fish Industry Act of 1951, a white fish organization was established to develop and regulate the white fish industry. The purpose was to benefit the industry and to serve a public objective to preserve employment in the fisheries.

In fact, the bills cited in May that were not exempted from the financial procedures and therefore required a ways and means motion failed to meet the criteria because they were not for an industry purpose or the funds became part of government revenue.

In 1974-75 there was the Air Travel Reserve Fund. This bill established a levy to compensate passengers who sustained a loss as a result of the financial failure of a travel company. The charge was considered to have an industry benefit. As such, it met the first of the two criteria for a charge to be a levy for industry purposes.

It failed, however, on the second criteria, that the funds would not form part of the consolidated fund. The charge was held to be a tax because the government had the discretion to dispose of the assets of the fund in the event of its being wound up, thus making it possible for the consolidated fund to benefit at the expense of the travel organizers.

In Bill S-13, any surplus reverts to the tobacco manufacturers.

The merchant shipping bill which the hon. member mentioned established a charge to pay for pollution damage. This impost was viewed to be so clearly not for the benefit of the industry concerned that it was held to be a tax in spite of the fact that the proceeds were not payable to the consolidated fund.

The precedent that the hon. member mentioned in terms of Bill C-32, an act to amend the Copyright Act, adopted in the last parliament, contained a levy provision. In this particular case the levy was imposed on the sale of blank audio tapes and the funds thus collected were to be distributed to authors, performing artists

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and recording companies. That also did not require a ways and means motion.

The Canada Shipping Act of 1987 established a levy to be paid by the ship owners for the purpose of creating a pollution fund to deal with oil spills caused by ships and tankers. The rate of the levy is set by the Minister of Transport and the money collected is in a special account in the consolidated revenue fund. This act was presented twice without a ways and means motion preceding its introduction.

The Canada Petroleum Resources Act created an account known as the environmental studies research fund to be under the administrative responsibility of the Minister of Energy, Mines and Resources or the Minister of Indian Affairs and Northern Development to finance environmental and social studies to assess the impact of petroleum exploration and development on frontier lands. Every interest owner in the frontier lands is to pay into that fund according to a rate set by the minister. Again, this act was presented twice without a ways and means motion preceding its introduction.

Those are the first two points. The third point is the whole issue of a levy versus a tax.

We believe that Bill S-13 does not require a ways and means resolution because it does not impose a tax and therefore does not have to originate in the House of Commons.

The levy in Bill S-13 is not a tax. The express provision of the bill makes this clear. The clauses of the bill refer to a levy, not a tax. Levies, for industry purposes, and as we have talked about in Erskine May, are recognized in all procedural authorities as being distinct from taxes.

• (1605 )

If the levy in Bill S-13 were indeed a tax it would constitute a charge on the people. According to Erskine May's 21st edition at page 726, a charge on the people is normally imposed generally and intended to be used for general purposes.

That is why, as May further explains, that levies upon an industry, the proceeds of which are intended to form a fund for the purposes of that industry, have been held not to be charges.

Erskine May lists 12 bills that have been considered levies for industry purposes and not taxes, and so did not require the ways and means resolutions. Some of these include the Industrial Training Act, the Betting Levy Act and the Sea Fish Industry Act that we talked about.

Also, as I have just alluded to, there were a number of Canadian precedents of levies for industry purposes which did not have a ways and means resolution: Bill C-32, the act to amend the Copyright Act; the Canada Shipping Act; and the Canada Petro-

leum Resources Act. The last two examples were introduced twice, as we said, without a ways and means motion.

The Canadian precedents suggest that the criteria applied in Canada to the consideration of bills containing levies are not as strict as those followed in British practice. Bill S-13 not only meets the criteria suggested by those Canadian precedents, it also meets the more strict criteria spelled out in Erskine May.

To reiterate, levies for industry purposes have three characteristics: the levies must be imposed on the industry; the levies must be imposed for the industry's own purposes; and the money must never form a part of government revenue.

The levy under Bill S-13 is clearly imposed on the industry. Clause 36 of the bill expressly provides that the funds come from the tobacco companies:

36.(1) Every person who, for the purposes of trade, manufactures, produces or imports tobacco products is liable, on selling, transferring, or otherwise disposing of the tobacco product, to pay a levy. . .

The levy in Bill S-13 is imposed for the industry's own purposes. Of course, there is also a broader public policy objective which I will not go into. The two purposes, however, are not mutually exclusive goals and there are Canadian and British precedents to prove that this is acceptable procedurally.

The funds generated from the levy never form part of government revenue. The specific clauses of the bill make this clear. Subclause 33(1) states that the foundation is not an agent of Her Majesty and the funds are not public funds. The funds are collected by the foundation, placed in its own account and distributed to the foundation alone. Any surplus funds after wind-up of the foundation are returned to the tobacco companies.

Subclause 35(3) states that in the event of the dissolution of the foundation, any property of the foundation shall be transferred to the council, that is, the Canadian Tobacco Manufacturers' Council.

In any event, the question as to whether the levy imposed is in fact a tax is really a question of law to be determined by the courts, not the Speaker.

The procedural question must be limited to whether the bill, on the face of it, is a tax or a levy for industry purposes. The bill expressly provides that the foundation is established for the industry and that the purpose of the bill is to meet this industry's objective. Inquiring beyond the face of the bill and questioning the express provisions of it is going well beyond the realm of procedure and into an area of law with which the Speaker is not to deal.

The more legal opinions cited for or against the question of whether Bill S-13 is a levy or a tax, the more obvious it becomes that the issue is a matter of law and legal interpretation. These matters do not normally fall within the jurisdiction of the Speaker of the Commons.

*Points of Order*

As a matter of law, a number of legal experts have already testified before the Senate Standing Committee on Social Affairs, Science and Technology that the charge imposed in Bill S-13 is not a tax. They have also provided written opinions to that effect. Mr. Mark Siegel, senior tax counsel at Gowlings, Strathy & Henderson, is of the view that the levy in Bill S-13 is part of a regulatory scheme. The money is not intended to provide revenue for general public purposes. The money is to be used to carry out the objectives of the foundation for the tobacco industry. He reaffirmed his opinion on November 5, 1998, as a result of the Supreme Court of Canada decision in the Eurig Estate.

Mr. Michael Clegg, an expert on matters of parliamentary law and procedure, also has concluded that this bill is not a tax.

The last point concerns whether the beneficiaries of this levy are specific, as the House leader pointed out, in terms of Bill C-32.

• (1610)

If the argument is that Bill S-13 is out of order because the beneficiaries of the levy are not specific, simply because the beneficiaries are not narrowly identified does not constitute any procedural justification to rule Bill S-13 out of order. Nothing in Erskine May supports the notion that the beneficiaries of the levy have to be specifically designated. What is required is that the levy must serve an industry purpose.

There is no precedent available from British or Canadian sources that substantiates any claim that the beneficiaries must be a specified group. There are numerous British and Canadian examples which suggest that the beneficiaries of a levy can be broadly defined and that they do not need to be directly related to the industry on which the levy is imposed.

For example, consider again the Betting Levy Act which was implemented for the advancement and encouragement of education in veterinary science. This purpose was much broader than the specific industry objectives of improving breeds and horse racing. We believe that certain dogs, cats and cows also benefited.

Although the industry objective of the Canada Shipping Act is to protect that industry from excessive liability with respect to suits for pollution damage, there is clearly a broader public policy objective in ensuring that spills are properly treated and that the environment is preserved.

It is important to realize that we are here to debate whether or not this is a tax or an industry purpose levy. Mr. Speaker, we believe that you are a servant of the House and that your rulings will seek the interest of the House as a whole. The question as to whether the levy imposed is a tax is really a question of law, as I have explained.

The procedural question we must limit ourselves to is whether the bill, on the face of it, is a tax or a levy for industry purposes. Bill S-13 expressly provides that the foundation is established for the industry and that the purpose of the bill is to meet the industry's objective. Inquiring beyond the face of the bill and questioning the express provisions goes well beyond the realm of procedure and into an area of law in which the Speaker does not deal.

In the case of any doubt, we know that the Speaker should favour the course that will allow the House to debate the merits of the bill and to decide rather than the Chair. This can only happen if the Speaker lets the bill proceed to second reading.

If the Speaker rules that there are other arguments and precedents not discussed in this debate, we would appreciate the opportunity to address them at that time.

Canadian practice provides a precedent based on British cases, proving that it is possible for a ways and means resolution, should it be deemed required, to be moved post-second reading. I believe that the Speaker should consider this option.

**Mr. Grant Hill (MacLeod, Ref.):** Mr. Speaker, I personally support the principles of Bill S-13, due to its health ramifications. This bill deals with many of the weaknesses in the Liberal tobacco measures, specifically the weakening of the tobacco control act by Bill C-42 which is currently being debated.

Health groups throughout this country are supportive of this bill.

Reformers treat private bills as a free vote on which a constituent has direct and significant impact.

Cabinet should hang its collective head in shame for having such a procedural wrangle on this bill.

**Ms. Judy Wasylycia-Leis (Winnipeg North Centre, NDP):** Mr. Speaker, I am pleased to have the opportunity to participate in this serious discussion of whether or not Bill S-13 is in order to be pursued in this Chamber.

The member for St. Paul's has put forward some very compelling arguments about why first reading of Bill S-13 would be in order without a royal recommendation. I recommend them to you, Mr. Speaker.

I bring to your attention the specific authority mentioned earlier to help you in your considerations. Erskine May's 21st edition, at page 716, is clear when it states:

The imposition of charges on funds other than the Consolidated Fund or the National Loans Fund does not require the royal recommendation, unless it involves an increased payment out of one or other of those Funds, or increases the liability. . . upon them, or automatically attracts a grant for moneys provided by Parliament.

*Points of Order*

● (1615)

The Speaker of the Senate deemed the bill not to have required royal recommendation and therefore sent the bill to this Chamber quite properly according to the rules as they now stand.

Today the government wishes to raise a constitutional principle of money bills not originating in the Senate. Following my Liberal colleague's comments I will also refer to Beauchesne's, page 97, citation 324. These citations deal very much with the House leader's reference to Bourinot's mention of two principles outlined on page 491. The two citations on page 97 and 98 are citations 324 and 325. Citation 324 says:

The Speaker will not give a decision upon a constitutional question nor decide a question of law, though the same may be raised on a point of order or privilege.

Citation 325 says:

In all matters of doubt, the Speaker will consider attentively the opinions of Members. Sometimes, instead of expressing an opinion of either side, the Speaker may ask instructions from the House or reserve his decision on the point of discussion, or suggest that the House may, if it thinks proper, dispense with the Standing Order in a particular case. In doubtful cases, the Speaker will be guided largely by circumstances.

The powers of the Senate are not the only procedural issue at stake here. It would be very useful for us and for you, Mr. Speaker, to consider the broad procedural history of the way tobacco legislation has been treated by the governmental institutions of the country.

Let us remember that the current round of the Tobacco Act, of which in effect Bill S-13 is a part, resulted from the fact that the supreme court ruled that sections of the Tobacco Act were unconstitutional because it held that the government had not provided enough evidence of the public health benefits of the act to infringe upon the free speech rights of tobacco companies. In essence, the court placed the burden of proof on governments if they wish to regulate the advertising of addictive drugs to children. The court effectively gave the act of convincing children to become addicted to a health damaging drug the constitutional protection of free speech.

Earlier the government ignored its deadline in the Tobacco Act for the introduction of tighter regulations on tobacco sponsorships. It has acted as if an agreement it had struck in private with the tobacco companies had the force of law. I brought this matter to your attention, Mr. Speaker, in a point of privilege on September 30, 1998.

It is also worth pointing out that the government is seeking to pursue a technicality to trump a badly needed public health measure to protect children. At the same time it refuses to take effective measures to enforce existing laws against the sale of

tobacco to children and is therefore collecting some \$80 million a year from the sale of tobacco to children.

If the government is concerned about technicality and is preoccupied with procedure and formality then there is clearly one area where the government should be focusing its attention. It clearly should be looking at technicalities around the enforcement of laws today which restrict the sale of tobacco to young people.

Throughout this sad episode all the legal, constitutional and procedural cards have been stacked against those who want to improve public health and in favour of those who seek to profit from selling an addictive poison.

● (1620)

I ask you, Mr. Speaker, to keep this in mind in your decision, because I think we truly are dealing with a grey matter in terms of procedures and constitutional and legal issues around Bill S-13 before us today. Given that the precise occasions requiring a royal recommendation and the definition of a money bill are in that grey area of procedure and history of procedure in the House, I ask you to give the benefit of the doubt to those who wish to advance the cause of our children's health.

As my final point it is worth mentioning that it is curious indeed that the government, in rising on this point of order, actually has expressed concerns about the democratic rights of the elected Commons versus the rights of the unelected Senate.

Certainly it is causing us some concern because we know this is a government that resurrected the undemocratic practice of routinely introducing government bills in the Senate before the House, something which the New Democratic Party has vigorously protested.

This is the government that has steadfastly refused to act upon calls from the New Democratic Party and millions of Canadians to scrap the unelected Senate, so we think it is rather inappropriate at this point to be focusing so much in terms of constitutional issues and the origins of a bill from the Senate. We believe that the government cannot have it both ways. It cannot use the Senate when it finds it convenient to do so and then hide behind it when it does not want to proceed with a particular measure.

I conclude with the most important message I think all of us concerned about Bill S-13 are raising today, and that is we are procedurally dealing with a grey area. We need to look very much at the circumstances surrounding the bill and the history of tobacco legislation in the country. We need to very much consider the public interest and the health of children in these deliberations. I recommend that position to you, Mr. Speaker.

**Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC):** Mr. Speaker, it is with great pleasure that I rise to speak to



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this point of order and to offer my humble comments. I commend the hon. member for St. Paul's for her initiative in this regard as well as the original mover of the bill in the Senate.

I am proud to follow the remarks of opposition members, particularly from the Reform and the NDP, who at least appear to be prepared to embrace a bill coming from the Senate, which is refreshing.

I had hoped the government House leader would have reconsidered this strategy of buck-passing to you, Mr. Speaker. It seems that the government is content to hand this ticking time bomb to the Chair as opposed to clearly and publicly state the government's opposition, or should I say cabinet's opposition to this initiative.

The record will show that the government House leader in his remarks admitted that there is a technical difference between a tax and a levy. That is an important admission.

It is doubtful that any decision that you will make, Mr. Speaker, will have more far-reaching impact on the health and longevity of the lives of young Canadians than the decision that you will be making on this point of order. I say this at the outset as a backdrop to the procedural arguments I would like to make.

I have every confidence that the Chair will make its decision based solely on the rules of the House, not the merits of the bill, not the emotion or the rhetoric that sometimes follows a bill such as this one.

My earnest submission is that there are grey areas for the Speaker to decide. Your Honour is treading into an unchartered area. These grey areas, I submit and as has been previously submitted, should be decided in favour of this House, this Chamber as a whole, not the government which has refused to engage in a debate on Bill S-13. It is only the cabinet, it appears, that is unwilling to declare its opinion with respect to the bill.

You will have available to you, Mr. Speaker, the decision of the Speaker of the other Chamber. I will admit that that is not binding on you, Mr. Speaker, but it is in fact a compelling argument and something that should be considered by you.

• (1625)

The government House leader has suggested that the levy proposed in the bill amounts to a tax, a burden on people. Certainly the levy has some similarity to a tax at first blush, that is to say, it looks, smells and perhaps acts like a tax but is not a tax. One might say that there is a charge to be made on anyone selling tobacco products and an offence is created by failing to pay that levy. However, there is proof that this is not a tax if one examines in detail the provisions of the bill.

Let us look at this closely. The charge is made not on the population at large but is placed on the industry itself, with the proceeds directed specifically. The proceeds are to be used completely outside the purposes of the government. The proceeds are not to be used by the government. It is specifically directed in the bill that they not be used for that purpose.

There is precedent for this situation and it is dealt with at page 763 of the 18th edition of Erskine May. Speaking of the instances when levies have been treated as matters outside the ways and means rules, Erskine May cites 10 instances of bills which imposed levies and levies which have been used for purposes other than the direct positive benefit of an industry. The levy can be used for other purposes. I submit this is the case with respect to Bill S-13. I quote from page 763 of Erskine May:

It may sometimes be difficult to define the limits of an industry, as in the Wheat Bill of 1932 (which was treated as within this rule) under which levies upon importers of flour formed a fund for making payments to growers of wheat. An even more difficult case was the Mineral Workings Bill, 1951, under which a fund fed by contributions from ironstone operators, owners and the Exchequer was set up to restore agriculture land from which iron ore had been extracted. This again was held to be a levy on the operators and owners though it involved some extension of the rule.

The royal recommendation was required on the mineral workings bill because of the contribution required from the exchequer. That was significant in the House, as recorded in volume 486 of *Hansard*, column 1809. There was no royal recommendation required in the instance of the wheat bill. Both bills passed both houses without being treated as taxes.

My submission is that Bill S-13 has nothing to do with public funds at all. Further, it distinguishes itself from this traditional definition of tax because there is no reference to public funding.

The House passed in the last parliament a levy under the amendments to the Copyright Act. A levy was placed on the sale of audio tapes and the proceeds of the levy were directed to go to a board, not for the improvement of the audio tape industry but for the benefit of music composers. The House at that time did not treat this levy as a tax. I suggest that this situation is very akin to the one now before the Chair presented by Bill S-13. It is a strong precedent that I urge Your Honour to examine closely.

Whether or not a levy proposed by Bill S-13 is a tax may be a question for the determination of the courts, as was mentioned by my hon. friend across the floor. There is a legal definition that I would refer Your Honour to and that is in the case of *Lawson v Interior Tree Fruit and Vegetable Committee of Direction*, 1931, SCR,357, a Supreme Court of Canada decision.

I cite from a crib note in the decision where a definition of a tax was given: "Whether a levy is a tax or a fee was considered in *Lawson*—Duff J. for the majority concluded that the levy in question was a tax because"—and this was the test—"it was

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enforceable by law". Clearly it would be here. Second, it was "imposed under the authority of a legislature". There is no difficulty with that. Third, it was "levied by a public body". This is not the case here. Fourth, it was "intended for a public purpose". Again, it does not fall squarely within the definition contemplated by the supreme court.

• (1630)

Mr. Speaker, in that discussion you will read of the evolution of tallage to taxes. The central theme is that taxes are funds for the use of the crown. The industry levy in Bill S-13 provides no support for the crown. Indeed the funds from the levy are specifically denied to the crown by the terms of this bill. That is specifically set out. This is significant.

The proceeds of the levy do not accrue to the crown and equally important, are not for public uses, that is, uses determined by a government body. Here the body is non-governmental. The proceeds go to a private body, the foundation, for its use within the restrictions that are set out in the bill.

While there may be a general benefit to the community derived from the work of the foundation, the work is not carried out by the crown or any agent of the crown. The work of the foundation is not subject to the scrutiny of parliament. Indeed one of the criticisms against this bill is that the auditor general would not be able to examine the funds or the foundation. That again I submit is an admission that this is outside of government control.

In ordinary language it is not a government body supported by tax revenue from the consolidated revenue fund. This clearly demonstrates that the body is outside the purview of government regulation or interference and not subject to direct government scrutiny.

Therefore I submit that if there is any doubt in your mind, Mr. Speaker, about the difference between a tax and a levy on this industry, as discussed in *Erskine May*, that doubt should be resolved in favour of consideration by this House, leaving ultimate determination for the courts, should it go that route.

As to the precedents which may be cited of instances where the Speaker has disallowed Senate bills on the basis of their being taxation measures, please keep in mind that in most instances these bills altered existing tax rates. There was no doubt or grey area in those precedents.

This is not a case to err on the side of caution or exclusion regardless of the merits of this bill. There is provision in our standing orders to permit the House to waive any claim to its financial privilege vis-à-vis the Senate. If the House is to have the opportunity to either waive such a claim or to have a conference with the Senate on a bill such as Bill S-13, which is also an option,

the Speaker ought not to intervene to prevent the House from considering those questions. This is tantamount to the government posing a pre-emptive strike. Any intervention by the Speaker at this point before the House is fully seized with the complexities of Bill S-13 would deny the House the opportunity to perform its usual duties to deliberate on these questions.

Therefore I would urge Your Honour not to intervene in this matter. This pre-emptive strike would in fact deny the opportunity for us in this House to do the work that is important and desired by all Canadians and all members of the chamber.

There is one technical point I would like to make. The hon. government House leader referred to the summary of the bill in his remarks. Your Honour will be aware that the summary is not part of the body of this bill and is not really a proper point of reference.

What the government is essentially trying to do is on the one hand to give the impression that it likes the bill. The government House leader used words like praiseworthy and commendable. Yet the government is trying to kill this bill. He is saying "Wash me but don't make me wet".

I want to make one final point. The government House leader gave a public interview on this matter and he asserted that the bill was improper "in its present form". Those were the words that he used.

The government House leader and the government itself has within its power the ability to cure each and every one of these alleged irregularities in the bill if that is in fact the government's concern. If that is what the government is worried about, the Minister of Health or any minister of the cabinet can adopt this bill and take it under their wing and can call it their own. I do not believe there would be any objection from the movers of this bill in either the Senate or this chamber to the government doing that.

Earlier this month I asked the government House leader if he was prepared to provide government time for this bill and he refused. The government could and should assume responsibility for the carriage of this bill. I ask that this House waive any alleged claim to its privilege. This is what the government should be prepared to do.

• (1635)

Those are my remarks with respect to this point of order. As a final note, again I am urging you, Mr. Speaker, not to do what the government itself is not prepared to do. If we strike down Bill S-13 at this particular time, the House and the government will not have the opportunity to speak or propose remedies to the government's objections, nor will the entire membership of the House, and through us, the Canadian people, be provided with a true and healthy discourse on this matter.

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Mr. Speaker, make the government politically responsible. The government does not have the votes to defeat this bill, if that is the route it wants to go. In the name of patience and what is right for this House and what is right for every house in Canada, I urge you, Mr. Speaker, to deny the government House leader's arguments. Let us put children ahead of political preference on this point.

**Mr. Bob Speller (Haldimand—Norfolk—Brant, Lib.):** Mr. Speaker, I raise this point of order at the first opportunity so that I may conform to your dictum suggested in the House in your ruling of October 16, 1995 when you said "It is the duty of every member of the House to be vigilant in regard to section 53 of the Constitution Act and to scrutinize bills no matter where they originate".

Mr. Speaker, section 53 of the Constitution Act as you are aware, states that bills for "appropriating any part of the public revenue or for imposing a tax or impost shall originate in the House of Commons".

I respectfully submit that Bill S-13, an act to incorporate and to establish an industry levy to provide for the anti-smoking youth foundation, while not a bill that appropriates any part of the public revenue requiring a royal recommendation, is nevertheless a bill that imposes a tax or an impost and accordingly should have been originated in this House.

Bourinot on page 491 of his fourth edition reminds us that:

As a general rule, public bills may originate in either house; but whenever they . . . involve directly or indirectly the levying or appropriation of any tax upon the people, they must be initiated in the popular branch, in accordance with law and English constitutional practice.

With respect to this practice, Bourinot points out that it is now a fixed principle of constitutional government that all propositions for the imposition of taxes should emanate from the ministries.

Our standing orders provide that in order to introduce legislation that imposes a tax or an impost there must first be a notice of ways and means followed by the adoption of the motion and only a minister of the crown may do so.

Clause 36 of Bill S-13 requires those who manufacture, produce or import tobacco products to pay a levy. Historically in Canada tobacco has been taxed by means of legislation preceded by a ways and means motion that provides for "that it is expedient to impose, levy and collect on tobacco and cigars manufactured in Canada". So reads the Commons *Journal* of 1918, page 233 and so reads the act based on that ways and means motion, an act to amend the Inland Revenue Act 1918, C.28,2.1.

In fact, going back even earlier in Canada's history, the Inland Revenue Act of 1883, section 248 uses the same language, i.e., "on tobacco and cigars manufactured within the Dominion of Canada,

there shall be imposed, levied, collected the following duties of excise".

The same wording continues to this day. In the Revised Statutes of Canada 1985 in chapter E-14, the Excise Act, section 200, duties of excise, states "there shall be imposed, levied and collected on tobacco and cigars manufactured in Canada".

As Shakespeare said, what's in a name, a rose by any other name would smell as sweet. That is in the case of Bill S-13 it may be demonstrated that a levy is in fact a tax.

During the debate in the other place in support of the procedural acceptability of the bill, the sponsor of Bill S-13 relied particularly on Bill C-32, an act to amend the Copyright Act, which was adopted by this parliament in 1997. Bill C-32 imposes a levy on persons who manufacture blank tapes in Canada or imports them and arranges for the distribution of these levies to groups, including those representing authors and performers.

• (1640)

While Bill C-32 may not have been preceded by a ways and means motion, it was yet introduced by a minister of the crown. Furthermore, the summary of Bill C-32, now chapter 24 of the Statutes of Canada for 1997, points out that the enactment in effect provides among other things a regime to protect performers' performances to conform to an international convention, and establishes a remuneration regime in relation to the private copying of musical works, performers' performances and sound recordings.

In other words Bill C-32 comes within the exception set out in May's *Parliamentary Practice*, 22nd edition, at page 779 where it states "Levies upon an industry for purposes beneficial to that industry are regarded as not covered by the rules of financial procedure and so do not require authorization by a ways and means resolution".

The sponsor in the other place relied considerably upon the 21st edition of May's *Parliamentary Practice* in support of his position. The 22nd edition of May notes at page 779 "Modern legislation frequently makes provision for the imposition of other types of fees or payments which, although not taxes in a strict sense, have enough of the characteristics of taxation to require to be treated as 'charges upon the people' and therefore to be authorized by a ways and means resolution moved by a minister of the crown.

He also goes on to say "This distinction between the types of payments which are or are not covered by the rules of financial procedure is not always straightforward in practice".

In particular May suggests "Where payment is imposed in order to meet the cost of enforcing a new regulatory scheme which is for the general benefit"—and I highlight general benefit—"rather

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than for the benefit of the industry". That is on pages 779-80. Such a regime is one that requires the use of financial procedures.

Section 3 of Bill S-13 says the purpose of the act is "reducing the rise of tobacco products by young persons throughout Canada". While the section refers to that being an industry objective, there is nothing more fundamentally public than matters of health, in particular the health of our young Canadians.

In the case of Bill S-13, the smoking public would be the real recipient of any benefit, not the tobacco industry. The purpose is a public purpose. That is its pith and substance. It is a public purpose. As the summary of Bill S-13 states, the mandate is to reduce the use of tobacco by young persons in Canada. In fact, the new title of the bill endorses the public purpose. Accordingly, Bill S-13 does not come within the exception mentioned above.

In fact, Bill S-13 is not unlike the reference in the 22nd edition of May to the case of the merchant shipping bill, 1973-74 which imposed an obligation on importers of oil to contribute to an international fund for the compensation for oil pollution damage, which required a ways and means resolution, even though the contributions were not to pass through the consolidated revenue fund. The levies to be raised by Bill S-13 are also not destined for the consolidated revenue fund.

In effect the levy to be imposed by Bill S-13 smacks of a tax. It represents the imposition of levies, charges or fees which are akin to taxation in their effect and characteristics and thus are subject to a ways and means resolution. That can be found on page 777 of May.

Apart from the public policy of permitting a group or an industry to raise money either through a public tax, levy or impost for a benefit that flows to the public, as opposed merely to the industry, Bill S-13 would also not only breach the historical constitutional convention that only the crown may impose a charge upon the people, but it would also fly in the face of the House of Commons jealously guarding its role in parliament. As Bourinot reminds us, such measures "must be initiated in the popular branch".

The history of raising public revenue from the tobacco industry in Canada shows clearly that it was done by means of imposing a levy of excise under the aegis of the financial procedures in our standing orders. This is not the case for Bill S-13. Accordingly this bill should not remain on the Order Paper.

• (1645)

**Mr. Keith Martin (Esquimalt—Juan de Fuca, Ref.):** Mr. Speaker, I am here to speak on the point of order concerning Bill S-13, an act to incorporate and establish an industry levy to provide for the Canadian anti-smoking youth foundation, a bill that I personally support. I rise not to speak on the merits of the bill but to address the concerns raised on the point of order by the hon.

member and also to compliment the hon. member for St. Paul's for her action on this as a member of parliament and as a physician.

This bill would not have come up if not for the failure of the government to deal with the issue of smoking in Canada, a failure of a government that in 1994 lowered the tax rate on cigarettes which has caused nearly a quarter of a million children to take up cigarette smoking. Bill S-13 attempts to deal with it. That the bill had to be brought in this way is unfortunate but it has been dealt with and brought in this way because of the government's failure to actually do very much on the issue of smoking in Canada.

I would like to speak on procedure and the way this is done is supported by a number of precedents, including Bill C-32, the Canada Shipping Act, and the Canada Petroleum Resource Act that show very clearly this is a levy and not a tax.

I encourage you, Mr. Speaker, in your position as an upholder of the House and as an upholder of the rules of the House, to look at that issue and see very clearly that the hon. member for St. Paul's is correct in her assessment and that the government House leader is not.

**Mr. George Proud (Hillsborough, Lib.):** Mr. Speaker, I will not take long on this point of order, but I want to address the concerns raised in the point of order by the hon. minister.

I express first of all my sincere concern that this legislation will not be given the proper attention that I think it deserves in the House of Commons.

As hon. members well know, parliament evolved out of the Westminster model of parliamentary government. There are three very important actors in this model, the government, the House of Commons and the electorate.

As our brief but colourful history as a nation has progressed, two basic principles have emerged that govern the relationship between the government, the parliament and the electorate. These principles are a responsible and representative parliamentary government. Responsibility and representation is what we have known for the life of this nation. We have a responsible cabinet. We have a representative parliament.

A responsible and representative parliament performs very important functions. Parliamentarians deliberate, investigate and legislate items that come under their purview. The upper and lower chambers that compose the Parliament of Canada share these roles. Parliamentarians deliberate. We look at issues and try to decide if these issues are worthy of debate, worthy of change or whether the issues raised are worth our attention at all. We use our collective judgment to decide what work gets done

Parliamentarians investigate. We have investigated many issues that relate to smoking. We investigate many issues that often result in the creation of laws. We legislate. We have been given the

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honour to create laws, to be the ones who make decisions that affect the welfare of all Canadians, our youth included.

Mr. Speaker, I am not here to tell you whether this bill or should not be passed. I am here simply to say to you that this bill deserves to be fully scrutinized by the traditional mechanisms of our parliamentary system.

I believe Bill S-13 deserves the attention and the process that it and many other bills in the history of this nation have received. Let us give this bill the attention it deserves and let the members of this Chamber do their jobs and decide whether it deserves second reading.

**Mr. Nelson Riis (Kamloops, Thompson and Highland Valleys, NDP):** Mr. Speaker, I want to expand on some of the comments made by my colleagues.

I think I have a possible solution to assist you in your decision and in a sense get you off the hot seat.

• (1650)

Obviously the other place is involved in this issue. It has dealt with it. It has passed it duly through the process.

Obviously the House of Commons now is captivated by this issue. The government certainly is interested in the issue but, most important, the people of Canada and the children of Canada are involved.

Notwithstanding the constitutional arguments, notwithstanding the procedural arguments, notwithstanding whether this is a tax or a levy or an impost, if there is a will to pass this legislation surely we can agree among ourselves today to just set this aside and the government can introduce a ways and means motion tomorrow morning. It will pass before Christmas if there is a will here on behalf of the people of Canada to do this.

Rather than perhaps go on for hours, if the will is here and I suspect from what I have heard that the people have spoken through their duly elected representatives in the House, we can actually have legislation before us in the morning and deal with this expeditiously and actually have the entire legislation passed and proclaimed before Christmas.

What a generous gift it would be for the Parliament of Canada to give the people of Canada a life saving gift for generations to come.

**The Speaker:** It is my duty, pursuant to Standing Order 38, to inform the House that the questions to be raised tonight at the time of adjournment are as follows: the hon. member for Yukon, the environment; the hon. member for Tobique—Mactaquac, Asia-Pacific economic co-operation summit.

[*Translation*]

**Mr. Bernard Patry (Pierrefonds—Dollard, Lib.):** Mr. Speaker, I would like to intervene on this point of order, but not to reiterate the excellent arguments of my colleague from St. Paul's.

I will focus on two very specific points. The first is the matter of the ways and means motion as it pertains to a tax rather than a levy. The second point concerns the criteria associated with the levy.

Today, Mr. Speaker, you will have to decide whether a levy or a tax is involved. When a bill proposes a levy and not a tax it is exempt from certain prerequisites. A ways and means motion must be concurred in before a bill imposing a tax on the public can be introduced. There is no such requirement for a bill proposing a levy.

It serves no purpose to repeat that a ways and means motion may be moved in the House only by a minister of the crown. According to the traditions in this House, a levy must meet three very specific criteria.

[*English*]

The first one is that the levy is imposed on the industry. The second one is to serve an industry purpose. The third one is that the funds from the levy never form any part of the government's revenue.

[*Translation*]

Mr. Speaker, yours is the role of judge. As you said earlier, you want our opinion. Other opinions, including legal ones, have been or will be submitted to you, no doubt. You yourself will also seek other opinions, I am sure.

I close on the comparison, which was used earlier by the government House leader, between Bill C-32 on copyright and Bill S-13 before us. Unlike the government leader, I see a lot of similarities between the two bills. Bill C-32, which includes the levy on blank cassettes, did not require a ways and means motion and royal assent, because it essentially involved a levy.

This bill must be passed and debated by this Parliament, which will judge it on its merits. I believe this bill meets all the criteria necessary to proceed.

With your permission, I would like to table in this House legal opinions to this effect, which I hope will help you in your consideration of the matter.

• (1655)

**The Speaker:** If the hon. member for Pierrefonds—Dollard wishes to table these legal opinions, I would ask him to have a page deliver them to me so I might read them.

[*English*]

**Mr. Greg Thompson (New Brunswick Southwest, PC):** Mr. Speaker, I want an idea of how much time I have because I want to

*Points of Order*

go through some supreme court rulings in relation to the topic today. They are somewhat detailed and will take more than a minute or two of your indulgence.

**The Speaker:** I am prepared to listen to the hon. member as long as he has pertinent information to this point of order. If the hon. member feels he could refer me to a particular case he might give a summary of the case in his own words and deposit the information on the table so I will have access to it.

**Mr. Greg Thompson:** Mr. Speaker, I will go through it as quickly as I can. It certainly speaks to the issue at hand. It is very specific.

One of the arguments raised by the House leader is this is a tax and not a levy. I want to step through here for the Canadian public. Mr. Speaker, I am sure that through your examination of this you have discovered some of this on your own, but to put it on the record I think is important.

A tax is generally defined as a compulsory contribution levied on a person by a government body with the intent to transfer resources from the private to the public sector. A tax is imposed to finance public sector goods and services and to redistribute income among different economic groups in society.

The issue of whether a charge imposed by a government is or is not a tax has been examined by the courts in relation to section 92(2) of the Constitution Act, 1867 in determining the status of various charges, some of them federal and some of them provincial.

Since pursuant to section 92(2) a province or the federal government may impose a direct but not an indirect tax, if the charge were an indirect charge it would be invalid.

The Supreme Court of Canada has examined this issue in the following cases and I will use the appendix of some of these cases to explain in more detail: the Agricultural Products Marketing Act, 1978; the Exported Natural Gas Act, 1982; Allard Contractors v Coquitlam, 1993; the Ontario Home Builders' Association v York Region Board of Education, 1996.

In the agricultural products case the Supreme Court of Canada held that marketing levies imposed by a marketing board were regulatory charges intended to deal with the expenses of the marketing board. The marketing levies were not a tax because they were not imposed to raise revenue for the public purse. The member for St. Paul's articulated this very clearly in her argument, that it is not moneys for the public purse.

In the Allard Contractor's case the Supreme Court of Canada held that a fee imposed by a municipality on companies engaged in the extraction of gravel was not a tax, as the fees raised were

intended to be used to repair roads. The fee had a specific use. The key is specific use and because that was a specific use it was a valid regulatory charge.

• (1700)

In The Ontario Home Builders' Association case, the Supreme Court of Canada held that a charge imposed by school boards on land developers, which was intended to be used to fund the construction of new schools, was a regulatory charge and not a tax.

The Ontario Court of Appeal found that the probate fees levied by the province of Ontario were part of a regulatory scheme relating to the maintenance of the Ontario court. The levying of probate fees was part of a general revenue raising program and as such was not a tax.

In the natural gas tax case, the Supreme Court of Canada found that the charge in issue was intended to raise revenue for general public purposes and as such was a tax.

The result of these cases is that a levy imposed by a public body can be characterized as a regulatory charge and not a tax if the amounts received pursuant to the levy are to be used for a specific governmental service and the amount of the levy reasonably relates to the cost of providing that service. That was articulated very well by the member for St. Paul's in terms of what would be raised by this levy, where and how it would be spent, how much of it would be spent and what would happen if all the money were not spent.

The levy intended to be imposed pursuant to part two of Bill S-13 is a levy that is clearly intended to provide funds to defray the cost of providing the services and products referred to in section 5 of the proposed act. It is not intended that the levy provide revenue to be transferred to any public authority to be used for general public purposes. The levy is to be specifically applied toward the needs of the foundation.

The relationship between the levy and the expenses of the foundation is indicated in section 36(3) of the proposed act in that if the number of young persons in Canada who are smoking tobacco products declines to 5% or less in the fifth or the subsequent year of the foundation, the foundation may reduce or eliminate the levy imposed pursuant to section 36(1) of the proposed act for the particular year. It is to be presumed that the expenses of the foundation would decrease if there were fewer young persons in Canada smoking and as such the need for a levy to satisfy these expenses would be correspondingly reduced. That is articulated very clearly in the bill. It is my opinion that the levy to be imposed pursuant to part two of the proposed act is not a tax.

I have another two or three pages to go. In the interests of time I would like to table them.

*Points of Order*

**The Speaker:** This would be a proper way to do it. He can give the information to the page and I will personally take charge of it.

**Mr. Greg Thompson:** Mr. Speaker, I know we must speak to the technicalities of the bill. We are talking about 40,000 deaths per year in Canada because of smoking. We have to do everything in our power to address that issue.

I make a point that goes back to a precedent and I do not think it has been mentioned today. Canadian practice provides a precedent based on British cases. This proves it is possible for a ways and means resolution should it be deemed required to be moved to the bill post-second reading. Mr. Speaker, that is an option you should consider because that would allow the bill to be on the floor of the House of Commons and debated for its merits. Obviously that has to be part of your consideration.

• (1705)

I hope your ruling is based on the arguments and precedents we are hearing today. If your ruling is based on anything other than that I think it would be grossly unfair to this House. I do not think you will do that, but I want to put that on the record.

Looking at both sides of the House, we want to have the opportunity to discuss those because I know from time to time in the past rulings have come down in the House where technicalities or arguments have been used which were not based on what we have heard on the floor of the House. I hope when the ruling does come down it is on the merits of some of the arguments you have heard today.

I hope at the end of the day consideration is given to the bill and that we will have the opportunity to debate it on the floor of the House of Commons.

**Mr. Clifford Lincoln (Lac-Saint-Louis, Lib.):** Mr. Speaker, I rise to back up the arguments of my colleague from St. Paul's and all the other members who have spoken in favour of the recognition of Bill S-13 as valid to be introduced in the House.

It is clear among all of us that a tax is a charge on the people. We agree with that. If a tax is a charge on the people then it must be preceded by a ways and means motion. We all agree with that. A ways and means motion must be introduced by a minister of the crown. A tax bill can originate only in the House of Commons. In one way or another tax revenues will form part of the general revenues of the government.

A levy is a very different thing. A levy is imposed to serve a particular beneficial industry purpose. The funds from the levy never form part of the revenues of the government. We need to find out whether the levy imposed on the tobacco industry in this case is a charge on the people and forms part of the revenue of government. If such is not the case, if it is not a charge on the people generally and does not form part of a revenue of government, it is a case for saying Bill S-13 constitutes the introduction

and imposition of a levy on a particular industry and is valid for introduction in the House.

The bill is very clear. My colleague from Haldimand—Norfolk—Brant quoted section 36, saying there is a distinct imposition on a particular industry.

• (1710)

I refer to a the ruling by the Speaker of the Senate:

I have two things to do here. I do not have authority on constitutional law but I can look at the bill and compare it to precedents to find out whether it is valid for introduction or not as a levy.

What is within my authority, however, is examination of the bill in order to assess what it declares itself to be. I accepted the plain and ordinary meaning of its words and studied them to see if all the clauses relevant to the issue of the levy were internally consistent. I then measured the levy described in the bill against the criteria Erskine May sets out at pages 730-737 for identifying levies that are exempt from financial procedures governing the imposition of taxes.

With respect to the matter of the plain language of the bill, it speaks in terms of a levy rather than a tax. This is evident from part II of the bill. It is also clear that the levy is imposed upon the tobacco industry alone.

Therefore it is not a charge on the people. It is a charge on the tobacco industry. He states further:

The purpose of the levy, as stated in the bill, is to meet an industry purpose beneficial to it, although this industry purpose also has a public benefit. Clause 3 states categorically that the purpose of the bill is:

... to enable and assist the Canadian tobacco industry to carry out its publicly-stated objective of reducing the use of tobacco products by young persons throughout Canada.

Consequently, with respect to the language of the bill I must accept that what is proposed is a levy, not a tax.

Then he goes on to compare it with Erskine May:

The first criterion is that the levy must be for industry purposes. The second is that the funds collected must not form any part of government revenue.

He concludes by comparing the provisions of Bill C-32:

There is further evidence that the levy [in Bill C-32] was not viewed as a tax. I say this because, so far as I have been able to determine, the bill was not preceded by a ways and means resolution, which would have been a prerequisite if the funds had been viewed as a tax.

I refer to section 35. I am not discussing the substance but just the case of proving that it is a levy. If part of the general revenue, the consolidated revenue of the government, it would have to come back to the consolidated revenue of the government. If a charge on

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the people, it would have to be part of government revenues and, if anything happened, come back to government revenues.

This creates a foundation and section 35 clearly establishes that if the foundation is wound up the revenues have to be transferred from the council of the foundation and therefore back to the tobacco industry.

The bill clearly identifies that the objective is to impose a levy on one particular industry just as was done with the blank tapes on Bill C-32. There is no difference at all. It is for the benefit of a particular purpose which is beneficial to the industry as a whole. The tobacco industry supports Bill S-13 by saying "We cannot do it ourselves, we are not credible, nobody will accept it from us. Therefore an arm's length foundation that keeps the revenue which it is totally in control of can do this on our behalf".

What is the difference between this and Bill C-32? There is none at all.

My colleague from Pierrefonds—Dollard tabled two legal opinions by Michael Clegg and Mark Siegel, experts in the field.

• (1715)

They appeared before the Senate and they clearly established that in their minds it was a levy and not a tax.

There is a letter in the Ottawa *Citizen* today from one of our foremost lawyers, Lawrence Greenspon, and I would like to quote from it because I think it is very important at this time:

Canadian courts are used to dealing with this issue and have distinguished between these kinds of regulatory charges on the one hand, and taxes on the other. They are not the same thing.

The first legal requirement is that the levy be imposed on the industry for what is called an industry purpose. Here the aim is clear. The bill targets the tobacco manufacturers, collects the money from those manufacturers and then uses the money exclusively to direct information to a segment of the population affected by the products of those same manufacturers.

The second condition that must be satisfied is to ensure that none of the money collected ends up in the Consolidated Revenue Fund. The provisions of the bill ensure that if there is a surplus it goes back to its source, the tobacco manufacturers.

That is the case with this bill.

Mr. Greenspon also says "As a lawyer I am saddened by the prospect of legal interpretation being misused to overcome this life-saving effort". Mr. Greenspon concludes that in his mind it is definitely a levy.

I appeal to you, Mr. Speaker, to recognize this as what it very clearly is. My colleagues, I would say, fully support the principle of this bill. I disagree with others who say they do not because I know that they do, and strongly do.

I feel that members feel duty bound to intervene on a question which is very germane to what we do here. I think it is very important that they did. I appreciate that they did. It will be your ruling, Mr. Speaker.

I notice that members opposite invoked section 53 of the Constitution Act. Members referred several times to the Constitution and I suggest that in *Beauchesne's* it is very clear that matters of constitutional law and matters of the law itself are not your prerequisite. I think this goes beyond the scope of what the Speaker should do.

I feel it is within your scope, Mr. Speaker, to look at this legislation which is expressed in very clear and plain language, which clearly identifies its purpose, its meaning and its objectives. Look at it and agree with us that there is no tax chargeable on the people, that there is no need for a ways and means motion, that it can be introduced in the other place, as has been done, that it is valid here and that we should deal with it.

I hope, Mr. Speaker, that is the way you will conclude your recommendations to us.

**The Speaker:** There are still four members on the list who wish to speak. At 5.30 p.m. we are supposed to go to Private Members' Business. That is an order of the House.

There are approximately 12 minutes left and there are four of you on your feet. May I suggest that you summarize your remarks in three minutes, if you can. I am going to hear the hon. member from the Reform Party, then the hon. member for Whitby—Ajax, then the hon. member for Burnaby—Douglas and then you will wrap up.

**Mr. John Cummins (Delta—South Richmond, Ref.):** Mr. Speaker, some people in this House seem to be under the mistaken assumption that the 50 cent a carton donation is a tax or a levy. In my view it is not a tax, it is not a levy, it is merely a compulsory donation supporting a cause which I think is above reproach, that is, to discourage children from experimenting and becoming addicted to a totally foul and nasty drug. The intent of this bill is not to fill the pockets of the taxman.

In all seriousness, the issue of whether it is a tax or a levy is a grey area. I think that gives the Speaker some latitude when considering this. It certainly gives you some latitude in determining whether or not this bill is appropriate to come before the House.

• (1720)

I suggest, Mr. Speaker, that when you consider this you consider the fact, as you have said many times, that you are a servant of the House and the members of this place. I believe that the will exists on both sides of the House to see that this issue is brought forward and debated in full. I ask you to take that into consideration.



*Points of Order*

I think it unseemly that the government should attempt to prevent the introduction of this bill through a technicality. It is time that we did something for our kids. I would like to see this bill brought forward quickly for debate.

**Mrs. Judi Longfield (Whitby—Ajax, Lib.):** Mr. Speaker, you have already heard eloquent arguments about whether this bill really constitutes a tax or a levy and I do not intend to repeat them. However, I do intend to highlight another aspect of this process as it concerns your involvement as Speaker of the House.

Mr. Speaker, asking you to rule this bill a tax bill and therefore out of order is asking you to contradict the stated intentions of the bill. The bill states that it is proposing a levy, not a tax. The bill states that the levy is for publicly stated industry purposes and objectives. The bill states that these funds will not flow into the consolidated revenue fund. As articulated by my colleague from Lac-Saint-Louis, this bill clearly states and proves that it will impose a levy, not a tax.

Mr. Speaker, with the greatest respect, it is not your role to impugn motives other than those stated in the bill. You are in effect being asked to speculate about the possible impact this bill will have in law. You are being asked to provide both a legal and a constitutional decision.

I know you are familiar with Beauchesne's, but for the record I repeat citation 168(5) at page 49 of Beauchesne's 6th edition:

The Speaker will not give a decision upon a constitutional question nor decide a question of law, though the same may be raised on a point of order or privilege.

It is the role of the courts to make this determination, not the role of the Speaker.

Mr. Speaker, your role, as you well know, is to guard the privilege to debate and speak freely on virtually every issue. In the absence of any compelling reason proving that this bill is procedurally unacceptable, your duty is to allow the debate to continue and to allow us, the members of this place, to make an appropriate determination on the merits of the bill.

In closing, I would like to say that it is unfortunate that such a worthy initiative is being caught up in procedural wrangling, particularly when there appears to be broad multi-party support for the goal of this bill, which is to protect the health of our young people.

Mr. Speaker, you have a bill with stated intentions. You must apply the rules, not interpret the law or impugn other motives.

**Mr. Svend J. Robinson (Burnaby—Douglas, NDP):** Mr. Speaker, I will obey your injunction and be very brief.

I want to associate myself with the eloquent arguments that were made initially by the member for St. Paul's and thank her for bringing this important legislation before the House. I also want to

pay tribute to Senator Colin Kenny who has travelled tirelessly across this country, in the shared objective of members on all sides of this House, to deal with the human tragedy of 40,000 deaths each year, too many of which are teenagers and young people.

While there have been a range of arguments on the issue of a tax versus a levy and the constitutional acceptance of this legislation, I suggest an alternative which might meet with the approval of members on all sides.

I have consulted with the Table. There is another option, other than a ruling at this stage which may or may not preclude debate on the substance of this bill. I appeal to members to consider seriously this option.

I make it very clear that this argument is without prejudice to the position that I, the member for St. Paul's, my colleague from Winnipeg North Centre and others would take, which is that the bill is in order and should proceed.

I suggest to members that the House is in a position, should it agree not to give unanimous consent to allow this bill to proceed through all stages, to give consent to allow this bill to proceed through second reading and committee stage. The House can give that consent now. Members can give that consent. Should that consent be forthcoming, then Canadians would be in a position to be heard on this issue through members on all sides, both in the House and in committee.

● (1725 )

At the same time the government could consider the advisability or the wisdom of proceeding with a ways and means motion, should it believe that necessary.

Obviously, Mr. Speaker, procedurally I would suggest that should consent be granted, your ruling would be postponed until necessary to rule on the specific issue of the necessity for a ways and means motion.

I want to appeal to members of the House. There is a will on all sides of the House to allow the merits of this very important legislation to be heard. Therefore, I want to ask members on all sides of the House for unanimous consent to allow Bill S-13 to proceed through second reading and committee stage.

Should consent be granted, then obviously it would still be very much within the purview of the government to consider the wisdom of proceeding with a ways and means motion. But what this would allow—and, as I say, I have consulted with the Table—is for the merits of this very important legislation to be considered in the House and in committee. Therefore, I seek that consent.

**The Speaker:** I want to understand, so I will put this to the member. The member wants permission to ask for unanimous

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consent to advance this bill to a certain stage, and I believe he said second reading and committee stage. That is what he wants the consent of the House to do. That is in order.

Does the hon. member have the consent of the House to put the motion?

**Some hon. members:** Agreed.

**Some hon. members:** No.

**Mr. John Bryden (Wentworth—Burlington, Lib.):** Mr. Speaker, I will try to give you some constructive suggestions.

The issue around Bill S-13 seems to be revolving around the definition of the word levy. I point out in the legislation that under definitions it says "Levy means the levy". The legislation defines levy by the same word. It is a levy for industry purposes.

Mr. Speaker, there have been arguments that you should pay careful attention to what judges say, to what the supreme court says on issues like this, and to what the courts in general say. I will ask you to speak as the president of the highest court in the land. I look to you to make a decision that is above the courts because this place is above the courts.

Having said that, I do not think we need to go to the courts to define what the word levy means. All we have to do is go to the table in front of you and examine the *Concise Oxford Dictionary*, which is the Table dictionary. If we look up the word levy we will find that the definition is "the collecting of a contribution, tax, et cetera".

Mr. Speaker, were you to go to the parliamentary library and look up the *Oxford English Dictionary*, volume 8, you would find this definition of levy: "the action of collecting an assessment, duty, tax, et cetera". *Collins English Dictionary* defines levy as: a) the art of imposing and collecting a tax, tariff, et cetera; b) the money so raised". The *American Heritage Dictionary of the English Language* defines it this way: "to impose or collect a tax". Finally, if we look at *Larousse*, we will find that "prélèvement" is translated as "impôt".

Mr. Speaker, there is no question about what the English and the French language mean by the word levy, and it is a tax. However, you have heard arguments that there have been interpretations of the word levy made by the courts as having something to do with raising money by regulation.

The member for New Brunswick Southwest drew your attention to the Ontario probate fees. He said that if you want an example of a levy you could look at the Ontario probate fees, and he cited court documents. Recently that has been the source of a court challenge and those fees have been declared a tax. As I understand it, the Ontario government is now on the hook for about a billion dollars on this levy.

• (1730)

I would ask you, Mr. Speaker, to consider very carefully what we really do mean by a levy. Again the dictionary before you on the table defines tax. We have seen in that dictionary that a levy is a tax and now we will look at the definition of a tax. It reads:

—a contribution to government revenue compulsorily levied on individuals, property, or businesses.

One of the arguments we have been hearing is that because this compulsory tax goes to a foundation it is not really a tax at all. I submit that because a foundation is a creature of this parliament, a creature of this government, it is indeed a recipient of a tax. We do not evade the question of whether a tax is a tax simply because it goes to an arm's length agency that has been created by the government.

The key word is the fact that money is being raised from people compulsorily. I point out that normally in our legislation we do not make a distinction between individuals who are persons like myself, single people, and corporations. They are often viewed in legislation as individuals and they are regarded as such.

I draw your attention, Mr. Speaker, to another definition in the legislation:

"sponsor of the Foundation" means a person who pays a levy.

If we transpose the word levy for tax, that definition actually is that sponsor of the foundation means a person who pays a tax. In other words, this is all about taxing somebody.

**The Speaker:** This has been a very interesting afternoon. I would imagine that this will be a far-reaching decision.

I will take the advice that you have given me and I will look to other sources so that I get a complete view of this particular problem. Of course you would not want me to limit myself only to what was said in the House because there is, no doubt, other information that I will need.

I will take into consideration the very valuable information that you have given me today. When I have looked all the material, I will return to the House with a decision on this particular point of order.

**Ms. Carolyn Bennett:** Mr. Speaker, if you come across information that would be interesting to the House or possibly new information that was not raised here this afternoon, would it be possible for you to bring that to us so that we could comment?

**The Speaker:** I know you do not want to get into a debate with your Speaker, but when I bring my decision forth there will be no doubt as to where I get my information from. That will be laid before the House when I make my decision.

It being 5.30 p.m., the House will now proceed to the consideration of Private Members' Business as listed on today's order paper.

## PRIVATE MEMBERS' BUSINESS

[English]

### CRIMINAL CODE

**Mr. Paul Forseth (New Westminster—Coquitlam—Burnaby, Ref.)** moved that Bill C-207, an act to amend the Criminal Code (trespass), be read the second time and referred to a committee.

He said: Mr. Speaker, it is certainly a privilege to begin debate today on my private member's Bill C-207 dealing with amending the Criminal Code with respect to trespassing.

The bill arises out of community response. My motivation is based on complaints from police officers, security at shopping malls and so on; my experience in dealing with family disputes being an officer of the criminal justice system in the past; and comments from the general public.

Certainly my motivation is to protect my community, to protect the viability for children in a library, at a skating rink, on the school grounds or at a local shopping mall. In domestic family disputes it would certainly go a long way to facilitate voluntary compliance in preserving the peace in residences to protect children there.

• (1735)

Essentially the frustration is that persons are trespassing on property, causing a public disturbance and destroying a sense of community and livability for children, yet are unable to be removed permanently for a small period of time. For example, malls are a popular place for youth to hang out, sometimes for young drug dealers to strut their style, or for casual gangs to want to show off and simply take over an area.

Security in malls consistently has a difficult time in maintaining civility. The main reason is that they have little, if any, authoritative jurisdiction when they want to give a warning to someone. They really cannot warn the person with anything other than saying that legally they could remove them from the property.

If the security staff of the mall, a library or whatever, is forced to remove a problem person, that person can just re-enter within minutes. There is no place in the Criminal Code that states the trespasser must stay off the property for any period of time. The only way the person could be charged is if he or she resists while being removed from the property. If the person never resists that act could continue over and over again, and it does in some cases.

Something that federal government officials seem to often forget is that teenagers are extremely street smart. I recall when serving on the Standing Committee on Justice and Legal Affairs we were dealing with the Young Offenders Act. A witness wanted me to

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believe that most young offenders have no idea of what the possible penalties were under the Young Offenders Act. That is certainly not the case.

For a long time now, Reformers have been calling for the Young Offenders Act to be strengthened in order to deter young offenders from committing crime. One of the reasons for that is the community reputation. The observation of outcomes from that act were known to be rather light or inconsequential. Therefore there is no respect for the law.

Before I became a member of parliament I served as a family justice counsellor and a probation-parole officer in the attorney general's ministry of British Columbia. I spent a great amount of time dealing one to one with young offenders. After a while in that kind of role one understands how they think. In many circumstances they know exactly what they are doing. Their actions are quite calculated. Many know how to beat the system. If there is a loophole in the system, an offender will certainly find it and the word quickly travels on the street.

What Reformers have been doing for the past five years is attempting to amend the justice system by closing some of these obvious loopholes, one loophole at a time in an orderly way.

Every province seems to have a different way of dealing with trespassers. In British Columbia trespassing laws are rather weak. Something has to be done with this most serious issue. With the provinces sometimes doing very little to remedy the situation, I believe that something should be done to amend the Criminal Code so that we can have a national standard of reasonable social behaviour in a public place, perhaps a Canadian identity of civility to one another.

Recently an employee of the Department of Justice phoned my office to inquire about the bill we are discussing. The official asked a member of my staff why we just do not lobby the provinces to amend their legislation as this change apparently borders on federal-provincial jurisdiction. My response was that we cannot always look to the provinces as an escape for federal inaction. We cannot simply blame the provinces and say that it is their fare.

Here is an example where the federal government needs to take some lead for once. It is rightly in the jurisdiction of the federal government to amend the Criminal Code, section 41, and it will not be trampling on the feet of the provinces.

The amendments that I am proposing in Bill C-207 would strengthen section 41 of the Criminal Code. Section 41(1) clearly states:

That every one who is in peaceable possession of a dwelling house or real property, and every one lawfully assisting him or acting under his authority, is justified in using

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force to prevent any person from trespassing on the dwelling house or real property, or to remove a trespasser therefrom, if he uses no more force than is necessary.

I am proposing an amendment to section 41 of the code, making it a summary conviction, that is a minor offence, for a person who has already been lawfully removed from real property or a dwelling house not to be able to lawfully return for just 24 hours. The reason for 24 hours is to provide adequate time for the individual to cool off. It is amazing how attitudes change the following morning.

• (1740)

It also provides a social intervening time for the crowd mentality behaviour and the show off behaviour to others to be interfered with. Often the issue is the timing. When someone is being legally removed the whole idea of their being able to come back within minutes and mock the system is often the game that is played.

I will give a hypothetical situation. A teenager is removed from a shopping mall for causing a disturbance short of a serious crime. That teenager then must stay out of the shopping mall for a total of 24 hours under my provision. Otherwise, he or she could be charged with trespassing and may be found guilty of an offence punishable upon summary conviction. In other words, the teenager would be given a ticket.

In another hypothetical situation a boyfriend enters the property of his girlfriend and little children and is told to leave. He will not leave so the police are called. They arrive and legally remove him from the property. But under the law there is nothing that stops him from repeating this an hour later and the lady will be forced to go through the same exercise over and over. The police know their hands are tied, especially if this happens on a Saturday afternoon rather than prowling by night on residential property.

The amendment to section 47 would keep this fellow off that property for 24 hours. Otherwise he would be charged with a summary conviction. When being removed for the first time he then could be warned of the consequences if he returned before 24 hours had passed. In the current situation no such warning could be given.

This is a real gap in the issue of domestic disputes and preserving the peace for children. Because of the way the government has manipulated Private Members' Business, Bill C-207 is unfortunately finished at the end of this hour. However I do not plan to give up on this issue.

It is the responsibility of the Department of Justice to make the criminal justice system loophole free and get rid of these problems. That is why from time to time we receive omnibus bills that deal with a variety of issues throughout the Criminal Code. We do have the larger agenda of trying to provide peace, order and good government and to have safer streets.

Today should have been the first hour of three hours of debate on Bill C-207, but the way in which the subcommittee on Private Members' Business conducts its selection is rather atrocious. It is a travesty that members who diligently work to create legislation are not allowed the opportunity to get something through parliament.

I was elected in 1993. Since that time I can count on one hand the number of times I have had a bill drawn. Once I made it through that lotto I was rarely fortunate to have one of my private member's bills adopted into federal legislation which eventually became law. I was lucky at one point to have that happen.

The bill I introduced amended the Bankruptcy and Insolvency Act. It was a minor amendment but it was significant as far as I was concerned. It closed a loophole and was similar in nature to what I am proposing today. The Minister of Industry at the time acted justly and adopted my bill into the government bill and the contents of my proposal is now the law in Canada.

It really did not matter where the bill came from. It was the matter that we got the job done. The issue is trying to provide co-operation and reconciliation in the House instead of always dividing on every issue.

The subcommittee on Private Members' Business held a round table discussion on the issue of making all private members' motions votable. It is my hope, and I am sure the hope of every backbencher in the House, that change will occur soon.

Every member of the House knows the Criminal Code has loopholes. When the justice minister introduced omnibus bills amending tiny flaws in the code the minister was admitting there were adjustments that needed to be made.

Canadians do not expect the Criminal Code to be perfect. It is an evolving piece of social legislation in some respects which reflects public sentiments and attitudes. It needs to be adjusted over a period of time to new realities. The public does expect government to act forthwith when a flaw is clearly pointed out.

I pointed out a loophole in section 41 of the Criminal Code. Bill C-207 would help to eliminate a great deal of problems for local authorities and citizens who have spent a great amount of time investing in their local community centre, only to see the peace and enjoyment of that centre or hockey rink degraded to the point where it becomes unusable and they are afraid to bring their children there.

There is a concern in my community. My constituents asked me to help to throw water on this little fire.

• (1745)

It is unfortunate that Bill C-207 was not made votable. Therefore I will have to tell my community that its voice has little weight in

Ottawa because of the arrogance of the Liberal government. The people's agenda is not reflected here. It is sadly just the agenda of old tired ways.

The Minister of Justice is no more of an expert in community justice issues than any of us are. All she needs to do is once in a while look on the order paper at some of the bills introduced by backbenchers to see the needs are for better law and order in Canada. It is not complicated, not difficult. It just requires courage provided the minister and the rest of her cabinet cronies have the will to make Canada a better place to live. I have outlined a community need. May this House find the same sense of courage to act.

**Ms. Eleni Bakopanos (Parliamentary Secretary to Minister of Justice and Attorney General of Canada, Lib.):** Mr. Speaker, Bill C-207 would provide for an amendment to the code to create a new offence in relation to trespassing. It would also create a summary conviction offence of subsequent trespass. This offence would occur where a person trespasses on a dwelling house or other real property within 24 hours of having been lawfully removed from or prevented from entering the same property.

It essentially criminalizes the second trespass that occurs within a 24 hour period with respect to the same property.

[Translation]

The bill would provide for an amendment of the Criminal Code to create a new offence in relation to trespassing. The hon. member's bill would create a summary conviction offence of subsequent trespass.

This offence would occur where a person trespasses on a dwelling-house or other real property within 24 hours of having been lawfully removed from or prevented from entering the same property. Essentially, it would criminalize a second trespass.

[English]

It is important to begin with a clear understanding of what trespass means. Trespass is a specific legal term referring to a civil fault or tort. A trespasser is a person who enters a premises without the permission of the occupier or owner. A person invited on to the property can become a trespasser if the individual is revoked by the owner asking the person to leave. Nothing more is required for trespass to occur than for a person to enter without permission or to remain on the property after being asked to leave.

Even the most minimal intrusions on to property constitute a trespass in law. There is no need for any damage to be caused to the property. Trespass is a private matter between the trespasser and the occupier of the property. The proper remedy for trespass is a

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civil action for damages and injunctions are available in extreme cases to prevent future or ongoing trespass.

The existing law allows the owner of the property to lawfully eject the trespasser at any point. As a matter of property and civil rights, the law of trespass falls within the legislative jurisdiction of each of the provinces. In addition to the civil law relating to trespass, many provinces have enacted legislation creating provincial offences for trespass.

[Translation]

As a matter of property and civil rights, the law of trespass falls within the legislative jurisdiction of each of the provinces.

[English]

Trespass to property is not currently a criminal offence. Trespass is not a criminal offence because in and of itself it may be a relatively minor intrusion into the rights of another and may not be sufficiently harmful to require the criminal law as a response. The civil remedies combined with provincial legislation cover most situations.

[Translation]

Trespass to property is not currently a criminal offence. Trespass is not a criminal offence basically because, in and of itself, it may be a relatively minor intrusion into the rights of another, and not sufficiently harmful to require the criminal law as a response.

[English]

The Law Reform Commission of Canada studied the issue of whether to criminalize mere trespass without any further criminal intent or criminal conduct. The commission found this inadvisable. In addition to restating the fundamental principle that the criminal law should be used with restraint, the commission found that provincial trespass legislation and civil tort law provided adequate protection. The hon. member's proposed amendment does not seek to make a mere trespass a criminal offence. Instead, it is aimed at the mischief caused when a person who trespasses is asked or made to leave and then returns within a short period of time. It basically seeks to make a second trespass a criminal offence.

• (1750)

Since the first trespass is not a criminal offence, it is difficult in principle justifying making the second trespass a criminal offence. If a first trespass is not sufficiently harmful conduct to be considered criminal then it is not entirely clear what feature of the subsequent trespass makes it serious enough to be criminal.

Certainly it does aggravate the owner and requires the owner to eject the trespasser a second time. But this added aggravation in itself is not sufficiently harmful to render the trespasser subject to the criminal process although at this point they may clearly be

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violating the civil property rights of the owner of the property and be subject to a civil action and they may also be violating other provincial legislation.

[Translation]

Certainly, it does aggravate the owner and require the owner to eject the trespasser a second time, but this added aggravation in and of itself is not sufficiently harmful to render the trespasser subject to the criminal process, although at this point they may clearly be violating the civil property rights of the owner of the property, and be subject to a civil action, and they may also be violating other provincial legislation.

[English]

Also, the hon. member's proposal creates a somewhat arbitrary offence as well in that it criminalizes a return to the property only within 24 hours. It is not exactly clear why two trespasses within 24 hours should be a crime and not two within 25 or 30 hours.

In many situations there might be little or no serious harm caused to society but the mere presence of a trespasser if there is not also some more serious criminal intent or interference with the rights of others. While it may be the case that a property owner is inconvenienced or aggravated by the repeat trespasser, the hon. member's proposal would make a criminal out of every person who returned to a place after having been asked to leave.

For instance a door to door salesman who we all know tries twice to sell his wares would be captured as would be the teenager delivering flyers against the wishes of a homeowner. Such people may very well be a nuisance to the property owner and this kind of behaviour may well be a violation of civil or provincial law, but there should be evidence of at least more serious or potential harm before that behaviour is deemed to be criminal under the Criminal Code.

I recognize the hon. member's concern that it can be difficult to deal with a teenager who returns to a favourite spot to loiter or a person who returns to a party after having been asked to leave. What is really at issue in these instances is the occupier's desire to control what happens on their property, and this is a matter regulated by the civil law of the provinces and in some cases by provincial offences.

This is not at all to say that the existing criminal law does not protect the rights of property owners and occupiers. This government strongly supports and protects private property rights and various legislative provisions in the Criminal Code already address many forms of conduct by a trespasser who poses a real risk to society and to individuals.

For instance, it is an indictable offence to break and enter into any place with intent to commit an indictable offence. A person

breaks and enters not only where they forcibly find a way in but if they enter by an existing permanent or temporary opening without lawful justification or excuse. In the case of a dwelling house it is a further offence to be in the dwelling house without lawful excuse with intent to commit an indictable offence.

These offences criminalize the conduct of a trespasser who is trespassing for the purpose of committing a serious criminal offence. In these cases, there is serious harm or potential for harm caused by the trespasser. They also recognize that if the trespasser is present for an innocent purpose, for instance a lost hiker seeking refuge from the elements in a cabin, there would be no criminal offence. There may, however, be a tort and the property owner could sue for any damage to the property.

An additional offence is in section 177 of the Criminal Code which creates the offence of trespassing at night. This offence prohibits loitering or prowling at night on someone else's property near a dwelling house. Here the circumstances of the trespass are clearly in and of themselves serious enough to warrant being criminalized.

The Criminal Code also contains various offences that prohibit behaviour that interferes with the rights of others to enjoy public and private spaces. For instance, section 175 of the Criminal Code makes it a summary conviction offence to cause a disturbance in a public place in various ways such as screaming, shouting or impeding people.

• (1755)

It is also an offence to loiter in a public place while obstructing people. Further, it is an offence to disturb the peace and quiet of the occupants of a dwelling house by disorderly conduct.

These offences target the harmful and disturbing consequences of conduct on others who are lawfully entitled to peace or to unimpeded movement in public places. A trespasser who goes so far as to interfere with the rights of others in these ways by causing a disturbance or by interfering with people's movements commits an offence and can be charged accordingly. For example, the teenager who loiters in a shopping mall would be committing an offence if his behaviour was disturbing others or preventing them from moving freely.

If the teenager is sitting quietly despite being asked to leave repeatedly, he may very well be violating the mall owner's property rights in some way or committing a provincial offence and the mall owner will have options available under provincial law. However, the teenager should not be labelled a criminal if he is not disturbing or interfering with anyone else.

The hon. member's proposal would criminalize the mere trespass without any requirement of proof of a negative impact on the person's free movement or right to undisturbed enjoyment of public places. The criminal law should target the harmful conse-

quences of action instead of criminalizing all action simply because they may have a negative impact under certain circumstances.

**Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC):** Madam Speaker, I am pleased to take part in the debate and to be supportive of Bill C-207 sponsored by the hon. member New Westminster—Coquitlam—Burnaby.

Bill C-207 is straightforward and what I would deem a common sense piece of legislation that would in essence crack down on those who repeatedly trespass on the private property or dwelling houses from which they have already been lawfully prohibited or removed.

As mentioned, the bill would amend section 41 of the Criminal Code to make it a summary conviction offence for a person who has been already lawfully removed or prevented from entering a dwelling house or real property within the previous 24 hours to trespass on that dwelling house or real property.

With such a provision in the Criminal Code, police and the courts would have an additional tool to protect individuals who can be terrorized. As a former crown attorney I challenge any member in this House to stand here tonight and say this would not have a positive effect on keeping criminals away from their victims. It would be an effective deterrent.

In particular, Bill C-207 would give our justice system one more tool to create the ability to combat the serious problem of criminal harassment commonly known as stalking. This is a crime whose victims, more often than not, are women. Criminal harassment has been around for a long time but it has only been codified in recent years.

While I support Bill C-207 I feel that there must be more done specifically to address this problem created by stalkers. As on most issues of concern, the Conservative government actively pursued measures to crack down on stalking.

In April 1993 the hon. Pierre Blais, justice minister of the day, introduced legislation that created for the first time in the history of Canada in legal statute the offence of criminal harassment. This bill quickly received passage in both the House of Commons and the Senate and received royal assent on August 1, 1993.

This was the first of an important series of steps in providing victims of this horrendous crime with recourse within our criminal justice system. Regrettably, the effectiveness of this legislation has since proven to be less than stellar.

In October 1996 the Department of Justice issued a report which evaluated the new law's effectiveness in prosecuting harassment behaviour in the protection of victims of crime.

### *Private Members' Business*

This report concluded that the offence of criminal harassment was not treated seriously enough by judges and lawyers. Several indicators illustrate this point.

One is that the number of criminal harassment charges withdrawn or stayed by the crown as well as the number of charges withdrawn in exchange for peace bonds are extremely high when compared with charges related to other specific categories of crime. This is something that happens quite often in the context of plea bargains; that is that a criminal harassment charge may be laid in conjunction with another charge, for example assault, and the criminal harassment charge is essentially dealt away.

• (1800)

This illustrates the point that sadly this type of criminal offence has not been as effective as it was originally intended.

The justice department review reported that almost 60% of criminal harassment charges are withdrawn or stayed. It is also disheartening to hear from the justice department's information that 75% of those convicted of criminal harassment receive either probation or suspended sentences. The report concluded that the severity of the sentences imposed by the courts in cases of criminal harassment has not met the expectations in that legislation.

Some members may be asking why is this a problem. It is a problem because the previous criminal record, a record of violence against that same victim, or a record of breaching court orders, does not assure a stronger sanction from our criminal justice system, which is what this legislation in effect is intended to do. It gives crown prosecutors, police officers and ultimately judges greater ability to impose sanctions in response to criminal activity. Moreover, the great majority of accused criminals are released prior to their trial even though many of them had previous criminal records. Many of them had records of previous breaches of courts orders and many of them had been violent to their partners in the past.

The bottom line is that the justice department's report from 1996 seems to indicate that the strong anti-stalking legislation message has not been received by Criminal Code provisions and those who practice law in this country. It has not adequately been implemented.

We need more than a codified definition of criminal harassment. Although I support Bill C-207 and its simple positive intent, we need legislation that extends much further, legislation that would clearly and unequivocally state that Canadian society does not accept this type of crime in any way, shape or form.

I therefore use this opportunity to highlight a related piece of legislation, Bill S-17, an act to amend the Criminal Code respecting criminal harassment and other related matters. Fellow Nova

*Private Members' Business*

Scotian and Progressive Conservative Senator Donald Oliver introduced Bill S-17 in May.

Many members of the House, particularly members of the Reform Party, have an unfortunate propensity for taking needless cheap shots at the upper house. While the Senate is an institution no doubt in need of change and in need of comprehensive change to reflect Canadians entering into the 21st century, the majority of senators as individuals are making positive contributions in federal legislation. We have witnessed such positive contributions, particularly laudable legislation such as Bill S-13 which was the subject of debate today.

We also have Bill S-11 regarding amendments to Canadian Human Rights Act from Senator Erminie Cohen, sponsored in this Chamber by my caucus colleague from Shefford. We also have another example in Senator Forrestall, another fellow Nova Scotian Conservative, who introduced several successful amendments to the Canada Marine Act this spring. Senator Forrestall's hard work even drew applause from the hon. member for Sackville—Eastern Shore, whose New Democratic Party favours outright abolition of the Senate.

Instead of using the Senate as a tired political prop, to which my colleague from Calgary West appears chronically addicted, let us work with senators to ensure that Canadians get the best legislation from this parliament.

In that vein I hope that Bill S-17 presently before the Senate committee on legal and constitutional affairs will make it to the House. If it does I look forward to obtaining the support of all hon. members and even the sponsor of this bill. Regardless of political affiliation we should be worried about preserving the law in order to help pass good law into being.

Turning back to Bill C-207, on behalf of the Progressive Conservative Party we speak in favour of it. It is consistent with our party's overall tradition of keeping Canada's streets safe through effective legislation. I cannot say enough, however, that we need more co-operation on all sides of the House to ensure this type of effective legislation passes. Specifically, we need to do more to get tough on stalkers and protect innocent Canadians. This bill goes a long way to accomplish that end.

If we continue to work together and ensure that bills such as Bill C-207 and Bill S-17 are passed there will be no confusion among Canadians as to what the purpose of parliament is, that Canada has a zero tolerance policy with respect to criminal harassment. This is a laudable aim. I urge all hon. members to support this legislation. Again I commend the hon. member who moved this motion.

• (1805)

**Mr. Paul Forseth (New Westminster—Coquitlam—Burnaby, Ref.):** Madam Speaker, I would like to summarize what we have heard today.

Sadly what I have heard from the justice department are some of the most arcane arguments that are not really relevant to the point I put before the House.

One of the main understandings we have to get with this motion is that it really supports community resolution of these conflicts without having to use a heavy handed approach. In these situations it is contemplated that the warnings are given. Generally if there is some legal sanction that backs up the warning, then alternative dispute settlement actually happens and no one is actually charged in the end because someone would know that if they cross the line then they will be charged. Therefore it positively supports community peace.

One of the other aspects that is often overlooked is around the area of domestic disputes. Restraining orders in themselves are not all that easy to obtain, especially from the supreme court or a provincial legislation such as non-interference with children orders. So the availability in those circumstances is often difficult. Then there is the ongoing viability. A policeman is called and some lady puts an order to the policeman saying she wants it enforced. The policeman does not know if the order is still valid and what the essential jurisdiction of it is. The whole history of these extra court orders to deal with ongoing difficult situations of an identified individual showing up on a premises is very poor.

This legislation would greatly help in that circumstance around child access problems and protecting the peace for children.

One of the other circumstances is public school grounds. Individuals who may be known drug dealers or whatever may not be carrying drugs with them but will come to an elementary school ground, hang around wanting to become familiar with certain children. We have had the circumstance of their trying to ingratiate themselves to individuals. The long term agenda as we know from discovering the circumstances later is that they want to get these children involved in prostitution. School authorities have had great difficulty protecting the sanctity of the public school grounds from these individuals.

I am really upset when I hear this hand wringing, do nothing approach from the justice department. It is just incredible. It fails to reflect the community mood about these obvious breaches of the public peace. The system appears absolutely incompetent to do anything about it.

Having someone lawfully removed in the first place is the trigger for this offence. It is not entered into lightly. Someone would have to be removed for the circumstance involved in the second instance. I believe this is in the public interest to preserve the peace. It is not a draconian measure. It is most reasonable and it does go a long way to preserve the peace and order of the community and especially to protect children.



*Adjournment Debate*

**The Acting Speaker (Ms. Thibeault):** There being no further members rising for debate and the motion not being designated a votable item, the time provided for the consideration of Private Members' Business has now expired and the order is dropped from the order paper.

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## ADJOURNMENT PROCEEDINGS

[*Translation*]

A motion to adjourn the House under Standing Order 38 deemed to have been moved.

### ASIA PACIFIC ECONOMIC COOPERATION SUMMIT

**Mr. Gilles Bernier (Tobique—Mactaquac, PC):** Madam Speaker, for several weeks now the Prime Minister and the solicitor general have been avoiding answering questions about APEC, with the excuse that they could not say anything because the matter was under investigation by the RCMP public complaints commission.

The solicitor general has totally contradicted what he said previously in discussing APEC in a public place, on a plane.

[*English*]

The solicitor general has questioned the accuracy of the account taken by the member for Palliser on that plane, but he has never denied that he discussed APEC, nor has he ever stated exactly what he said in that conversation. In fact, the Prime Minister has made reference to the accuracy of the account as it deals with Airbus. By trying to impress a friend and chattering on in a public place about very sensitive information entrusted to him in his position as the minister responsible for the RCMP, he has demonstrated he is unfit to sit in cabinet.

• (1810)

Indeed, by his indiscretions he has become an object of ridicule by his colleagues, the media, voters and even his own constituents.

This was best summed up by an editorial in the *Globe and Mail* on October 8: "Stupidity isn't a crime, but it's no foundation for cabinet office either".

The *Hill Times* said: "This has damaged the solicitor general's career and has raised some serious questions about his competence".

The Halifax *Herald* said: "The member from Fredericton should not be solicitor general. His offence was to say anything about a matter before a public tribunal for which he has ministerial responsibility. This was as wrong as a judge casually talking about cases out of court".

The member for Fredericton was indiscreet by talking about confidential information in a public place. It is immaterial what were his exact words used in that conversation. It does not matter who heard the conversation. The fact that he had this conversation at all shows that the member has compromised the office of the solicitor general. He has put his own self-interests ahead of the interest of Canada and the APEC inquiry.

I have not changed my mind. He should do the honourable thing and resign.

**Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.):** Madam Speaker, the ability to question any perceived wrongdoing makes up a fundamental component of our criminal justice system and indeed our human rights as a nation.

Under the RCMP act, members of the public can make complaints regarding the conduct of RCMP members to the public complaints commission which has the power to look into and make recommendations on the conduct of RCMP members.

The terms of reference of the APEC hearing show clearly how broad the scope of such an inquiry can be. The APEC panel will hear all evidence and will report on "the events that took place during or in conjunction with demonstrations during the APEC conference in Vancouver".

The chair of the public complaints commission has stated that the panel will follow the evidence where it leads and that the scope of the investigation will be broad. Any questions regarding RCMP operations prior to and during the APEC summit are squarely within the scope of the hearing.

The hon. member from Tobique—Mactaquac has inferred that there was inappropriate political interference in the actions of the RCMP with regard to security at the APEC conference.

While the solicitor general is the minister responsible for the RCMP it must be remembered that it is the commissioner of the RCMP who is solely responsible for criminal investigations undertaken by the RCMP.

As the solicitor general has pointed in the House on many occasions, he does not get involved in operational matters of the RCMP. With regard to the APEC conference he was kept informed by the commissioner in general terms about security for this major event.

In the case of the APEC conference, as with other large and complex international meetings, it was appropriate and necessary that the RCMP consult with interested parties such as the Departments of Foreign Affairs and International Trade and the Prime Minister's office in finalizing security arrangements. The RCMP, however, made the decisions regarding security in this event.

*Adjournment Debate*

Police officers work in difficult circumstances.

Accordingly, this House stands adjourned until tomorrow at 10 a.m., pursuant to Standing Order 24(1).

**The Acting Speaker (Ms. Thibeault):** I must interrupt. The motion to adjourn the House is now deemed to have been adopted.

(The House adjourned at 6.13 p.m.)

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