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OFFICIAL REPORT
(HANSARD)

Wednesday, December 4, 1996

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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

OFFICIAL REPORT

CORRECTION TO HANSARD

Hon. Sharon Carstairs: Honourable senators, on page 1242, at paragraph 5, line 8, the word in *Hansard* is "divisions," but in fact the word in my speech was "vision."

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THE SENATE

Wednesday, December 4, 1996

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

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a parliamentary delegation from Vietnam. The delegation is headed by Madam Nguyen Thi Than, Chairwoman of the Committee for Social Affairs of the National Assembly of Vietnam.

Hon. Senators: Hear, hear!

The Hon. the Speaker: We welcome you to our Senate.

SENATOR'S STATEMENT

NATIONAL DAY OF REMEMBRANCE

SEVENTH ANNIVERSARY OF TRAGEDY AT L'ÉCOLE POLYTECHNIQUE

Hon. Erminie J. Cohen: Honourable senators, Friday, December 6, marks the National Day of Remembrance and Action on Violence Against Women. As it approaches, let us take the time to honour the memory of the countless women who have been victims of violence. Let us also take the time to increase our awareness and learn more about the hideous problem of violence against women and, not least, let us consider what action each and every one of us can take as legislators, as men and women and, above all, as Canadians, to help combat this dreadful scourge.

December 6 was designated the day to commemorate not only the brutal murders of 14 women at l'École polytechnique in Montreal in 1989 but also to remember the many other women in the world who have been victims of violence. There are many the world over, from the torture and rape of the women of Bosnia, to the genital mutilation of young girls in some African and Asian societies, to so-called "honour killings" of women in certain Middle Eastern cultures, to bride burnings in India. The list goes on.

Against such a backdrop, it might be tempting for Canadians to feel a certain smugness about the situation here. I can assure honourable senators that we have no reason whatsoever to feel even the slightest bit smug. What I have learned about violence against women in our society has not only horrified and angered me. but, as a Canadian, has made me feel ashamed. For example, over half of all Canadian women have experienced at least one incident of physical or sexual violence since reaching the age of 16. That figure, which bears repeating, does not even touch upon the other forms of abuse to which women are subjected all too often, be it verbal, psychological, emotional or economic.

Honourable senators, we must not forget that behind every statistic is a person. These women are our daughters, our sisters, our mothers, our grandmothers, ourselves. All too often, they find themselves trapped in a vicious circle because violence against women is both a cause and a consequence of women's equality in Canadian society.

Today, I should like to draw your attention to the ongoing problem of violence against women in the home. For the most part, it is hidden behind closed doors. However, it happens with tragic frequency, to the point where an estimated one in eight women have been a victim of domestic violence.

Last May, *The Toronto Star* published an eight-part investigative series that provided valuable insight into this problem. I recommend it as reading to those of my colleagues who are already concerned, and I strongly recommend it to those of my colleagues who are not.

• (1340)

Honourable senators, on December 6 — and every day — I urge you to speak out at every opportunity in denouncing violence against women in all its forms. Each of us must raise our voice in support of measures to prevent such violence and, above all, we must strive to balance the inequality of status between men and women in Canadian society.

ROUTINE PROCEEDINGS

CANADA LABOUR CODE

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Mabel M. DeWare, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Wednesday, December 4, 1996

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

NINTH REPORT

Your Committee, to which was referred Bill C-35, *An Act to amend the Canada Labour Code (minimum wage)*, has, in obedience to the Order of Reference of Thursday, November 7, 1996, examined the said Bill and now reports the same without amendment but with the following observation:

The Committee notes that, once again, the government has already implemented the changes provided for in Bill C-35 and recommends that the government exercise greater care and caution in requesting parliamentary approval *ex post facto* for such measures.

Respectfully submitted,

MABEL M. DeWARE
Chair

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

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

ADJUDICATION OF VETERANS' PENSIONS

NOTICE OF MOTION TO AUTHORIZE SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TO STUDY EXPEDITION OF ADJUDICATION OF VETERANS' PENSIONS

Hon. M. Lorne Bonnell: Honourable senators, I give notice that on Tuesday next, December 10, 1996, I shall move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon implementation by the Department of Veterans Affairs of measures to expedite the adjudication of pensions, and

That the committee submit its report no later than June 30, 1997

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. John B. Stewart, Chairman of the Standing Senate Committee on Foreign Affairs, with leave of the Senate and notwithstanding rule 58(1)(*a*), moved:

That the Standing Senate Committee on Foreign Affairs have power to sit at 3:15 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Mabel M. DeWare, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, with leave of the Senate and notwithstanding rule 58(1)(*a*), moved:

That the Standing Senate Committee on Social Affairs, Science and Technology have the power to sit at three o'clock today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

AFRICA

ROLE OF MULTINATIONAL FORCE IN MISSION TO RWANDA-ZAIRE REGION—PLANNING FOR SITUATION AFTER WITHDRAWAL OF FORCE—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question is directed to the Leader of the Government in the Senate. It deals with the implementation and follow-up on the Zaire mission.

Honourable senators, I am aware that more than 600,000 refugees have crossed back into Rwanda, and that the overall situation has improved dramatically. I am also aware that the international community has agreed to set up a multinational headquarters in the region, and to put in place the capability to carry out airdrops of food into eastern Zaire.

Reports of Canada's role in this mission indicate that Canada will continue to provide humanitarian and development assistance, but what will happen when our 600 Canadian Forces personnel leave the area? What steps is Canada taking now in this mission to ensure that when they leave, there will not be a bloodbath in which hundreds of thousands of innocent Africans are killed?

It is wonderful to say that Canada has taken the lead in this humanitarian mission, but will it still be a humanitarian mission if, after the forces leave, and because of inadequate preparations by this mission, tens of thousands of innocent Africans are killed? What specifically will Canada do to ensure that Canada will not end up with blood on its hands?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I appreciate the question of my honourable friend. As he noted, the situation has changed in that area. The international community is still working to make the most appropriate response and arrangements for the area.

Today headquarters are being established at Kampala, Uganda, as a centre for the activities that will take place. Canadian aircraft are continuing to airlift materials that will be used by the relief agencies. There has obviously been a demonstrable shift from the military need to the humanitarian need. In Kigali on December 13, the minister responsible for CIDA, the Honourable Don Boudria, will be chairing a special donors' mission to coordinate the humanitarian assistance that the situation requires. The multinational force is continuing to monitor the situation in terms of the military assistance that can be given, and in terms of humanitarian relief agencies.

My honourable friend is perhaps premature in the conclusions he has drawn. The situation is still evolving. I do not believe that firm decisions have been made as to the withdrawal of personnel there. At the moment, there are 329 Canadians in the central African area. Thirty-four others are in Stuttgart, where much of the advanced planning has been taking place.

My honourable friend's question about what we will do to ensure that the situation does not deteriorate when military assistance is withdrawn is premature because the situation is still evolving. There is no question of withdrawal at the moment; the question is one of cooperation between military and relief efforts.

• (1350)

JUSTICE

REFUSAL OF MINISTER OF JUSTICE TO PAY LEGAL FEES OF FORMER MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT—GOVERNMENT POSITION

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, my question is directed to the Leader of the Government in the Senate and, of necessity, it requires a bit of a preamble. It concerns the arbitrary denial by the Minister of Justice of the payment of legal fees of the former Minister of Indian and Northern Affairs, John Munro.

Criminal charges were laid against the former minister shortly after his unsuccessful bid to succeed Pierre Trudeau as Liberal leader in June of 1984. All charges were dismissed. Not only were all charges dismissed, but, as I understand it, they were dismissed with the court not even calling for a defence, since the argument of the Crown was so flawed.

A review of the judgment rendered by His Honour Judge J. D. Nadelle points out how ludicrous this pursuit of Mr. Munro by the Department of Justice really was. For example, on page 32, line 7 of the judgement, he states:

> Thus I have concluded there is no evidence that there was anything wrong or criminal in the whole process by which the Assembly of First Nations received a grant of $1.5 million on March 5, 1984.

Further, on page 50, he states:

> I find there is absolutely no evidence to support the Crown's theory on these offences.

Will the Leader of the Government in the Senate tell us why the Minister of Justice refused to compensate Mr. Munro for his legal fees? If this is not an appropriate case for compensation, could she please tell us what would be? The Department of Justice guidelines on the responsibilities of the government to public servants published in 1984 states:

> Failure to assist employees who have been placed at risk in the performance of their duties may lead to reluctance on the part of other employees to expose themselves to similar risks. In such circumstances, defense of employee at public expense may be necessary for the efficient operation of the program concerned.

They go on to say that an employee requesting counsel in a criminal matter must provide the name of the counsel and a fee schedule to his or her deputy or department head. If the choice is reasonable, it seems that approval will follow.

My question is this: Why was this rationale not used by the Minister of Justice in the case of John Munro? Had this rationale been applied, I believe the minister would have agreed to cover the cost of his legal fees.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I thank my honourable friend for his question.

Mr. Munro, as honourable senators will know, has contributed for many years a very valuable service, not just to the people of Hamilton but to the country as a whole, and to the aboriginal people. I will be pleased to transmit the questions of the honourable senator to the Minister of Justice.

LAYING OF CHARGES AGAINST FORMER MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT IN CONTRAVENTION OF TREASURY BOARD AND OTHER GUIDELINES—GOVERNMENT POSITION

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, the October 1992 guidelines for a minister's office at pages 1 to 4 state under the heading, "Risk Management, Indemnification and Legal Assistance":

> Ministers and members of a minister's staff will be indemnified against personal civil liability and will be eligible for legal assistance provided the need arises from any act or omission of the minister or the staff members in the conduct of the portfolio or other official government business.

This is currently the same type of guidline as for civil servants of the Crown as set out in the Treasury Board manual under the heading, "Materiel Services and Risk Management" in the chapter on risk management. I do not believe this section has been changed. If it has not been changed, why was reference to it not made to the Minister of Justice? If such reference was made, will the Leader of the Government find out why the minister ignored that section?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would be pleased to add that question to the ones previously asked by the honourable senator.

DISCRETION OF MINISTER OF JUSTICE IN DECISIONS TO LAY CHARGES AGAINST GOVERNMENT OFFICIALS— GOVERNMENT POSITION

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, we all know that the Minister of Justice is no ordinary minister. The Minister of Justice is to be above all partisanship.

Senator Lynch-Staunton: Not this one.

Senator Berntson: He is to be above bias.

Senator Lynch-Staunton: Not this one.

Senator Berntson: He is to dispense justice even-handedly and without bias.

Senator Lynch-Staunton: He should read that.

Senator Berntson: I believe it was Mr. Nelligan who acted for Mr. Munro during this period of time. *The Ottawa Citizen* of November 18, 1996, quotes Mr. Nelligan as saying that the Honourable Allan Rock told him that his decision not to compensate Mr. Munro was a political decision.

Honourable senators, this is emanating from the Minister of Justice, a minister who is no ordinary minister. This is emanating from a minister who is to be above politics, above partisanship and above bias.

I can think of a number of aspiring young politicians or bureaucrats who, upon reading such a comment, might wonder at the ability of such a minister of Justice to adjudicate matters that lie within his discretion without bias or partisanship. Such young politicians or aspiring bureaucrats might, with justification, be a little nervous about doing anything, the consequences of which would fall under the adjudication of such a minister. There are recent cases where, if the Minister of Justice, in exercising his discretion, were not above bias or partisanship, people both within and without the bureaucracy would be nervous.

For instance, if I were one of the bureaucrats or ministers who was potentially exposed to a libel or defamation suit in connection with the Pearson airport situation, could I depend on the minister to exercise that discretion without bias? This is, perhaps, a rhetorical question, but I would ask the minister if she agrees with that statement.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the honourable senator has used a third-party quote from a newspaper in terms of referring to the Minister of Justice. I would rather speak directly to the Minister of Justice in order to elicit answers to all of the honourable senator's questions, because they are important questions.

Senator Berntson: Honourable senators, I would be happy if the minister would do that. I have further questions, but I will await the answers to those questions, which I hope will come before the Christmas break.

• (1400)

[*Translation*]

ENDORSEMENT OF REQUEST TO INDEMNIFY FORMER MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT— POSITION OF GOVERNMENT LEADER

Hon. Jean-Maurice Simard: Honourable senators, I have an additional question in response to the questions put by my colleague. The Leader of the Government told us that she would transmit these requests to the Department of Justice and that she could obtain responses to my colleague's questions.

I would like the Leader of the Government in the Senate to do more than obtain a response. She heard my colleague's reasons. He gave good reasons why the government applies the regulations of the Treasury Board and other regulations on indemnification and the reimbursement of costs incurred by private individuals, public officials and ministers.

My question is this: In addition to obtaining responses to my colleague's questions, is the Leader of the Government prepared, under the conditions governing reimbursement of expenses, to argue in favour of this request before her government so Mr. Munro may be indemnified?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the commitment I will make to my honourable friend, to Senator Berntson, and to this house is that I will discuss this important issue thoroughly with my colleague and receive information from him to assist honourable senators. Important questions have been asked. I should like to give them the time warranted by their importance to present an answer to this house.

FINANCE

REPORT OF AUDITOR GENERAL—SOURCE OF FUNDS TO COVER PROJECT COST OVERRUNS—GOVERNMENT POSITION

Hon. Consiglio Di Nino: Honourable senators, in my quest to assist the Minister of Finance in his difficult task — at least, that is what he thinks — of locating enough money to eliminate the GST on reading material, I should like to once again refer to the report of the Auditor General and ask the Honourable Minister a question related to it.

The Auditor General reports that, of four major information technology projects, three of them have significant problems. The Canadian Automated Air Traffic System, CAATS, is over budget by something like $121 million and behind schedule by 41 months. The Canadian Forces Supply Systems project will cost up to $100 million more than estimated and be delivered much later than planned. A group of 11 IT projects in Public Works and Government Services Canada is experiencing significant cost overruns and delays. The amount of the overruns has not been stated.

Given that the Minister of Finance has not seen fit to look for or find the dollars necessary to eliminate the GST on reading material, where did he find the money to pay for these cost overruns and over-budgeted sums?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, my honourable friend will know that the government is studying, as it always does, the Auditor General's report in detail. It will, through its actions and its words, make the appropriate responses to his advice.

The question that my honourable friend asks is an interesting one. However, some of these issues go back a number of years. Equating the reading material-GST issue, on which I commend my friend for being so tenacious, and these particular projects that he mentions, is perhaps not as simple as it would seem.

I will go back to the Auditor General's report and look at these issues and also at the government responses that the ministers have made. These are not simple issues, and they are not things that have happened overnight or over a year.

GOODS AND SERVICES TAX

REMOVAL OF TAX FROM READING MATERIAL—
POSITION OF MINISTER OF FINANCE

Hon. Consiglio Di Nino: Honourable senators, I do not understand, as the minister suggests I may, these issues. All have occurred in the past three years, principally while this government has been in power. Also, I can assure honourable senators that my tenacity will not subside until we achieve our goal. I believe it is a goal the minister shares with me, notwithstanding the sensitivity of her position.

Let me go back to the Auditor General's statement. In the press release that accompanied his report, he said that the audits of those projects tell us that the results the taxpayer would reasonably expect will not come without a significant exercise of leadership by the federal government.

Madam Minister, I asked a similar question the other day, and I am not sure I received an appropriate answer. Would the Leader of the Government undertake to urge the Minister of Finance, on behalf of the millions of Canadians who, as she knows as well as, if not better than I, would benefit from the removal of the GST on reading material, when he does find, as he must, moneys he can save from the many inefficiencies that exist in government, to allocate the amount necessary to remove the GST on reading material?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would be pleased to discuss these issues with the Minister of Finance on any occasion.

The Minister of Finance has done a job that no other minister of finance has done for a very long time; he has reduced the deficit of this country. He has been doing it systematically. He has not only been fulfilling his stated objectives but has gone beyond them. The ultimate strength of the economy in Canada and the efforts to distribute benefits from that economy will depend very much on the continued success of his efforts to achieve a balance between reducing the deficit and supporting the growth of the Canadian economy.

The Minister of Finance, as I have told my honourable friend on a number of occasions, is one of the strongest supporters of the issues to improve literacy. He has made an important step by rebating the book tax in certain areas. He is also open to discussion on improving efforts within government, in partnership, as we must be, with provincial governments, business, labour, and the volunteer sector, to enable the community that is working towards improving literacy in this country to carry out their jobs in the areas that have become, in recent years, most important within families and within the workplace.

The Minister of Finance is looking at all of these issues. In particular, he is looking at the literacy issue as no minister of finance ever has before. I have confidence that we will move forward on this issue. I will take, as I always do, my honourable friend's suggestions to the Minister of Finance, who is casting his eye ever more broadly within the community of literacy improvement to see what else he can do to assist people in this country to reach their potential in terms of their skills.

• (1410)

ANSWERS TO ORDER PAPER QUESTIONS TABLED

USE OF GOVERNMENT AIRCRAFT

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answers to Questions 140 and 141 on the Order Paper—by Senator LeBreton.

ORDERS OF THE DAY

OCEANS BILL

THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved the third reading of Bill C-26, respecting the oceans of Canada.

Motion agreed to and bill read third time and passed.

CANADA ELECTIONS ACT
PARLIAMENT OF CANADA ACT
REFERENDUM ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Taylor, for the second reading of Bill C-63, to amend the Canada Elections Act, the Parliament of Canada Act and the Referendum Act.

Hon. Donald H. Oliver: Honourable senators, it is with a degree of fear and trembling that I rise to speak to Bill C-63, an act to amend the Elections Act, after the very forceful and learned speeches given by Senators Bryden and Murray. Nonetheless, it gives me great pleasure to join in this second reading debate.

Election law is a subject in which I have been involved for virtually all of the 31 years that I have practised law. Election law deals with the fundamental rights in a democracy, the right of a voter to cast a secret ballot, free from coercion, indicating a choice as to who will be his or her elected representative. It is a right guaranteed to all Canadian citizens under our Canadian Charter of Rights and Freedoms.

I suppose my interest in the election law arises because it is so closely tied to the protection of civil rights, and the right to cast a ballot gives minorities the opportunity to affect the manner in which they are governed. Nowhere was this more clearly illustrated than in the recent elections in South Africa, at which I was present as a United Nations observer. I will never forget the long lines of people waiting for their first opportunity to vote, their first opportunity to exert real influence on how they would be governed.

My interest in election law has taken me to conferences where I have spoken on the subject and to six provinces where I have given lectures on our federal election laws. I have served for more than a decade as an advisor to the Chief Electoral Officer and as an advisor on election expenses and other laws. I have articles published both on the general subject of election law and on the specific matter of election expenses.

As well, as most of you know, I served as the legal counsel on election law for the Progressive Conservative Party through six general elections. I was the national director of legal affairs for some 23 years. I also served, until my appointment to the Senate, as a member of the Royal Commission on Electoral Reform and Party Financing, which has been referred to as the Lortie commission. As such, I have always had concerns about the length of the writ period, the creation of a permanent voters list and the hours that the polls remain open across this country.

This bill addresses all three of these issues. However, I submit that this is not a good bill. It is a flawed piece of legislation and in the next few minutes I will set out my concerns, concerns that should be studied at length by the Legal and Constitutional Affairs Committee.

First, I wish to deal with the process. The process has already been addressed by Senator Lowell Murray.

In April 1996, the Chief Electoral Officer of Canada appeared before the Procedure and House Affairs Committee in the other place. He presented two options for the building of a permanent register of electors, a permanent voters list.

The first option was a mail-out/mail-back enumeration outside the electoral period. This method entailed developing partnerships with a number of provinces in order to use provincial electoral lists. However, in order to do this and have the federal permanent list ready for 1997, Mr. Kingsley told the committee that legislation implementing this scheme would have to be in place by the end of June 1996. If the list were built outside the electoral period, then it would be possible to reduce the writ period to 36 days, explained the Chief Electoral Officer.

The other alternative explained to the committee was to conduct a door-to-door enumeration during the election period and use the list compiled as the basis for a permanent voters list. The bill before us contains neither option. It has been presented without prior discussion or agreement by the government with any of the political parties in the other place. This, in my experience, is highly unusual when dealing with election law. As I said earlier, I served as an ad hoc advisor to the Chief Electoral Officer for more than a decade. These bills and proposals were always discussed with all of the parties before they were introduced.

This bill represents a totally new option designed by the government to give effect to its desire to have a short writ period and an early general election. Not only was there no prior discussion with any of the opposition parties in order to put the legislation in place in time to call the election before next April, but the federal government invoked closure to have the bill passed through the House of Commons. That is not the way that such fundamental electoral reform should take place. Time must be given for careful study and to build consensus among the political parties representing Canadians in Parliament.

Not only is the process by which the bill got here flawed, but the content of the bill is defective as well. I will deal first with my concerns as they relate to the issue of privacy. Let me remind honourable senators of the six principles kept in mind by the Lortie commission when they began dealing with a register of voters:

> First, registration should be primarily a state responsibility, as it currently is in Canada. This does not preclude that, in certain circumstances, registration be the responsibility of the voter. As a general rule, however, it is the foremost responsibility of democratic governments to ensure that all voters have the opportunity to vote. Second, voters should be able to register after the election writs are issued, including on election day. Third, a register of voters should be adopted only if it is nearly as efficient as an enumeration. Fourth, voters should have the right not to be registered and not to inform the state of their movements. Fifth, voters should have the right to have their names or addresses deleted from a voters register at any time. Finally, once the information has been entered into the voters register, it must be managed according to the strictest criteria for preserving privacy and confidentiality.

Under proposed subsection 71.013(1), the Chief Electoral Officer will be required on October 15 of each year to send a copy of the permanent voters list to the sitting member of the House of Commons in his or her electoral district and to each registered party who had a candidate in the last federal election if they request a copy of the list.

This has raised a concern about privacy as noted by the Privacy Commissioner and the former Chief Electoral Officer Jean-Marc Hamel. What will these lists be used for and how can one protect against misuse of this private information once it is in the public domain? As Mr. Hamel has noted, once it is out there, there are really no controls. I suggest the bill be amended to drop this requirement.

Proposed section 71.024 allows the Chief Electoral Officer to share information from the federal voters list by way of an agreement with provincial electoral agencies. It goes on to say that the Chief Electoral Officer may include "conditions" in these agreements which he:

> ...considers appropriate regarding the use that may be made of that information.

What conditions? This should not be left to the discretion of the Chief Electoral Officer. This section should contain wording that allows the sharing of any information only with consent of the voter and when that consent is lawfully given. There should also be restrictions on the use that can be made of this information so that it cannot be used for matters unrelated to election purposes.

The Privacy Commissioner pointed out that, under proposed subsection 71.024(4), "valuable consideration" may be required in exchange for the information given by the Chief Electoral Officer in proposed subsection 71.024(1).

• (1420)

The Privacy Commissioner has said that this "implies the sale of personal information in the custody of the Government of Canada and it certainly offends the existing Privacy Act." The Chief Electoral Officer should be questioned regarding the meaning and intent of this clause.

Another privacy issue is raised by proposed section 71.021, which states:

> If an elector so requests the Chief Electoral Officer in writing, information in the Register of Electors relating to that elector shall be used only for federal electoral or referendum purposes.

Section 7 of the Privacy Act stipulates that information collected for one purpose cannot be used for another without express consent of the individual concerned. Does this clause then override the Privacy Act? In other words, if there is no request to restrict the use of information, is the Chief Electoral Officer entitled to use the information as he chooses? This should be examined in detail by the Standing Senate Committee on Legal and Constitutional Affairs, because either it is unnecessary or it confers broader powers on the Chief Electoral Officer to override the Privacy Act.

Proposed subsection 196(2) of the Canada Elections Act clearly usurps the power of the Privacy Commissioner. It states:

> No election documents...shall, during the period of their retention, be inspected or produced except under an order of a judge of a superior court...

The Privacy Commissioner has pointed out that upon a complaint by a resident of Canada, he has the uninhibited and unfettered authority to examine documents relative to that complaint. This is contained in section 34(2) of the Privacy Act. Therefore, the Chief Electoral Officer cannot force the Privacy Commissioner to obtain a court order by virtue of the Privacy Act. I agree with the Privacy Commissioner that this clause should either be removed from the bill or the Privacy Commissioner should be exempted from its operation.

By virtue of amendments made at third reading stage in the other place, enumerators during the last enumeration, the one that will form the basis for the new electoral list, will request that electors give their date of birth. This, says the government, will assist in identifying voters when addresses change.

As well, during this last enumeration, information will be noted about the voter's sex, male or female. In both cases, we are assured by the Leader of the Government in the House of Commons, Mr. Gray, that the information of age and sex will not appear on the voter's list sent out annually to MPs and political parties.

Honourable senators, I have not come to the issue of privacy lately. It is a matter that I have raised continually in the Standing Senate Committee on Banking, Trade and Commerce when we are faced with financial institutions that tell us that they do not abuse the confidential information they receive from their clients. I have never been satisfied. Sufficient safeguards can be put in place so that information, once given, will not be misused. I believe this applies to financial institutions and I believe that it could happen in relation to Elections Canada.

The government claims that the only list that will have age and sex information on it will be the list given to poll clerks at election time. I do not believe this. The only way to ensure that confidential information relating to age and sex does not get into the wrong hands is not to allow it to be collected. The elderly and especially single women, who do not want to be on a list circulating in the public domain that lists their age and sex beside their name and address, should be protected. Surely a better way can be found to identify voters or to prevent voters from voting twice.

This is an issue that bedevilled former MP Jim Hawkes who chaired the House of Commons Special Committee on Electoral Reform. His riding contained shelters for battered women and senior citizens' apartments which he sought to have protected. Surely, we do not have to take the chance that public information will be publicly disseminated. The best way to do that is not to have it noted on any list.

Proposed subsection 71.014(1) allows the Chief Electoral Officer access to information held by government departments where the voter has indicated that the information can be shared. This information would be used in revising the permanent list. Also, proposed subsection (2) of the same section gives the Chief Electoral Officer the unfettered discretion to add or change the list of provincial statutes that can be accessed to provide information on voters. Again, I am concerned that private information will be given to Elections Canada whether a voter agrees to it or not.

The Lortie commission felt so strongly about this issue that it recommended that the Chief Electoral Officer not use information from other federal departments in making up or revising the list. The practice of getting information from other government departments has the potential to be abused and should be avoided at all costs.

At page 124 of its report, the Lortie commission said that they had three concerns with regard to privacy:

> First, there are concerns about infringing on the right of privacy...
>
> Second, there is the concern that a register of voters would be an unacceptable intrusion by the state into the lives of Canadians.

The report goes on to read in the next paragraph:

> Voters can and should have the right to refuse registration (as they do now), the right not to inform election officials of their movements and the right to have their names removed from the list at any time. This would not remove their right to vote; it would merely require them to register for elections in which they want to vote.
>
> Third, there are concerns that copies of the voters register could be obtained outside the election period and that the information could be used for other than legitimate, political or electoral activities...

These are some of the privacy concerns I have. However, I am far from finished; there are other concerns.

One of the main selling features of the permanent voters list is the fact that it will save the taxpayers a great deal of money. With a permanent voters list in place, it is argued that the writ period can be reduced to 36 days. The savings from this are approximately $8 million, according to Mr. Kingsley. The establishment of the register, estimates Mr. Kingsley, will result in savings of $22 million for each future federal election.

The Hon. the Speaker: I hesitate to interrupt you, Senator Oliver, but your 15-minute period has expired. Is leave granted?

Hon. Senators: Agreed.

Senator Oliver: I hope that the Standing Senate Committee on Legal and Constitutional Affairs will study this claim of potential savings in great depth. Former Chief Electoral Officer Jean-Marc Hamel says that the only time there will be economy in this area is when the provinces and the federal government share the same list. That proposal is not in the bill before us. It is also the conclusion reached by the Lortie commission.

The commission canvassed the ways by which a federal list would be created. A federal list would be paid for, in part, by selling preliminary lists to the provinces and territories. This, of course, could only be done if the federal list was made technically compatible with provincial polling divisions. The commission discarded the proposal because it would require too complex a federal database, as the data would have to reflect the various age requirements and the constituency configurations of the province as well as those of the federal Parliament.

The commission then looked at the federal level using information supplied by the provinces. If lists compiled through enumeration at the provincial level were adopted for federal use, it would eliminate federal information. The Lortie commission concluded by stating:

> Our cost projections show that if the federal, provincial and territorial governments used a common register in each province and territory, the frequency of its use would contribute considerably to maintaining its quality of coverage, accuracy and justify its cost.

Lortie recommends that separate agreements be entered between Elections Canada and each of the provincial and territorial governments. Under those agreements, the province would conduct the enumeration and share the cost of doing so with the federal government.

If a province refused to enter into such an agreement, it would not have its costs of producing a voter's list shared by the federal government. In such instances, a federal enumeration would need to take place, but the commission felt confident that there were sufficient incentives for cooperation between provinces and the federal government to recommend that this be the method followed to establish a permanent voters list.

• (1430)

As I said earlier, I hope the Senate committee will challenge the cost savings projections that have been made by Elections Canada when the Chief Electoral Officer appears before them next week.

The Lortie commission also recommended that there be a transition period between the time the first list is prepared and when it is first used. I quote from page 133 of volume 2 of their report:

> There would need to be a transition period from the current enumeration process to a fully developed system of voters registers. The transition would begin at the next federal election; there would then have to be agreements between the Canada Elections Commission and provinces that either use a voters register or conduct enumerations within 10 to 12 months of a federal election.

Thus, they recommended a transition period of up to 12 months.

While I recognize that a 36-day federal campaign will generate cost savings, I endorse the finding of the Lortie commission that anything less than a 40-day campaign would make it difficult to wage "a competitive campaign that accommodates Canada's size and geography." When the commission conducted public hearings, opposition to shortening the campaigns came mainly from people in the largest constituencies in Toronto who were concerned about the logistics of organizing a campaign in a short period. I believe this is another area that should be reviewed by the Senate committee.

Finally, honourable senators, I wish to address the issue of hours of voting and staggered hours for closing of polls across Canada. The research completed by the Lortie commission pointed out that the time zone effect is not a particularly important determinant in the non-voting behaviour of people in Western Canada. Mrs. Terrana, the member of Parliament for Vancouver East who proposed the changes contained in Bill C-63, even admitted that there are no studies showing that westerners stay away from the polls because results have been released in Eastern and Central Canada. Her evidence before the House of Commons committee was as follows:

> As for the studies, from what I understand there is no proof that British Columbians don't go to vote because they know the results; it's not been determined.

Two reasons have been given for changing the hours: It addresses western alienation and, through modern communications devices, the results in the East are becoming fairly well known in the West.

Honourable senators, even though I am a senator from Nova Scotia, which is far from Western Canada, I do not believe that closing the polls at 7 p.m. in British Columbia and 7:30 p.m. in Alberta will help resolve western alienation. I suggest that the Senate committee look at other alternatives, such as delaying the count, or proceeding with the count but delaying releasing the results. One suggestion made in the other place was to eliminate the blackout provisions in Atlantic Canada and allow the count to proceed, but start it one half-hour before the polls close in Western Canada.

The bill before us, honourable senators, has been cobbled together in haste, without consultation, to satisfy the government's political agenda. It is time that the Senate said, "Stop." We must examine the bill in detail in order to protect the privacy rights of Canadians, in order to determine if the cost savings trumped up by the government are accurate, and in order to address the issue of the timing of the release of voting results.

I look forward to the deliberations in the Senate committee.

On motion of Senator Tkachuk, debated adjourned.

NATIONAL UNITY

MOTION TO APPOINT SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Beaudoin, seconded by the Honourable Senator Lynch-Staunton:
>
> That a special committee of the Senate be appointed to examine and report upon the issue of Canadian unity, specifically recognition of Quebec, the amending formula, and the federal spending power in areas of provincial jurisdiction;
>
> That the committee be composed of twelve Senators, three of whom shall constitute a quorum;
>
> That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That the papers and evidence received and taken by the Special Committee of the Senate on Bill C-110, An Act respecting constitutional amendments, during the First Session of the Thirty-fifth Parliament be deemed to have been referred to the committee established pursuant to this motion;

That the committee have power to sit during sittings and adjournments of the Senate;

That the committee submit its final report no later than December 15, 1996; and

That, notwithstanding usual practices, if the Senate is not sitting when the final report of the committee is completed, the committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been tabled in this Chamber.—(*Honourable Senator Petten*).

Hon. William J. Petten: Honourable senators, I yield the floor to Senator Lavoie-Roux, but I reserve the right to adjourn this matter after my colleague speaks.

The Hon. the Speaker: Is it understood, honourable senators, that this order will stand in the name of the Honourable Senator Petten at the conclusion of today's debate?

Hon. Senators: Agreed.

Hon. Thérèse Lavoie-Roux: Honourable senators, on May 2 of this year, my colleague Senator Beaudoin gave notice of a motion to establish a special committee of the Senate to examine and report upon the issue of national unity, focusing particularly on the most urgent issues: rebalancing federalism, protecting Quebec in the amending formula, and the concept of a unique and distinct society. He asked that the committee report no later than the end of the present year. My honourable colleague suggested such a time in order to prepare for the April 1997 conference that will review the amending formula. Evidently, this request has been ignored, which is most disappointing.

The unity debate did not end in October 1995, unfortunately. In fact, the devastatingly close results of the referendum awoke Canadians in an alarming fashion. It appears, however, that someone has hit the snooze button. Now is not the time to go back to sleep. The people of Canada will not trust our sincerity if we only address the question when there is crisis.

I am surprised so little has been done since the referendum. True, the two federal houses have so far passed a resolution on distinct society and have adopted the statute on the five regional vetoes. Clearly, these measures only skim the surface of a much more complicated issue.

Honourable senators, I am not here today to point fingers. This is not a partisan issue. I am positive that those on the other side of this chamber are as deeply concerned about the fate of their country as I am. This leaves me puzzled as to why the Senate has not yet taken a role in the unity debate. The Senate's cross-country representation appears to me to be ideal for this type of committee, and senators from across the country should be actively involved. We have already seen the reaction of other parts of Canada: The Atlantic provinces will be severed from the rest of the country, while B.C. will want to follow Quebec's example.

Quebec's separation would only be the beginning of more political unrest. I am particularly supportive of making the committee mandate quite specific. It is not useful to travel the country to hear everyone's ideal vision of the country. It is time to ask specific questions.

• (1440)

Perhaps, as well, there is a function for the committee as an educator. From my experience, many across the country are confused about the demands of Quebecers, those spoiled children, and many Quebecers do not understand the concerns of others outside the province, including other francophone communities. We need a dialogue. We need everyone to understand that losing Quebec has widespread ramifications. This is not a threat, honourable senators — I am afraid it is reality.

Honourable senators, fellow citizens should be informed that we are not just attempting to appease Quebec. If anyone thinks so, they are mistaken. Some of Quebec's concerns about their role in the federation are very similar to those of other provinces, as we have seen since the referendum, particularly from some of the requests by western provinces.

My colleagues who have already risen to speak on the subject — Senators Beaudoin, Rivest and Bolduc — have offered some specific ideas on the three particular areas of proposed study: rebalancing federalism, protecting Quebec in the amending formula, and the concept of a unique or distinct society. While I am in agreement with them, I feel these areas must be explored more thoroughly, and this could be done well by a Senate committee working on a non-partisan basis. When we get to the survival of our country, there is no black and white. We should all be thinking as one.

Again, I find it incomprehensible as to why the Leader of the Government in the Senate has not yet reacted to Senator Beaudoin's motion.

Senator Kinsella: There is no plan over there!

Senator Lavoie-Roux: There can be only one explanation, that she has not yet received instructions from the Prime Minister's Office or from Minister Dion. I dare not think that the silence or immobility is due to the absence of a plan on the government's part.

Senator Kinsella: That is it! No plan!

Senator Lavoie-Roux: Honourable senators, I wish to repeat that we just missed disaster narrowly. We might now be heading toward a similar quagmire.

The Hon. the Speaker: Order. Honourable senators, perhaps you could conduct your private conversations outside the chamber so that we can hear the Honourable Senator Lavoie-Roux.

Senator Lavoie-Roux: Honourable senators, let us not wait for another referendum. We must put everything on the table now while cooler heads prevail.

I have seen committees of the Senate work on a totally non-partisan basis. Again, we want to save this country. If I have to give speeches during another referendum, which I hope I will never see, they will not be on economic issues, as I did, over and over again, in 1980 and 1995. Canada is my country and I want to keep it. I hope the Senate helps us keep it!

The Hon. the Speaker: Honourable senators, as agreed, if no other senator wishes to speak, the motion will stand in the name of the Honourable Senator Petten.

On motion of Senator Petten, debate adjourned.

POINT OF ORDER

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, what is the policy concerning the standing of an order in the name of a senator who continues to refrain from speaking to it ? In other words, Senator Petten has stood this motion in his name for over a month now, and while he has allowed "other senators" to speak to it, the adjournment always reverts to his name. Does that mean that he has control over this item on the Order Paper, that unless he gives approval it cannot be voted on?

Perhaps His Honour could reflect upon this point. I do not wish to surprise him with it, but I would not want to think that a senator can control a debate by adjourning it in his name for an indefinite period.

The Hon. the Speaker: Honourable senators, my understanding is that, according to the *Rules of the Senate,* that is in fact the situation. Of course, a motion can be introduced to force the issue. However, I will look into the matter and rule on it.

Senator Lynch-Staunton: Honourable senators, had Senator Petten not — to use the American term — yielded to Senator Lavoie-Roux, would Senator Lavoie-Roux have been allowed to speak to this item today?

The Hon. the Speaker: Honourable senators, I believe that is how we have operated in the past, but I will check into this matter further.

If the order is a motion, a senator may be heard at any time by moving a motion to that effect.

The Senate adjourned until tomorrow at 2 p.m.

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Wednesday, December 4, 1996