CANADA

Debates of the Senate

2nd SESSION • 37th PARLIAMENT • VOLUME 140 • NUMBER 69

OFFICIAL REPORT
(HANSARD)

Monday, June 16, 2003

THE HONOURABLE DAN HAYS
SPEAKER

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

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate
Available from Communication Canada – Canadian Government Publishing, Ottawa, Ontario K1A 0S9.
Also available on the Internet: http://www.parl.gc.ca

THE SENATE

Monday, June 16, 2003

The Senate met at 6:01 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

NOTICE

Hon. Lowell Murray: Honourable senators, I believe a copy of a written notice of a question of privilege I gave to the clerk earlier today has been circulated. I rise now, in conformity with the rule to give oral notice, that I shall be raising that question of privilege at the appropriate time.

INSTALLATION OF BISHOP RAYMOND LAHEY AS BISHOP OF DIOCESE OF ANTIGONISH AND CHANCELLOR OF ST. FRANCIS XAVIER UNIVERSITY

Hon. B. Alasdair Graham: Honourable senators, St. Ninian's Cathedral in Antigonish is a venerated, beautiful old church, which has a special place in the hearts and minds of generations of those fortunate enough to have savoured its special magic.

When Bishop Raymond Lahey, a native Newfoundlander, was installed last Thursday as the eighth Roman Catholic Bishop of the Diocese of Antigonish and Chancellor of St. Francis Xavier University, St. Ninian's once again became home to an ancient ceremony of enormous solemnity and glorious colour. All the while, this celebratory feast was accompanied by a remarkable display of music and song: Director James McPherson's incomparable cathedral choir, golden trumpets, and the traditional haunting sounds of bagpipes and fiddles.

It would be indeed interesting to know whether Bishop Colin McKinnon, who founded St. FX in Arichat, Cape Breton, in 1853, two years before it was moved to Antigonish in 1855, could have foreseen such a remarkable future rise from the seeds of his unwavering determination. It is interesting to note that, at the time, Nova Scotia had won responsible government and the legendary Joseph Howe was premier of the province.

As this great university celebrates its one-hundred fiftieth anniversary, there is much to celebrate: a new bishop and chancellor, a new commemorative stamp issued by Canada Post — which I had the privilege to help unveil on April 4 of this year — and, according to *Maclean's* magazine, top-ranking as the number one university in all of Canada.

St. FX has been home to extraordinary leaders who believe in the power of individuals, no matter how poor, no matter how susceptible to the vagaries of a resource-based economy, to become masters in their own house.

It was at this place that Monsignor Coady began to spread his message about liberation and empowerment. It was in this place that the Coady International Institute established a training centre for adult education. It is to this place that over 4,000 community leaders from 120 countries have come to learn about education, which brings hope to little people across the planet; and it is from this place, in this past year, that students have gone to places like Botswana and Rwanda in response to the HIV/AIDS crisis.

The new Bishop Lahey inherits a proud tradition and he himself brings another one to Antigonish.

As the congregation, including close to 50 bishops from across Canada, left St. Ninian's under ancient trees as venerable as the church itself, the choir, the trumpets, the bagpipes and the fiddles joined as one in a stirring and very emotional rendition of the *Ode to Newfoundland* — a fitting tribute to the new shepherd who will watch over his flock and diocese, hopefully for many years to come.

RACIAL PROFILING

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the Centre for Research Action on Race Relations has solicited the help of Parliament to bring forward legislation to deal with racial profiling in Canada.

Canada has a duty to fulfil domestic and international obligations to protect human rights contained in the Universal Declaration of Human Rights and the Charter of Rights and Freedoms. Article 9 of both of these documents states that "No one shall be subjected to arbitrary arrest, detention or exile," and both protect against discrimination based on race. Racial profiling is a practice that falls under these headings. This is of particular importance in light of recent accounts of racial profiling occurring at the Canada-U.S. border following the events of September 11 and allegations that law enforcement officers are engaging in discriminatory practices of racial profiling in their investigations.

Does racial profiling subordinate civil rights to the right of society to be protected, or is it an effective tool that is based on statistical foundations? It is clear that arbitrary stops, searches and detention based entirely on race, ethnicity or national origin go against the fundamental principles of our Charter.

Samantha Payne, an intern from the University of Indiana, asks: Is profiling necessarily discriminatory when it is based on both experience and statistical evidence used in the prevention of crime and terrorism? Some believe that the statistical evidence utilized is unreliable. Overrepresentation of certain racial groups in the justice system might occur simply because they may be targeted more by law enforcement officials. There is no unequivocal evidence to support the theory that people of certain minority groups are more likely to commit crimes than others. Any evidence to suggest this dissipates under the light of potential discriminatory targeting. It becomes a circular and self-fulfilling argument.

Racial profiling encroaches upon basic human rights that Canada has worked hard to protect. Canada has demonstrated its willingness to take action to eliminate all forms of discrimination at home and abroad and continues to be a leader in the field of human rights. Our country is party to over 30 international human rights instruments.

• (1810)

In August 2001, Canada was a signatory to the Report of the World Conference against Racism, which urges member states:

> ...to design, implement and enforce effective measures to eliminate the phenomenon popularly known as "racial profiling" and comprising the practice of police and other law enforcement officers relying, to any degree, on race, colour, descent, or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity;

Honourable senators, if all are equal before the law and entitled to equal protection, it is important that this practice be abandoned to ensure that these basic human rights are not infringed. When will this government bring forward measures to eliminate racial profiling?

FUTURE OF FRENCH LANGUAGE SCHOOLS

CANADIAN TEACHERS' FEDERATION REPORT ON IMPORTANCE OF EARLY CHILDHOOD CARE AND EDUCATION

Hon. Jean-Robert Gauthier: Honourable senators, a report released last week by the Canadian Teachers' Federation, CTF, revealed that unless federal, provincial and territorial governments put in place an adequate French-language early childhood care and education system, the future of French-language schools is in jeopardy.

The Canadian Teachers' Federation speaks for 240,000 teachers, of whom 10,000 work in francophone minority settings outside Quebec. This report, entitled "Early Childhood: Gateway to French-language Schools," presents the findings of an 18-month research project that the federation conducted with the Centre for Interdisciplinary Research on Citizenship and Minorities. The report shows, with respect to early childhood services in French, in Canada, an absence of policies, a myriad of disparities and a definite frailty in funding arrangements. The situation is difficult because children do not receive the same attention in every province and territory. The President of the Canadian Teachers' Federation, Doug Willard, explained:

> Every day, teachers in francophone minority communities deal with children whose ability to learn in French is limited by their linguistic and cultural experience prior to starting school. This situation is compounded by the fact that many parents who are entitled to send their children to French-language schools fail to do so at the beginning or at a later stage of their children's schooling.

The report spells out a national vision that describes an early childhood care and education services model best suited to ensure the full integration of francophones into French-language schools. The report also calls for specific measures to be taken at the federal, provincial and territorial levels, including: establishment of a national policy respecting early childhood in minority settings; broadening the Protocol for Agreements for Minority-Language Education and Second-Language Instruction; allocation to minority communities of an equitable share of existing programs; and creation of a program for the development of francophone community skills in the area of early childhood.

The report dovetails with the federal government's action plan for official languages released last March entitled, "The Next Act: New Momentum for Canada's Linguistic Duality." Mr. Willard said:

> If we are to avoid the assimilation of entire francophone communities, we must take measures that will impact early in a child's life.

Personally, honourable senators, I believe that the national vision in this report is a major step in the right direction in that it points to the best guarantees of success of early childhood services as the gateway to French-language schools.

[*Translation*]

ROUTINE PROCEEDINGS

TREASURY BOARD

GOVERNMENT ON-LINE: 2003—REPORT TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table the report of the President of Treasury Board entitled, "Government On-Line: 2003."

[*English*]

STUDY ON MATTERS RELATING TO STRADDLING STOCKS AND TO FISH HABITAT

REPORT OF FISHERIES AND OCEANS COMMITTEE TABLED

Hon. Joan Cook: Honourable senators, I have the honour to table the fifth report of the Standing Senate Committee on Fisheries and Oceans, which deals with the straddling fish stocks in the Northwest Atlantic.

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

PENSION ACT
ROYAL CANADIAN MOUNTED POLICE SUPERANNUATION ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. J. Michael Forrestall, Deputy Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Monday, June 16, 2003

The Standing Senate Committee on National Security and Defence has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred Bill C-31, *An Act to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act*, has, in obedience to the Order of Reference of Wednesday, June 11, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

J. MICHAEL FORRESTALL
Deputy Chair

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

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

INJURED MILITARY MEMBERS COMPENSATION BILL

REPORT OF COMMITTEE PRESENTED

Hon. J. Michael Forrestall, Deputy Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Monday, June 16, 2003

The Standing Senate Committee on National Security and Defence has the honour to present its

TWELFTH REPORT

Your Committee, to which was referred Bill C-44, *An Act to compensate military members injured during service*, has, in obedience to the Order of Reference of Friday, June 13, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

J. MICHAEL FORRESTALL
Deputy Chair

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

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

[*Translation*]

STATUTORY INSTRUMENTS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-205, to amend the Statutory Instruments Act (disallowance procedure for statutory instruments).

Bill read first time.

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

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

● (1820)

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Shirley Maheu: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That pursuant to rule 95(3)(a), the Standing Senate Committee on Human Rights be authorized to sit on Mondays, beginning September 15, 2003, on its study of the examination of key legal issues affecting the subject of on-reserve matrimonial real property on the breakdown of a marriage or common law relationship, even though the Senate may then stand adjourned.

[*English*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Tommy Banks: Honourable senators, I give notice that at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Energy, the Environment and Natural Resources be empowered, in accordance with rule 95(3)(a), to sit during the traditional summer adjournment of 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.

[*Translation*]

QUESTION PERIOD

JUSTICE

APPOINTMENT OF OMBUDSMAN TO REVIEW LEGAL ERRORS

Hon. Pierre Claude Nolin: Honourable senators, my question is for the Leader of the Government in the Senate. On June 4, 2002, the Parliament of Canada passed Bill C-15A, which included a major reform to the highly controversial system for reviewing miscarriages of justice.

On March 19, 2002, in order to improve the efficacy, credibility and transparency of this procedure, and particularly its independence, the Senate tabled and passed an amendment moved by Senator Joyal, stipulating that the Minister of Justice might delegate, in writing, to an independent expert, with a background in the law, certain of his powers in connection with the review of miscarriages of justice.

According to the *The Globe and Mail,* the Minister of Justice has not properly grasped the importance of the amendment passed by the Senate, or has quite simply decided deliberately to ignore it, because here we are, a year after Bill C-15A was enacted, with no one yet appointed.

In expressing his indignation at the Minister of Justice's patent inertia to fulfill his promises in this connection, lawyer Melvyn Green of the Association in Defence of the Wrongly Convicted was quoted as follows, in a recent article in *The Globe and Mail*:

[*English*]

> The review mechanism remains deeply flawed, but the right outsider could make a real difference to the fate of wrongly convicted Canadians.

[*Translation*]

What I am asking, on behalf of those in Canada who have been unjustly accused, as well as all those who support them in the long and difficult process to get their verdicts reviewed, is how the Leader of the Government in the Senate can explain the fact that the Minister of Justice has not yet respected the terms of the amendment adopted by the Senate and appointed an independent expert responsible for ensuring that the new procedure for the review of miscarriages of justice is operating properly.

How can it be that, a year later, the Minister of Justice has not yet been able to find a qualified candidate to do this?

Ought we to have submitted a list of possible candidates to the minister when adopting the amendment?

[*English*]

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. I do not know why the Honourable Minister of Justice has not made the appointment, as he has indicated it is part of the statute. I will make inquiries and report back.

CANADA-UNITED STATES RELATIONS

HUMAN SMUGGLING

Hon. A. Raynell Andreychuk: Honourable senators, my question is for the Leader of the Government in the Senate. The RCMP has warned that Canada may soon see a rise in the incidence of people smuggling. Last week, the U.S. State Department criticized Canada for not doing enough to fight against a similar but arguably more serious problem — human trafficking. The report stated that the Government of Canada does not fully comply with the minimum standards for the elimination of trafficking. They categorized current federal efforts to prosecute traffickers as "uneven."

My question for the Leader of the Government in the Senate is this: What is the federal government doing to address this particular problem, or this perception of a problem, from the American State Department?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we would encourage our friends to the south to sign the same treaty we have with respect to this process.

Senator Andreychuk: Honourable senators, are we admitting that we do have a problem, or are we simply saying that the United States has erred, that they are wrong and that it is a perception problem? In other words, Canadians want to know whether there really is a problem with human trafficking from our side, irrespective of what treaties or conventions we have signed. Is the problem real, in the eyes of the government?

Senator Carstairs: To deny that there is a problem, not only in this country but internationally, with human smuggling would be to live with one's head in the sand. There is a problem, both in this country and internationally, with human smuggling. That is exactly why we signed the treaty. That is exactly why we are putting resources and policies in place to do whatever we can to counteract it.

Senator Andreychuk: Part of the problem appears to be the characterization that the U.S. State Department has made of the problem. It is noted that the U.S. State Department rated Canada's efforts in human trafficking as being in the same category as countries with longstanding records of grave human rights violations, such as Rwanda and the Democratic Republic of the Congo. Colombia, a country that is a major source of women trafficked into prostitution and has a widespread problem with internal trafficking, was somehow ranked in a higher tier than Canada, alongside the U.K. and Spain.

Has the federal government been able to ascertain what criteria the U.S. State Department used in categorizing Canada's response to human trafficking?

Senator Carstairs: As the honourable senator is aware, the United States government establishes its own criteria. In this case, we have no hesitancy in saying that they are wrong in placing Canada where they have placed us. We have put the right system in place. We would encourage our neighbours to the south to do exactly the same thing.

Senator Andreychuk: What process is the Canadian government using to engage the United States to correct this categorization? In other words, are there some high level, Prime Minister-to-President discussions, as this is a very serious matter?

Senator Carstairs: To my knowledge, it has not reached that level, but it has certainly reached the level of the usual diplomatic processes that are used to inform our neighbour to the south of us that, quite frankly, they are wrong.

HUMAN RESOURCES DEVELOPMENT

BOVINE SPONGIFORM ENCEPHALOPATHY— AID TO BEEF INDUSTRY WORKERS

Hon. Leonard J. Gustafson: Honourable senators, this government's handling of the economic fallout from the mad cow scare has failed to inspire confidence with the Canadians hurt by this problem. For instance, the government was asked to waive the two-week Employment Insurance waiting period for those hurt by the mad cow scare. Instead, in response, it is telling those people to get into retraining and work-sharing programs.

Let us take a real-life example and show how far out of touch this government is. At Moose Jaw, Saskatchewan, a company by the name of XL Beef recently laid off 160 employees and completely closed the plant because of the mad cow scare. With the XL Beef plant completely closed, could the Leader of the Government in the Senate please inform us how on earth an XL Beef plant employee can partake in a work-sharing program? Clearly, in many cases, there is no work to share.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is deeply regrettable that the company took that position. For example, the company located in Brooks, Alberta, took an entirely different position and, instead of laying off 900 workers, entered into a job work-share program, and those 900 people still have work. Unfortunately, the people in Moose Jaw have been, in my view, let down somewhat by their employer. Having said that, they now qualify for EI. They have to serve the EI two-week waiting period, as do all Canadians, with the one exception in the history of EI when the people themselves were quarantined and could not go out on the streets of their cities to look for employment.

• (1830)

Senator Gustafson: The sad truth is that if Moose Jaw had not shut down, there would not be work in other areas. The beef has to go somewhere. That is a weak position.

The federal government's idea of free-interest loans to help those hurt by the mad cow scare has been universally condemned. I received a letter today from Ontario beef producers. Thousands of them are having serious problems because of not being able to move their cattle.

The government must be aware that a loan is not an answer. After all, one cannot borrow one's self out of trouble. One just digs oneself deeper into debt. For instance, poor income support programs from the government have already forced Canada's farmers to incur an excess of $15 billion in new debt between 1993 and 2000.

Why is the government asking the industry, which is already suffering through no fault of its own, to accept deeper debt?

Senator Carstairs: Honourable senators, we have to look at all possible solutions to this problem. No-interest loans payable over a period of 10 years has been one of the suggestions put on the table. It is a legitimate suggestion. Is it the only suggestion? The answer is no. As the honourable senator well knows, the Minister of Agriculture met with his provincial and territorial counterparts on Friday. He indicated, at a public press conference held at the end of that meeting, that he would make a significant announcement sometime this week.

Hon. Gerry St. Germain: Honourable senators, the Leader of the Government in the Senate makes reference to the plant in Moose Jaw not having taken into consideration, work-sharing. How can my honourable friend be so critical of an organization unless she is totally familiar with the economic workings of the organization? Maybe the only way the plant can survive is by shutting down completely.

Many politicians are not great business people, but I operated businesses all my life, until I came to this place. Often, there is no recourse. Does the honourable leader have information whereby she can be that forceful and that critical of that organization?

Senator Carstairs: What I did, honourable senators, was point to other similarly stressed organizations that did reach out to help their workers in ways they could, some plants larger than the one in Moose Jaw, which might have made it easier, but some the same size as the Moose Jaw plant. Obviously, we are all under great stress with respect to BSE. I think that employers as well as employees should stretch the envelope.

Senator St. Germain: Honourable senators, I have been in touch with some of the people who are running auctions in British Columbia. There is just no income. There is no way they can operate part time. The Brooks plant may have enough of the domestic market to remain partially open, but I can tell the minister emphatically that I have been told by industry people whom I met with this weekend that there must be immediate assistance. As Senator Gustafson so adeptly pointed out, there is no sense going into a deeper debt hole.

Honourable senators, this is an honourable business. This is not like Groupaction out of Quebec, which never expects to pay anything. This is an honourable industry with honourable people, hard-working cowboys, abattoir workers and people across this industry who have a high degree of integrity. If they take a dollar from you on a loan, they expect to pay it back.

Would the minister be prepared to go back to the cabinet and explain the logic out there that seems to be going over the head of the government?

Senator Carstairs: With the greatest respect, honourable senators, some of the industry people themselves indicated that no-interest loans were the way to proceed. Obviously, that will not meet all the needs out there. That is why we expect that, later this week, there will be a further announcement indicating what will be done by the Government of Canada, in cooperation with the provinces and territories of this country, to help those involved in this industry to get over a very difficult time.

NATIONAL DEFENCE

WAR WITH IRAQ—INVOLVEMENT OF HERCULES AIRCRAFT CREWS

Hon. J. Michael Forrestall: Honourable senators, I have a question for my favourite minister. I have often wondered why we do not have several.

We learned in the past that Canadian naval ships searched suspected Iraqi ships in the Persian Gulf. We heard that our CP-140 Aurora maritime patrol aircraft provided intelligence to United States forces on Iraqi maritime movements. We know that Canadian Forces officers on exchange fought with British and American units, and now a U.S. general has written a report that reveals that Canada's three C-130 Hercules tactical transport aircraft took part in the U.S.-led war on Iraq. Did the Canadian Forces C-130 Hercules aircraft or any other Canadian Force units take part in the U.S.-led war in Iraq?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is my information that they did not. I quote Canadian Forces spokeswoman Major Lynn Chaloux:

> That report is erroneous. We supported Enduring Freedom, the war on terrorism, not Iraqi Freedom, the war in Iraq.

Senator Forrestall: To bring this controversy to an end, would the minister undertake to seek from Minister McCallum an undertaking to bring forward, for tabling in this chamber, the pertinent extracts from the logs of those three Hercules aircraft so that there might be a public glimpse of just what the facts are?

Senator Carstairs: I do not have those extracts with me. I understand that the honourable senator is requesting me to place the question with the Minister of Defence. I will do that and share the information with him when it becomes available.

FOREIGN AFFAIRS

NORTHERN IRELAND—EFFORTS TO FACILITATE RETURN TO LOCAL GOVERNMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): The honourable minister will recall that, a few months ago, I raised a question of what I consider to be a tremendous opportunity for Canada to show leadership in one theatre of the world that we have not been focusing on with the same level of intent as in other parts. I am speaking of Northern Ireland.

Might the minister approach her colleague, the Minister of Foreign Affairs, as to whether Canada would host a dinner of the principal players in Northern Ireland, to see whether Canadian hospitality might provide the opportunity to break the log-jam that is currently in place in that theatre of the world?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for the suggestion. I will make sure the Minister of Foreign Affairs is apprised of the honourable senator's request in this case, and I would add mine, which is that Alberta beef be on the menu.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in the Senate three delayed answers. The first one is a response to questions raised in the Senate by the Honourable Senators Comeau and Adams on May 28, 2003, regarding Nunavut — northern shrimp fishing; the second one is a response to a question raised in the Senate by the Honourable Senator Robertson on May 15, 2003, regarding the plight of the homeless — development of a central database; and the third one is a response to a question raised in the Senate by the Honourable Senator Keon on June 10, 2003, regarding West Nile Virus.

FISHERIES AND OCEANS

NUNAVUT—ACCESS TO SHRIMP FISHERY

(Response to questions raised by Hon. Gerald J. Comeau and Hon. Willie Adams on May 28, 2003.)

> The Department of Fisheries and Oceans has acted in a manner that is fully consistent with all obligations and commitments to the territory of Nunavut. In responding to advice from the Independent Panel on Access Criteria (IPAC), the Minister accepted the panel recommendation that no additional access would be granted to non-Nunavut interests in waters adjacent to Nunavut until the territory has achieved access to a major share of its adjacent fishery resource.
>
> The IPAC report was commissioned to look at the issue of harvest access in growing fisheries. The report clearly defines access as the opportunity to harvest or use the fisheries resource generally permitted by licences or leases issued by DFO. The report distinguishes this from the allocation of harvest opportunity, which is defined as the amount of allowable catch that is distributed or assigned by the Minister to those permitted to harvest the resource.

This year's decisions in the northern shrimp fishery were fully consistent with the recommendations made in the IPAC report. DFO continues to make concerted efforts to allow Nunavut access to the major share of the resource allocations in adjacent waters as demonstrated by the granting of 51 per cent of the allocation increases in shrimp fishing area 1 to Nunavut in 2003.

As indicated above, the Department has acted in a manner that is fully consistent with all obligations and commitments to Nunavut. Nunavut received the major share, (51 per cent) of the increase of the northern shrimp allocation in adjacent waters this year. This allocation is above that which would have been received under the historical sharing arrangements (8.8 per cent) or 187t. Nunavut also shared in allocations to the offshore licence holders and the scientific quota in areas not adjacent (518t), for a total increase in allocation of 1,601t.

The Department will continue to manage and allocate fishery resources consistent with the recommendations of the IPAC report.

Commitment to Nunavut in Article 15.3.7 of the Nunavut Land Claims Agreement.

DFO has satisfied the requirements of section 15.3.7 of the Nunavut Land Claims agreement, which requires that special consideration be given to the importance of adjacency and economic dependence of communities in the Nunavut Settlement Area.

In 2003 Nunavut requested access to the following:

- 100 per cent of the new 2003 allocation of 2,127t.

- 100 per cent of the 2002 allocation of 2,690t which had already been allocated to the offshore licence holders, effective 2001.

- A further 1,850t allocation transferred from the remaining 9,350t allocation in SFA 1 that is currently held by the offshore licence holders.

Each of these requests was given special consideration in line with the Land Claims Agreement. As stated in the Ministerial response to IPAC, fulfillment of recommendation #6 under IPAC will not be achieved by confiscation of harvest shares already allocated to other participants in this fishery.

HUMAN RESOURCES DEVELOPMENT

PLIGHT OF HOMELESS— DEVELOPMENT OF CENTRAL DATA BASE

(Response to a question raised by the Hon. Brenda M. Robertson on May 15, 2003.)

All projects approved in a community under the Supporting Communities Partnership Initiative (SCPI) are required to address one or more of the priorities identified in their community plan. Each community plan identifies the local needs and challenges to address homelessness and this process involved community stakeholders, including homeless people and higher-risk groups such as youth, women and Aboriginal people.

An assessment can be made by the National Secretariat on Homelessness (NSH) as to how many projects correspond to any given community priority. No project will be approved unless it directly addresses a community plan priority and the Terms and Conditions of the SCPI.

The SCPI has five specific objectives:

1. To lessen the hardship of people who are homeless by increasing services, for example by providing additional shelter space or more alternative housing for longer-term shelter residents;

2. To promote a coordinated series of programs and initiatives aimed at reducing homelessness;

3. To strengthen the capacity of communities by bringing local service providers together to develop plans that address individual needs in a seamless and coordinated fashion;

4. To promote broad-based partnerships among all stakeholders (private, non-profit, volunteer and labour organizations, the general public and all levels of government) to address homelessness at a community level; and

5. To develop a base of information and knowledge about homelessness, and share it among all concerned parties and with the general public.

This information is captured in a database maintained by the NSH. The NSH has undertaken a number of community investment analyses, which can be made available upon request.

We are pleased to announce the SCPI was selected as a Best Practice in the UN-Habitat 2002 Dubai International Awards for Best Practices. UN-Habitat Best Practices, such as the SCPI, are initiatives which have made outstanding contributions to improving the quality of life in cities and communities around the world. The original call for Best Practices was launched in 1995 during preparations for the Second United Nations Conference on Human Settlements, as a means of identifying what works in improving living conditions on a sustainable basis. Since 1996, the Dubai International Awards have been held biannually and have received more than 2,000 submissions from over 90 countries. For the 2002 Awards, an independent committee was responsible for reviewing the 544 submissions and classifying them as either Best Practices, Good Practices, Promising Practices or Non-Qualifiers. They identified four North American submissions as Best Practices, including the Government of Canada's SCPI.

Since the inception of the National Homelessness Initiative, the NSH has been developing HIFIS. The vision of the HIFIS Initiative goes beyond the development and deployment of a computer based shelter tool. In partnership with communities, it encompasses the broader goal of establishing a source of comparable data on the characteristics of homeless people across Canada. While HIFIS does not provide a count of homeless people, it can be used to collect a range of information, including demographic information on shelter clients, the immediate reason for using a service, the contributing factors to a person or family being homeless and the client's status upon discharge.

As all Canadians can understand, maintaining the privacy of individuals is of the utmost importance. That is why from the outset of its development by Canada Mortgage and Housing Corporation, HIFIS has been guided by the principles of the Privacy Act (Act 66). As well, privacy concerns were reviewed by experts and stakeholders in Canadian privacy law. Since NSH took over HIFIS, they have continued to respect and address privacy concerns.

HIFIS has also responded to privacy concerns about the personal information held in shelters' operational databases by developing a second 'export database' that is used to send non-identifiable data to the NSH. The 'export database' contains information that is derived from the operational database, but without personal information such as names or social insurance numbers. Once enough data is collected in the 'export database,' this will enable the NSH to establish a source of comparative data on the characteristics and trends within the homeless population, such as the number, gender, average age and average length of stay of Canadian shelter users. At the same time, the privacy of homeless individuals and families will be safeguarded because no identifiable personal information is included in the 'export database.'

HIFIS helps shelters manage their data as well as allowing across-the-board data exchange resulting in national, provincial, municipal and agency reports that will provide useful information for enhanced decision-making capacity. To maintain the principles of HIFIS, a national data sharing protocol that establishes parameters defining when data is transmitted, what data is shared, who receives and owns the data and how the data is protected, will serve as a guideline for this national data exchange system. This protocol will enable frontline service providers and municipal and provincial governments to form a formal data exchange community. This protocol, which sets the rules for sharing data and addresses privacy concerns, can be used as a model for cities and communities that want to sign agreements. Developing this system requires constant communication with shelter users in order to suit the needs of users, ensure privacy and enable data sharing. The City of Ottawa is close to signing a data sharing agreement using this protocol and it is expected that other communities will be entering into similar agreements in the near future. An important part of the second phase of the HIFIS Initiative is to increase capacity to implement these data sharing agreements with cities and communities.

As for comments made about HIFIS containing too many bugs and limitations, the majority of these bugs and limitations were present in the earlier prototype version of HIFIS, called HIFIS 1.3. The new version, HIFIS 2.0, has corrected most of the software problems identified by stakeholders. As well, the new version addressed a number of the limitations that were brought to the attention of the HIFIS team. Subsequent versions of HIFIS will continue to respond to stakeholder suggestions and changing needs.

The expectations of the [pilot] projects depend on the objective established for each individual project. These would be aligned with the five overarching objectives of the SCPI, as previously outlined.

In three years, through community partnerships, the SCPI has succeeded beyond expectations.

- Under the SCPI, 61 communities across the country have developed community plans to address the specific issues facing those who are homeless or at risk of becoming homeless in their communities.

- More than 7,000 new beds have been created.

- Approximately 563 shelter facilities are receiving funding for building improvements or renovations.

- More than 331 support facilities, such as food banks and soup kitchens, are being set up or improved.

- In addition to the Government of Canada investment in this initiative, $555.9M has been contributed by other partners.

- More specialized services have been developed to help youth and urban Aboriginal homeless persons, two of the fastest growing groups that are facing the challenges of homelessness. This includes facilities such as shelters serving homeless youth.

- Hundreds of partnerships have been forged across provinces and territories to help fight homelessness.

It should be noted that an evaluation of the National Homelessness Initiative (NHI) was carried out in 2002-2003. This evaluation aimed to meet Treasury Board's requirement to measure progress in implementing the NHI. The final report is expected to be released by June 30, 2003 and will be posted on the NSH's web site at www.homelessness.gc.ca. The evaluation methodology is based primarily on a set of 20 community case studies. In addition, information on all 61 communities was collected through the analysis of program data and documents, and interviews with many stakeholders.

All 61 communities are also required to complete a Community Plan Assessment to report on the progress of their investments and activities towards the achievement of their priorities and objectives as described in their community plan. These objectives and priorities supported the NHI's three strategic objectives which were:

- Facilitate community capacity by coordinating the Government of Canada efforts and enhancing the diversity of tools and resources;
- Foster effective partnerships and investments that contribute to addressing the immediate and multifaceted needs of the homeless and reducing homelessness in Canada; and
- Increase awareness and understanding of homelessness in Canada.

HEALTH

WEST NILE VIRUS—STOCKPILING OF BLOOD—SCREENING TEST—SUSPECTED CASE IN WALPOLE, ONTARIO—BLOOD DONATIONS IN REGION

(Response to question raised by Hon. Wilbert J. Keon on June 10, 2003.)

Stockpiling of Blood — Screening Test

Blood establishments do not intend to test these products before they are released. Blood establishments have been collecting, keeping and stockpiling products from February 2003 to May 2003, outside the mosquito season. This was initiated in order to secure sufficient supply to use should cases of human West Nile Virus appear prior to the implementation of screening of all donations for West Nile Virus. As a result no testing of these products was deemed necessary at the time.

Suspected Case in Walpole, Ontario — Blood Donations in Region

Health Canada has confirmed with the Canadian Blood Services that there were no blood clinics held in the area where the boy resided during this period.

• (1840)

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, under Government Business, I would like us first to address Item No. 2, Bill C-24, then Bill C-28, then move on to Item No. 2 under Presentation of Reports from Standing or Special Committees, and then resume the proposed order on the Order Paper.

[*English*]

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill C-24, to amend the Canada Elections Act and the Income Tax Act (political financing).

Hon. W. David Angus: Honourable senators, I rise this evening in the most non-partisan spirit, which is the most I can muster in the circumstances, to speak on Bill C-24, which deals with the financing of parties, candidates and elections in Canada's political development system. The bill is entitled "An Act to amend the Canada Elections Act and the Income Tax Act."

At the outset, I wish to say that I and my colleagues on this side of the chamber do not support this bill in principle or in substance. We are, I believe, unequivocally opposed to this bill. As well, honourable senators, based on what I have read and heard in the print media and in the electronic media — and indeed, around the corridors of these Parliament buildings — it appears clear to me that a substantial number of members of Parliament, and senators who are not members of my party, are likewise opposed to the proposed legislation.

Not only is the governing Liberal Party of Jean Chrétien deeply divided on this bill, but its own incumbent president, Mr. Stephen LeDrew, has been waging a nationwide campaign against the bill since November of last year. The legislation is, he says, "as dumb as a bag of hammers." He has declared this publicly on many occasions. Yet, honourable senators, that same Mr. LeDrew was denied a hearing of his views when Bill C-24 was in committee in the other place. I am confident that Mr. LeDrew would have no objection if I were to follow his lead, with apologies to Charles Dickens, in *The Pickwick Papers*, 1837, by saying, and I quote: "This legislation is also as dumb as a drum with a hole in it."

Simply put, honourable senators, Bill C-24, if passed, will be bad law and equally bad public policy. Such ill-founded actions of Parliaments past gave rise to the expression, I believe, "The law is an ass." Do we want this to be continued? Honourable senators, I respectfully suggest that the circumstances and manner in which we are being asked by the government to consider this bill, when viewed together, are tantamount to a flagrant abuse of the process of Parliament. I say this without exaggeration for the following reasons.

First and foremost, this bill would implement fundamental changes to the way we manage our democracy in Canada and the way we run our free electoral system that is so envied around the world. Canadians enjoy and cherish a time-tested, constitutional democracy based on the political party system. For Canada's democracy to function well, our political parties must have access to sufficient funding to enable them to operate freely and efficiently, and to conduct appropriate policy research and get

their messages out to the Canadian people in a free and unfettered fashion. This would allow citizens to make informed choices when they elect their representatives for the federal governments, and also allow a strong and viable alternative to always subsist so that voters have a choice, should the incumbent government of the day falter.

Heretofore and currently, honourable senators, we have had a system whereby our political parties have been self-financing, for the most part, with unlimited access to donations from unions, corporations, associations and individuals. We have imposed various checks and balances to avoid abuse, or any perception thereof, and to broaden the base of financial support by individuals and small businesses.

The principal checks and balances, which have worked well, are the following: One, complete transparency through rigid disclosure requirements for all political donations above $200; two, strict registration and annual reporting requirements for political parties; three, limits on election expenditures by parties in Canada at the constituency and national levels; four, a ban on political donations by non-Canadian individuals and enterprises; five, a modest tax credit with a maximum of $500 on contributions of up to $1,150; and six, a fair and just regime that provides for the reimbursement by the government of a portion of election expenses, duly incurred and properly reported upon by individual candidates and registered political parties.

This system has worked well in practice, honourable senators, and it has embodied a modest blend of public funding through the tax credit and election expense reimbursement. For example, in 2000, the last general election year, the national parties were reimbursed $8 million by the government, and individual candidates who received 15 per cent of the vote received reimbursement of $15 million.

This current system has not — certainly to my knowledge, in the 30 years we have had it — been at the root of or been the subject of any undue high-profile — or even low-profile for that matter — abuse or scandal. Nor has it had the disadvantage of restricting the freedom of action of Canadian citizens, unions, corporations and/or individuals through a regime of limits on contribution levels such as the one contemplated by Bill C-24.

Under the proposed new system, the estimated cost to the taxpayers during an election year could run as high as $130 million, I am told, and as much as $50 million of this would reoccur on an annual basis, not every four or five years. Therefore, the numbers and the excess costs are substantial.

Indeed, there was a cartoon in the *Montreal Gazette*, on Sunday morning, of a gentleman coming in with the mail and his wife was sitting there. She said, "What is that, dear?" He holds out this document and says, "It's the new political finance bill here in Canada. The bill is for us, dear," and so it will be.

Yet we are told by Mr. Chrétien and his supporters that the rationale for this bill, Bill C-24, is the urgent need to dispel a so-called perception amongst Canadians that our political party financing system is corrupt and subject to widespread abuse and undue influence in Ottawa by corporations, the labour movement, and by the mega-wealthy.

• (1850)

As recently as last Thursday, Senator Robichaud said, in this chamber, that the objectives of Bill C-24 are:

> ...to improve the transparency and fairness of Canada's electoral system and address the perception that corporations, unions and the wealthy exercise a disproportionate influence in our political system.

Honourable senators, I put it to you four-square — no such perception exists in Canada. What would the various legitimate, registered lobby firms have to say about this? What is the so-called or alleged perception about them? Could they be next to be nationalized? Or will they simply laugh all the way to the bank at the government's stupidity, and reap the rewards of Bill C-24, receiving from corporations, unions, and wealthy individuals those funds they otherwise would have given to support the party or parties of their choice? I believe the real answer lies elsewhere.

We are given to understand that Bill C-24 forms part of the so-called ethics package, hastily cobbled together and announced by the Prime Minister in May 2002 when it became evident that he and his government were under a substantial ethical cloud, following the shocking revelations about gross mismanagement of vast sums of public monies from the Transitional Jobs Fund in HRDC. Then there was this curious series of loans that led to the so-called "Shawinigate" scandal. It was soon followed by news of the malodorous, if not criminal, activities surrounding a series of contracts awarded by Public Works Canada to certain advertising agencies in Montreal, Quebec. I am told that we will soon be hearing from the RCMP on a series of charges on this latter subject. Could that possibly be why there is such a rush to push this bill through to early enactment?

Honourable senators, in all seriousness I ask you: Do these spurious reasons justify our agreeing to fundamental changes to a piece of key, and generally well-functioning, framework legislation, which governs an important aspect of how we manage our democracy? The answer, I suggest, is a resounding no.

For centuries, it has been conventional wisdom that change for change's sake or for the wrong reasons is bad business, bad public policy. As early as 1660, the noted British parliamentarian and Secretary of State, Viscount Falkland, dealt with the issue with his memorable and oft-quoted dictum, "When it is not necessary to change, it is necessary not to change."

I respectfully submit, honourable senators, that Mr. Chrétien's so-called issue of perception is merely a smokescreen, a cover-up. We have ample laws on the books, including those in the Criminal Code, to deal with fraud, corruption, abuse of office, the suspicion of and/or the perception of same, and the

mismanagement of public funds by politicians and public officials. Surely we should not agree to dismantle an exemplary political financing system which has served us well since 1974 for such questionable motives, and replace it at great cost to the taxpayers with a new, fundamentally different and untested system which I submit is fraught with flaws and, in fact, has minimal support in Parliament or elsewhere.

For us to agree to do so, honourable senators, would be a sorry failure by us in our duties as senators to the Canadian people to whom we are accountable, especially in a case like this where the very functioning of our democracy is at issue and the basic structure is being summarily tinkered with for no valid reason.

There is more, honourable senators. The improbable rationale underlying this bill is not the only element which constitutes what I have alluded to earlier as the abuse of the parliamentary process. I am troubled by the following questions. I feel strongly that they should be coherently and forthrightly answered for us before proceeding with second reading. They are: First, why is there such unseemly haste to enact Bill C-24? Second, why was it necessary to cut off debate and invoke closure in the other place? Third, why are we senators being asked, directly or indirectly, to forgo the necessary and thorough study this key framework legislation deserves and to proceed to Royal Assent before the customary summer recess? Fourth, what is the pressing reason for passing Bill C-24 now, in mid-June, under stringent time pressure, rather than deferring it until autumn and giving it a full study and the kind of sober second thought required and merited in the special circumstances which prevail? Fifth, is the Prime Minister's autocratic demand for the bill now, rather than in the fall, sufficient reason for us to venture on to that notorious slippery slope which invariably results in bad law and bad public policy?

There are others in this chamber, much better placed than I am, to answer these questions which I have posed, I assure you, honourable senators, sincerely and in the best of good faith.

Leaving aside these disconcerting issues of process, I wish to make it clear that, in my view, the present law on political finances in Canada is by no means perfect. Indeed, there are a number of aspects of the Canada Elections Act which need to be amended and modernized, not only for the sake of consistency but also to respond to problems that have arisen in practice, and to close certain loopholes that have become apparent during elections in recent years. For example, I strongly believe that the present disclosure rules need to be tightened up and expanded to deal with nominating conventions, leadership races, as well as to cover donations made outside election writ periods at the constituency level and to party organizations on university campuses and elsewhere.

Furthermore, the loophole known as the "in-and-out scheme" made popular, apparently, by our friends in the Bloc Québécois, needs to be closed. I also believe that tighter and more practical accounting and reporting regulations would be in order for constituency associations and other local party organizations.

However, a wholesale change in philosophy and structure, the introduction of massive government funding, the imposition of costly red tape and a host of bureaucratic regulations on local party organizations are things, I respectfully submit, which we do not need in Canada at this juncture.

Bill C-24 is replete with myriad awkward and onerous rules and regulations which may make the work of the Chief Electoral Officer, Mr. Kingsley, and his staff much easier, but it will create an administrative nightmare, an unmanageable one, I submit, for the thousands of volunteers and political workers who toil in and around elections to make our democratic system work as well as it does.

The need for reform of our political financing system was recognized by the Mulroney government during the mid-1980s. I refer in particular in this regard to the White Paper on Election Law Reform which was published and circulated in June of 1986 by the Honourable Ray Hnatyshyn, then President of the Privy Council and Government House Leader — the late Ray Hnatyshyn, a great Canadian.

This white paper was part of a process which ultimately led to the setting up of the Royal Commission on Electoral Reform and Party Financing in November of 1989. This royal commission had a comprehensive mandate — to inquire into the appropriate principles and processes that should govern the election of members of the House of Commons and the financing of the political parties of Canada. It was chaired by prominent Quebec economist Pierre Lortie, hence the Lortie commission. Its members included our colleagues Senators Lucie Pépin and Donald Oliver, as well as Messrs. Pierre Fortier, Q.C., Robert Gabor, Q.C., and William Knight. All our major political interests and philosophies were represented.

This royal commission filed a unanimous report on February 13, 1992, following two full years of nation-wide public hearings, supplemented by an extensive consultation process and research program. The report was set forth in four large volumes containing 16 chapters and 265 recommendations. I can assure honourable senators that all the main issues related to party financing and the perceptions surrounding same were investigated fully and dealt with at length in the report. The exercise was massive, thorough and very costly to taxpayers.

• (1900)

This is the kind of process, I would suggest, that should be followed when dealing with possible changes to the basic mechanics of our democracy. Yet, no such process preceded the drafting of Bill C-24, nor can one find any noticeable linkage between the Lortie commission's thoughtful and useful recommendations and the surprising, sudden and far-reaching provisions of Bill C-24.

Honourable senators, I have been wondering for several months where Bill C-24 came from. What is its real purpose? Why are we suddenly making such a fundamental change to Canada's political financing system? We can only hope that informed officials will tell the Standing Senate Committee on Legal and Constitutional Affairs if, indeed, the bill ever makes it to committee.

I mentioned earlier about Mr. LeDrew not being heard by the committee in the other place. On three occasions I wrote and requested to be heard myself, having a modest background in the field, and was refused a hearing.

The reality is, honourable senators, that the Lortie commission unanimously found Canada's political financing system to be one of the best, if not the best, in existence in any democratic system in the world, based on political parties. The commission specifically decided against imposing limits on corporate, union or other financial contributions to candidates and political parties. The commission concluded:

> Sunshine is the best medicine to counter public perception of undue influence through financial contributions to candidates or political parties.

The commission continued:

> Full disclosure of the size of contributions and detailed information about the source of contributions are an integral component of an electoral system that inspires public confidence.
>
> With a disclosure system that is comprehensive and workable, as well as reasonable limits on election expenses, there is no evidence to justify placing statutory limits on the size or source of political contributions at the federal level.
>
> Timely and complete disclosure helps remove any suspicion about the financial affairs of candidates and parties by opening them up to public scrutiny. Disclosure is also essential in enforcing the laws regulating political finance and ensuring accountability for the use of public funds.

What has changed? I agree fully with the conclusions of the Lortie commission, Senator Pépin, Senator Oliver and others, that limiting political donations, be they corporate or individual, is not the solution to the alleged perception problem and, rather, represents inappropriate law and public policy that could indeed, and likely will, lead to abuses far more egregious than those being touted by the sponsors of this badly flawed, proposed legislation.

Honourable senators, I would only add the following three comments on the issue of limiting corporate and union contributions, be it to $1,000 or at all, for that matter. First, as Senator Grafstein pointed out last week, there are genuine fairness and freedom of expression issues involved in Bill C-24, all of which cry out for careful study and consideration. Sadly, apparently this cannot be done in the short time frame being allocated to us here in the Senate.

The Hon. the Speaker: I regret to interrupt Senator Angus, but I would ask other honourable senators to carry on their conversations outside the chamber in order that we can hear Senator Angus.

Senator Angus: This is important stuff. I am even convincing myself.

Second, it has been suggested that the banning of corporate contributions to political parties in Quebec has been a major success and should be adopted at the federal level. I suggest that this suggestion is far off the mark. Comparing a provincial regime with the federal regime is like comparing the proverbial apples and oranges. The order of magnitude and the cost of operating the federal political system are vastly higher and more complex at the federal level. Ruling out or drastically limiting corporate giving federally will have totally different consequences than provincially.

Furthermore, it is well-known today, by experienced political operatives, that the law against corporate giving in Quebec is basically honoured in the breach. One who believes that corporations are not very major contributors to political parties in Quebec today could, I suspect, be justly referred to as very naive.

In Quebec, corporate giving has been, in effect, driven underground. The reality is that corporations continue to support Quebec parties and politicians generously, but indirectly and through a variety of dubious schemes and channels that, if carefully scrutinized, would not pass legal muster. However, for perception's sake, a blind eye is turned to this egregious practice.

I seriously wonder whether we wish to participate in importing a similar state of affairs, albeit on a much larger and broader scale, honourable senators, on to the federal scene. I think not.

Third, according to an old adage that was widely quoted here and abroad even more than 50 years ago, money is the mother's milk of politics. Honourable senators, the evidence available to us today is overwhelmingly to the effect that union and corporate contributions are the mother's milk of politics in Canada. By limiting them to $1,000, notwithstanding the substantially socialistic public funding that is contemplated by Bill C-24, we will be creating a recipe for big trouble in the future. Political fundraisers and the masters they serve are, by their nature, very creative. It will not be long, as sure as night follows day, before indirect channels are found for unions and corporations to continue their munificence going forward, if only in a genuine effort to help preserve a healthy party system, the basis of our democracy.

Another surprising and worrisome aspect of Bill C-24, honourable senators, also involves fairness. As I understand the proposed legislation, it is designed to come into effect on or about January 1, 2004, the beginning of next year. This proposed federal subsidy to our registered parties will be doled out on the basis of the popular vote results of the general election of 2000. According to our calculations, the clear winner will be the Liberal Party of Canada with $9.2 million. Far behind the Liberals will be the Canadian Alliance at $5.7 million, the poor little Tories at $2.7 million, the Bloc Québécois at $2.4 million, and finally the NDP at $1.9 million.

Is this a level playing field, honourable senators? How can a party that espouses a just society even contemplate legislation so patently unfair and designed to perpetuate the incumbent regime and possibly bankrupt or severely financially impair the other parties?

• (1910)

I will say no more on this subject, other than to suggest, as an absolute minimum, should the government succeed in revolutionizing the money system in Canadian politics by making the proposed fundamental changes — even though no change is needed — then, at least, start the ball rolling by giving all of the parties a subsidy of equal amounts. The Canadian people can then decide the amounts thereafter.

I have been actively involved with political finances both here in Canada and, to a lesser extent, in the United States for the past 47 years. I believe I have learned a little bit about how the system works in our country. We have an excellent system and it functions well. Let us not muck it up.

As Winston Churchill once said to Clement Atlee after a long night in the House of Commons: “My dear Clement, every time you see something that functions well, you try to nationalize it.”

Honourable senators, can we not stop Bill C-24 here and now before we participate in a very costly mistake, one that has the potential to negatively affect the ongoing viability of our parties as we know them and the healthy operation of our democratic process for years to come?

As I said at the outset, we on this side oppose the bill both in principle and in substance. If the bill goes ahead as is, I will be disappointed and, as a parliamentarian, ashamed. We all should be.

Why do we not, just this once, stand up and be counted, honourable senators?

Hon. Gerry St. Germain: Will Senator Angus take a question?

Senator Angus: Of course.

Senator St. Germain: I know of the honourable senator’s involvement in political financing. I know he has studied this matter. How does the Liberal Party morally justify the situation where it is now mainly corporations that see fit to contribute, in 99.999 per cent of the cases, with no expectations in return for their contributions? Would this not equate to getting rid of all of the corporate donations to charity and burdening the taxpayers with supporting all charities? Does the honourable senator not see a comparison there?

Senator Robichaud: The answer is no.

Senator Angus: I thank the honourable senator for his question. That is what we call, in the law, a rhetorical question. I believe he knows the answer. The response is, yes, very much so.

Hon. Serge Joyal: I listened carefully to our colleague. He mentioned that, under the proposed plan in the bill, the Conservative Party would receive, and I quote his figure, $2.7 million. How much money did the Conservative Party raise in the last year — for which information is available — from individuals, corporations, organizations, government reimbursements and so forth? Can the honourable senator tell us this so that we may understand the impact of the proposed bill on the Conservative Party? The honourable senator would know the party’s financial position through his experience. How much money did the party raise in the last year for which those statistics are available?

Senator Angus: I thank the honourable senator for the question. I wish I could provide specific numbers.

Senator Carstairs: We can.

Senator Angus: I wanted to have a table showing how much money was raised by all the parties. It was key to my speech. The figures simply are not available. One of the things that is lacking in the present law, as I mentioned earlier, is the disclosure between elections at the constituency level. There is no doubt that, today, big money can be given at any riding level, campus organization or X-Y-Z Liberal association and it is not disclosed. I do not know the answer to the question.

As far as corporate donations are concerned, it was spelled out well in the evidence that was given. A report is released by the Chief Electoral Officer every year. I cannot give the exact number now. I can tell my honourable friend that, in the party that I represent, donations have varied greatly over the years. We recognize that when this law came into effect in 1974 with the tax credit, there was a great opportunity for Canadians — little Canadians, individuals, small and medium corporations — to donate $100 and get a $75 receipt. This produced a tremendous amount of money for our party: an average of close to $5 million a year for many years. We had good advice on how to do it. We paid for it from consultants. I think we were maybe a decade ahead of the other parties. I was at many meetings with Senator Kolber, with Bill Knight, and with the operatives of other parties, to tell them how we did it. Corporate money follows the message. If it looks like you are winning, you get more. Last year the Liberals got more corporate money than the Conservatives.

However, it does not create scandals. Shawinigan did not happen because of the Royal Bank giving $50,000 to all four parties, or three parties, which it did. All the banks contributed equally — they must have a meeting — but I tell them it that is terrible that they give only $50,000. They should give $250,000, minimum, because our system is built on private enterprise financing the parties. If you want to subsidize it, it is not indexed and the parties will go bankrupt.

I know the amount given to the Liberal Party because it is in the statements presented by Mr. LeDrew. I read in yesterday’s *The Globe and Mail* that the Tory party has a $4.5 million debt. How will it ever pay that off?

Honourable senators, this bill is a recipe for the extinction of our parties as we know them. The bill as drafted will give a fairly substantial leg-up on January 1. As I said, “The winner is....” It is unconscionable that they can start off by saying, “We are giving ourselves nine and giving the others a pittance.” It is not good news.

I am not involved in fundraising now, but I am very concerned that we would tinker with our system for the wrong reasons.

Hon. Consiglio Di Nino: Honourable senators, I come at this subject from a different viewpoint. I spent pretty well all of my life in the financial services sector and numbers are my game. I am cursed with the need to always look at what the numbers tell me. It is for this reason that I began to look at the cost of the political system in this country some three or four years back. Those senators who have been around have heard me speak on this topic before.

When I first began my review of this bill, I was pleased that the Prime Minister had finally seen the light and had perhaps been listening to what I had been saying for years about electoral financing in this country. Having now done a preliminary assessment of the proposed funding scheme, I realize that I was sadly mistaken in my initial assumption.

Honourable senators, the bill amounts to a shameless cash grab. It appears as if it is designed to pick the taxpayers' pockets for more than it actually costs to run the federal political system in Canada. It is a charade that needs to be exposed. It is little wonder that this legislation was supported by most Liberals in the other place. They surely know the benefit.

• (1920)

Honourable senators, if Bill C-24 had been in effect in the year 2000, and here I can shed some light on Senator Joyal's question about some numbers, the Liberals would have been reimbursed roughly $6 million in excess of their operating expenses. These figures do not include the reimbursement to individual candidates — those who achieved the 15 per cent threshold.

Honourable senators, for the record, allow me to state clearly that I am not opposed to the principle of this bill, and for years now my position has been quite clear. Federal political parties are now funded by the public purse under the current system, by some two-thirds of expenses, before the passage of this legislation. Unfortunately, I believe that Bill C-24 goes much further than necessary.

With the limited time I have, I intend to speak to my main argument in respect of this bill. However, there are other issues to be addressed, some of which have been identified by Senator Angus, on which this chamber needs to focus during committee deliberations and debate.

My main concern is that if Bill C-24 were to pass and be proclaimed, Canadian taxpayers would be subsidizing the federal political system in excess of what it actually costs to run elections and parties in this country. Starting with the premise that taxpayers already pay some two-thirds of this cost, consider the suggested changes to the funding formula. First, the tax credit on individual contributions has been increased to 75 per cent on the first $400 donated; 50 per cent on donations between $400 and $750; and one-third on donations between $750 and $1,275. Thus, the maximum tax credit on individual donations rises from $500 to $650. Second, in an election year, candidates who receive 10 per cent of the votes cast in their ridings will be reimbursed 60 per cent of their election expenses. This will increase funding from the public purse in two ways: these candidates will now receive a greater election expense rebate, from the existing 50 per cent to 60 per cent, and the threshold to qualify for these rebates will be reduced from 15 per cent of the votes cast to 10 per cent, thereby making more candidates eligible for the rebate. Third, political parties will receive a refund of 50 per cent of their election expenses, up from 22.5 per cent under the present system. That would be a huge windfall. Fourth, this bill establishes an annual allowance of $1.75 per vote received in the previous election for political parties that achieve the minimum of 2 per cent of the vote nationally, or 5 per cent of the vote in a riding in which they run a candidate. That will result in an enormous increase in the contribution from the treasury for the funding of the political system.

Honourable senators, to illustrate the financial implications of this proposed legislation, I have applied the proposed guidelines to the year 2000 expenses of the Liberal Party. In 2000, the Liberals spent roughly $20 million. If Bill C-24 had been in force then, the Liberal Party would have received a refund of some $9,785,000-plus, an allowance totalling $9,191,000. Fully 97 per cent of their costs would have been refunded. That is over and above the direct contributions of nearly $7 million that they received from individuals. That would have amounted to $6 million more than they spent, and I did not include any corporate donations in those figures.

I should add that it seems as though, when the same formula is applied to all political parties in the year 2000, the last year for which full information is available, each one would have actually received a refund greater than their expenditures had Bill C-24 been in place then. I certainly hope that the committee will question departmental officials and other appropriate witnesses about this. Again, let me be clear: I do not oppose public funding of political parties; we are there already. However, the question is: Why should taxpayers give political parties profits?

Also, honourable senators, if we are to fully fund political parties from the treasury, other than membership dues to an association, then we should take it one step further and ban all donations to political parties, because, otherwise, it is a charade. I should add quickly that the German system funds political parties, to a large degree. Mr. Helmut Kohl, who is now referred to in Europe as “Don Kohleone,” got into trouble because the system did not ban political contributions. They got greedy; they wanted more money, and that is how they got into trouble. There is only a limited, reasonable number of dollars that a political party could truly need. We should provide that amount because the system already does that.

The financing scheme proposed by the government is also extremely complex. Its implementation will require nothing short of a mass mobilization of people and resources — unnecessary expenses in a fully-funded system. A system of full disclosure and direct public funding would also go a long way towards helping to restore public confidence in our nation's electoral system.

Another issue that has not been explored adequately is what has been called the "sleeper issue" of this bill — the fact that control of political funding will be more securely in the hands of politicians and political parties. This will lead to the concentration of enormous power in the hands of political leaders, with little regard for riding associations and individual candidates. Political parties will receive large sums of money and we should be concerned about whether this money will be fairly distributed to associations and candidates. That is where the foundation of democracy lies. Politicians will establish the rules of distribution. As time goes on, honourable senators can be sure that there will be pressure to amend the legislation to increase the contributions of tax dollars to operate the political system. It has been happening for years, even though indexing provisions have been included in this bill.

This process, in my opinion, is bound to lack full accountability and fairness. Why not save the time and the money by introducing a simplified system of public funding overseen by an impartial, independent, non-partisan group charged with setting up and enforcing standards and rules of conduct? The promotion and protection of the democratic system would be well served.

I have spoken often over the past two or three years about having an open, honest and thorough debate on this issue. Honourable senators, Bill C-24 gives us the opportunity to do precisely that. I am disappointed, as expressed by Senator Angus, with the speed at which this proposed legislation has been rushed through the other place. I am hopeful that honourable senators will discharge their responsibility as the chamber of sober second thought and look thoroughly, freely and effectively at this bill and its implications. May honourable senators take their time, and not rush this important piece of proposed legislation through the house, as happened in the other place.

In closing, honourable senators, I will repeat my main theme: If passed, Bill C-24 would result in the taxpayer paying, in effect, more than it costs to operate the federal political system. This is a no-brainer: The system should be simplified and the responsibility and authority placed in the hands of a group of impartial, independent and respected Canadians with a mandate to equitably — and I underline that word — distribute the funds to Canadian political parties with the principal goal of promoting and protecting democracy.

• (1930)

Hon. Douglas Roche: Honourable senators, I enter this debate as one who was a member of the House of Commons for 12 years, fought four federal elections, and have some experience in the raising of money for election campaigns. I consider Bill C-24 a momentous step forward in levelling the political playing field. It will lead to an improvement in the ethics of elections. It will be highly beneficial for our democratic system. I am not saying the bill is perfect. Few pieces of legislation ever achieve that distinction, but we should pass this bill now, while Parliament has the opportunity to do so.

Bill C-24 has two features of overarching importance. First, it severely reduces the influence of corporations on the legislative process. Second, it provides public funds to candidates for election in an appropriate manner.

Corporations with great access to great resources have been able to dominate political financing with substantial contributions. As a result, there is currently a perception, among Canadians, that businesses are able to influence public policy. Indeed, why else would they contribute?

Corporate influence comes at the expense of the individual on whom our democratic system is based. It is not corporations but individuals who have the right to vote. However, this vote can be rendered virtually meaningless if political parties are beholden to corporate interests for the money they need to persuade the electorate to vote in their favour.

Corporate financial power, when exercised in the political arena, serves to strengthen the influence of key executives and shareholders. These individuals are drawn from the wealthiest Canadians, and the influence they enjoy as a result of their ability to direct contributions threatens to drown out the voice of the middle class, let alone the poor, in the political process.

In the United States, corporate power has been able to capture policymakers who depend on their financing for re-election. Pressure from the military-industrial complex is a major reason for the traditionally high levels of U.S. military spending, which has now reached an unprecedented $400 billion annually and is fuelling a budget deficit of similar proportions.

The New York Times reported yesterday that President Bush is set to raise $20 million over the next two weeks as part of a re-election effort that expects to attract $170 million in contributions, much of it from professional lobbyists who work for big business. Why is he able to solicit such large amounts? Democrats claim it is because he can sell access, access through which to influence public policy. It should be noted that the Democrats are not necessarily opposed to this system but are merely concerned that they will not be able to keep up.

Fortunately, the financial corruption of the political process in the United States has not yet infected Canada, certainly not to the same degree, but elements of the military-industrial complex do exist in Canada and, without a doubt, seek policies that will chiefly benefit the corporations themselves. The push for Canada to join the U.S. missile defence system so that Canadian firms can be eligible for contracts is but one example.

Now is the time to assert ourselves to protect the basic integrity of the Canadian system and to prevent our politics from aping the U.S., where the buying and selling of politicians has reached scandalous proportions.

The developing connection between contributing businesses and political parties in Canada should give us pause. To give one example, nine of the top ten legal firms, in terms of dollars billed to the government, in 2000, for federal prosecution contracts, donated to the Liberal Party in 2001. The top five firms alone contributed $52,000. When asked, a spokesperson for one law firm said that while contributions were not necessary to receive government contracts, it was considered polite, for major contractors, to make major donations.

An official in the Department of Justice similarly acknowledged that "it would be very human for major contractors to give back to the governing party." Even if these donations did not affect the distribution of government contracts — which is next to impossible to verify — the party in government should not be able to attract contributions as a result of its control of the public purse.

The government claims that the bill is aimed at fighting a public perception of undue corporate influence. I would go one step further and say the bill will also serve to guard against the possibility of such an undue influence emerging.

It is true that the great majority of policy-makers, both in the legislatures and the public service, do their utmost to serve the interests of Canadians. Regardless of the true level of influence currently enjoyed by corporate donors in Canada, it is important to improve our system, not only to guard against a public perception of that influence, but also to prevent present and future politicians from succumbing to the temptation to abuse power.

Parties require funding in order to carry out their work of organizing the electorate and facilitating the flow of information, et cetera. Lost funding from corporate and union donors will be replaced by a public subsidy based on the number of votes the party attracted in the previous election. As a result, public funding will now constitute roughly 90 per cent of party financing, ensuring that corporate interests will not overwhelm the concerns of individual voters. Instead, every vote will count in determining the levels of party funding.

This bill will address current problems in our system of political financing in several important ways. Corporations and unions will be prohibited from making donations to federal parties and will be allowed only limited contributions of $1,000 per party to local constituencies. As a result, it will no longer be "polite" for recipient firms of government contracts to donate directly to the governing party; instead, it will be illegal.

The bill will also increase the role of individuals in directing how political financing is distributed. On the one hand, Canadians will be able to contribute up to $5,000 to a federal party, including its constituencies and candidates, and on the other hand, every voter will have control over which party will receive the $1.75 per year from the public treasury that is attached to each vote. Increasing the contribution levels qualifying for substantial tax breaks will also make it more affordable for individuals to make large contributions if they wish.

Finally, the bill will provide for increased transparency concerning the identity of significant contributors, for the first time extending reporting requirements to constituency associations and closing a considerable loophole in the current system. This transparency is the key to fighting public perceptions of undue influence while, at the same time, ensuring that anyone who does seek to abuse the system will be subject to public scrutiny.

Honourable senators, the principles behind this bill are truly laudable and should enjoy broad support in the Senate. There is no denying, however, that it is a complicated piece of legislation. There have been numerous suggestions on all sides for amendments to strengthen the bill and ensure against any undesirable indirect consequences of it. As Senator Robichaud already noted, the House of Commons committee heard from 40 witnesses and made 81 amendments to the bill. It is possible that further improvements could be made to this legislation.

● (1940)

However, we must recognize the political reality in which we find ourselves. Further amendments, though they might marginally improve the bill, could also prevent it from receiving Royal Assent in a timely manner. Instead, recommendations by the Senate committee for implementation and review of the new law would be quite in order. There is a danger that, in focusing too much on improving this bill, we might sacrifice the central principles it advances by missing the opportunity that exists right now to provide a legal basis for them.

Honourable senators, we must not let the "best" become the enemy of the "good." Instead, we must seize this unique opportunity to move ahead with these vital reforms. Let us move ahead now.

I believe that this bill represents an important step towards strengthening Canadian democracy by removing the shadow of corporate influence from political financing. Instead, individuals, through their ballots and cheque books, will direct the distribution of funds. By limiting both the opportunity for and the perception of corruption through increased transparency, this bill will encourage greater public confidence in our political institutions.

This bill is ethically sound and will help to re-energize democracy at a time when voter turnouts have fallen. I urge all senators to support the bill and to advance the public good with which we have been entrusted.

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray: Honourable senators, I had not intended to take part in this debate, and I shall not be long because there are a couple of other matters on the agenda tonight on which I want to be heard.

Far be it from me to find fault with the speech we have just heard by Senator Roche. I appreciate the conviction that he expressed and the experience that he brings to bear on these matters. As a matter of fact, like him, and like Senator Di Nino, I approve of the principle of the bill.

However, he mentioned the manifold abuses that take place in the United States, and he expressed the hope that we would not see such abuses in Canada. That got me to thinking. In the United States, corporate donations to parties and candidates are banned by law. Corporations, business people and big money have found hundreds of ways to get around that prohibition. We have had the rise of the political action committees and other committees by which big money funnels funds to parties and candidates at the state, local and national levels in ways that are far less transparent than the system that we have here today.

I must say, again, that while I approve of the principle of the bill, one of the things I have a hard time getting my mind around is whether the restrictions that the bill would impose will not lead to opening up other avenues of abuse. That is one problem.

I agree with some of the criticisms that Senator Angus has made, and I certainly share with him a concern that some of the provisions of the bill, as they relate to riding associations and local candidates, might prove to be onerous on those people who are, as we know, volunteers in local riding associations across the country. This would be especially onerous in places where any party is not strong organizationally.

Even the present law imposes a bit of a burden on the constituency associations. It is only because there is usually at least one sympathetic lawyer and one sympathetic chartered accountant willing to come forward and act pro bono in their professional capacities that we are able to find ourselves in conformity with the law.

Those are all very serious concerns. I do think that they must be canvassed before the full weight of this legislation falls upon the country in a general election. That also speaks not just to the possibility of amendments to this bill but even with that, the wisdom of its coming into force within the next 12 months.

However, as I say, I agree with the principle of the bill.

Hon. Senators: Question.

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

Hon. Senators: Question!

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

Motion agreed to and bill read second time, on division.

[*Translation*]

REFERRED TO COMMITTEE

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

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

BUDGET IMPLEMENTATION BILL, 2003

THIRD READING—MOTION IN AMENDMENT—DEBATE CONTINUED

On the order:

> Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the third reading of Bill C-28, An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003.

Hon. Pierre Claude Nolin: Honourable senators, it was after hearing Friday's debate that I decided to speak on Bill C-28 at third reading.

Honourable senators, the problem before us is serious. If we do not remedy this situation immediately, the very balance of Canada's political system is at risk.

This balance depends on the recognition and survival of three distinct and complementary branches of the state. As honourable senators know, I am referring to the executive, legislative and judicial branches.

Honourable senators, it is essential to remember, during our reflection on this issue, that each of these branches must operate in a manner consistent with our Constitution and our Charter of Rights and Freedoms.

Parliament, the legislative branch's functional body, passes legislation, and the executive branch is responsible for its implementation. Although the exact and reasonable distinctions between the executive and the legislative branches are unfortunately and too often illusory, the independence and impartiality of the judiciary, however, alone suffice to maintain the balance of our social and political system. The public's perception of this balance is equally important.

Everything depends largely on the respect that is the judicial branch's due. The courts act as adjudicators of our legal disputes. To this end, the opposing parties exercising their respective rights put their faith, therefore, in the wisdom of the court, which will rule on the matter according to the laws currently in force.

• (1950)

Need I remind you, honourable senators, that, in the eyes of the law, even the Crown is on the same level as the most humble among us? The judicial branch does not wield its power through judges alone. Of necessity, it operates through many players. Lawyers are instrumental in its operation. Society's respect for the judicial branch must extend to all those who play a part in carrying out its role.

The situation we have before us with Bill C-28 challenges the role of the courts and some of the actors present. If one party to a dispute can decide to use its power, strength or wealth to

challenge and thwart a court decision, this would be saying might is right. If a lawyer can decide to renege on his consent to judgment, as well as go against the court's decision, and if he is acting on behalf of the Crown, this again would be saying might is right.

This is abhorrent to our democracy. It calls into question the cohesiveness, the very existence, of the rule of law. In the case before us, the government is justifying its action by claiming to have given conditional consent to judgment, through its legal counsel, but subject to subsequent retroactive legislative annulment.

The facts are totally contrary to this: an exchange of letters between counsel before the consent to judgment was submitted to the judge indicated this possibility. This sword of Damocles hung over the rights of the parties from December 2001 to December 2002. For a year, the Minister of Finance hemmed and hawed over the possibility of introducing legislative amendments that would have abrogated the rights in dispute before the courts.

When the lawyers tired of fighting and finally gave their consent to judgment, there was nothing conditional about it. The court's decision was final and executory, the equivalent of a judgment, the outcome of arbitration on a point under dispute. This judgment confirmed the right. The court would never have consented to a conditional judgment.

Today, we are being asked to extinguish those rights retroactively. This approach is contrary to all of the principles of law that ensure the legitimacy of the judiciary process. It is our most pressing duty to prevent a reoccurrence of such a situation.

We, as senators, having, with reason, to keep our distance from partisanship, must reject any attempt by the government to deny the Canadian judicial branch's freedom of action.

Let us put an end to this ill-conceived idea to retroactively deny rights and let us uphold the right of school boards that do not have the means to have a system, outside transportation service for students and must contract out to service providers other than their own. Let us uphold the right to a 100 per cent GST rebate, as ordered by the Federal Court of Appeal.

A stanza in the French version of our national anthem, *O Canada*, reads as follows:

> ...Et ta valeur, de foi trempée, protégera nos foyers et nos droits...

Let us stop nitpicking about the meaning of our national anthem and start respecting its spirit.

MOTION IN AMENDMENT

Hon. Pierre Claude Nolin: Honourable senators, for all these reasons, I move, seconded by Senator Murray:

> That Bill C-28 be not now read a third time but that it be amended in clause 64, on page 55:
>
> (*a*) by deleting lines 11 to 39; and
>
> (*b*) by renumbering clauses 65 to 130 as clauses 64 to 129, and any cross-references thereto accordingly.

[*English*]

Hon. Lowell Murray: Honourable senators, the effect of the amendment that Senator Nolin has proposed would be to allow the Federal Court judgment to operate across the board, as it were, to all those school boards that would be affected by that judgment.

A point of order has not been raised as to receivability. I do not anticipate one, although it is always in order, at least until the vote is taken. Also, there is always the possibility that in the other place, if this amendment goes through, we may hear some objection as to what is possible with or without a Royal Recommendation and what it is possible for the Senate to do with a bill of this kind. I should like to put on the record comments in that respect, as we open this debate on Senator Nolin's amendment.

I am the first to notice, in my research, that there is some confusion on the point if one reads the authorities. For example, in the *Companion to the Rules of the Senate of Canada*, put out in 1994 under the direction of our Committee on Privileges, Standing Rules and Orders, as it was then, Beauchesne is quoted from the sixth edition, page 183 to 185, paragraph 596:

• (2000)

> ...an amendment infringes the financial initiative of the Crown not only if it increases the amount but also if it extends the objects and purposes, or relaxes the conditions and qualifications expressed in the communication by which the Crown has demanded or recommended a charge.

Clause 64 which would be removed by Senator Nolin's amendment is not really imposing a charge, but it is a way of limiting the liability of the government in view of a certain court decision.

The statement in Beauchesne that an amendment infringes a financial initiative of the Crown even if it "relaxes the conditions and qualifications" seems to be at variance with other authorities, including Erskine May, whom I found quoted by the Speaker of the Senate of the day on February 20, 1990.

POINT OF ORDER

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise on a point of order. This is my first opportunity to rise, since I was only able now to compare the amendment introduced by Senator Nolin with the ruling of the Speaker.

It would appear to me that the amendment which the honourable senator has introduced tonight is in substance exactly the amendment that was raised last week, which Your Honour declared to be out of order.

The Hon. the Speaker: A point of order has been raised. It was anticipated that it might be.

Senator Murray, do you wish to speak to this point of order?

Hon. Lowell Murray: Honourable senators, I think that intervention was helpful, although I am not sure.

Senator Nolin was at some pains to find an amendment that was not identical to or very similar to the amendment that had been ruled out of order the other day. Though I do not have His Honour's ruling in front of me, I believe he said that it was open to the Senate to delete a charge altogether from a financial bill. To the extent that clause 64 can be considered a charge, Senator Nolin is moving to delete it.

Honourable senators, let me continue by quoting another authority. I refer to Erskine May as quoted by the Senate Speaker of the day on February 20, 1990, who said:

> No special form of procedure applies to proposals to reduce existing charges, and they may be moved in the House of Commons or in Committee without the Royal Recommendation.

Erskine May goes on:

> A proposed reduction of a charge may consist in reducing its amount, or restricting its objects or inserting limiting conditions, or shortening the period of its operation...

That would seem to be quite at variance with the citation from Beauchesne which I cited for honourable senators earlier.

There are some other rulings by Speakers over the years. I wish to refer to one from June 18, 1985, when the Speaker said:

> If we analyzed the situation more closely, we would be obliged to conclude that if the motion was accepted it would not impose additional expenses but would simply maintain the *status quo ante*.

I suggest that is precisely the effect of Senator Nolin's amendment. It would restore the *status quo ante* in respect of the judicial decision that was arrived at. What the government is attempting to do with clause 64 is limit its liability. This is on all fours with the decision taken by the Speaker on June 18, 1985.

There was another decision on May 31, 1990. Again, quoting from Beauchesne's fifth edition, paragraph 527, the Speaker of the Senate said:

> So long as an existing tax is not increased, any modification of the proposed reduction may be introduced in the committee on the bill, and is regarded as a question not for increasing the charge upon the people but for determining to what extent such charge shall be reduced.

A similar situation arose a few years ago, and it is in the memory of many honourable senators here, when the present government introduced the so-called Pearson airport bill. One of the provisions of that bill sought to limit the liability of the government by precluding access to the courts for those who believed themselves affected. As we know, the bill was defeated here in the Senate. However, if one of our amendments, which had been to restore access to the courts, had been passed, then the government's attempt to limit its liability would have been defeated. It clearly was going to cost the government money. The situation with which we are faced here tonight is not dissimilar.

Finally, let me take honourable senators through several amendments which were proposed and defeated, but which were received by the Chair at the time the GST bill was before us in 1990. I turn first to October 30, 1990, when Senator MacEachen, the Leader of the Opposition moved:

> That Bill C-62 be not read the third time but that the Schedule of the Bill be amended, on page 342, to make provision for reading material by adding to Schedule VI, and numbering accordingly, a new heading and Part as follows:
>
> "READING MATERIAL
>
> 1. A supply of a book, periodical literature or other reading material."

That motion would have exempted reading materials from the GST. It was to reduce the incidence of that tax.

Later, on November 8, Senator Gigantès moved:

> That Bill C-62 be not now read the third time but that it be amended by changing the tax credit threshold provided thereunder...

It goes into considerable mathematical detail about how that is done. When he spoke to it, he explained it by saying:

> Honourable senators, paragraph (a) of this amendment establishes that the maximum amount of GST credits and the turning point shall be indexed to the rate of inflation as measured by change in the Consumer Price Index. At present the bill provides for indexation at the rate of inflation less 3 percentage points.

Clearly, this was an amendment that would cost the treasury money. According to some people, such an amendment would have been out of order.

On November 13, Senator Kolber moved:

> That Bill C-62 be not now read a third time but that it be amended to provide transitional relief to registered traders, by permitting them a rebate equal to the tax value of their inventories.

He added, when he spoke to it:

> The amendment on which I have the honour to speak tonight will ensure fairness for business and provide savings for consumers.

What would that do, except be an additional charge on the treasury because the government would not have been able to collect the revenue that they were providing for in that bill for the GST?

There were others. On November 14, Senator Olson moved:

> That Bill C-62 be not now read a third time but that the Schedule of the Bill be amended to include within Exempt Supplies certain medical, educational and governmental services...

On November 20, Senator Perrault moved to give tax-free status to books, children's clothing and non-prescription drugs.

I cannot forbear to mention that on November 6, 1990, none other than Senator Dan Hays —

Some Hon. Senators: Oh, oh.

Senator Murray: — moved:

> That Bill C-62 be not now read the third time but that the Schedule of the Bill be amended, on page 342, to make provision for electricity and heating fuels by adding to Schedule VI, and numbering accordingly, a new heading and Part as follows:
>
> "ELECTRICITY AND HEATING FUELS
>
> 1. A supply of electricity and heating fuels."

• (2010)

Senator Hays helpfully added, in his explanation:

> The effect of the amendment is to amend Bill C-62 by adding to the definition of those goods or services which constitute zero-rated supply.

Later he said:

> In other words, they would not pay the tax and they would not be entitled to claim it back as an input tax credit.

Honourable senators, I want to make the point, in anticipation of some argument from the other place, or even a point of order here, which I think materialized in Senator Carstairs' intervention, that while the Royal Recommendation is necessary for a charge upon the treasury, and while obviously it does not lie with a private member of this house or the other House to introduce a tax measure or to increase a tax, there are a number of things that can be done in the context of a bill of this kind that are perfectly in order, and perfectly consistent with both the constitutional and parliamentary tradition and practice in this Parliament.

One thing we could do is lessen a tax, if we saw fit. Another thing we could do is relax the conditions of a tax, if we wished. We can lessen the incidence of a tax. We can lessen the rate and lessen the incidence. We can restrict the application of the tax, if we so desire. We can deny the government the right to limit its liability, as we were intending to do in the Pearson airport bill, and as Senator Nolin's amendment would have us do now.

There is a much broader field of options open to honourable senators and to honourable members in the other place, faced with a money bill, than is sometimes thought. Any reading of all the authorities that I quoted except one, and of the precedents in this place, will support my contention that Senator Nolin's amendment is perfectly in order.

Hon. Wilfred P. Moore: Honourable senators, I should like to speak to this amendment.

The Hon. the Speaker: We are currently on a point of order.

I will take this matter under consideration. I thank Senator Carstairs and Senator Murray for raising the matter. I will make a ruling as soon as possible.

SPECIFIC CLAIMS RESOLUTION BILL

REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report (revised) of the Standing Senate Committee on Aboriginal Peoples (Bill C-6, to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts, with amendments) presented in the Senate on June 12, 2003.

Hon. Thelma J. Chalifoux moved the adoption of the report.

She said: Honourable senators, I rise today to speak to the fourth report of the Standing Senate Committee on Aboriginal Peoples in which the committee has reported Bill C-6, the Specific Claims Resolution bill, with amendments and observations.

As many honourable senators will know, Bill C-6 has been a source of controversy in the Aboriginal community. This led to the committee receiving more than 50 requests from First Nations groups to appear before it.

In order to ensure that the First Nations who did appear before the committee were given adequate time to present their views and have a meaningful discussion with members, 14 groups were invited to Ottawa. In selecting these groups, where possible the committee invited those groups with a regional or provincial mandate to allow for presentations from coast to coast to coast. All other groups who requested an opportunity to appear were invited to make a submission in writing in order that no group was denied the opportunity to express their concerns to the committee.

In addition to these groups, the committee heard from Professor Michael Coyle of the University of Western Ontario's law school, as well as the Indian Claims Commission and, of course, the Minister of Indian Affairs and Northern Development.

Finally, the committee spent a great deal of time with the Assembly of First Nations as they provided us with a comprehensive legal analysis of the bill from their perspective over the course of three meetings.

Throughout all of its meetings, the criticisms the committee heard seemed to be universal. There were concerns about powers of the tribunal, the cap on financial compensation and the level of consultation with First Nations in making appointments. These are the concerns the committee chose to address in its amendments.

First, the committee amended clause 47 to give the commission the power to summon witnesses and order the production of documents, powers without which it would be difficult for the commission to fulfil its mandate.

The committee also amended clause 56 to raise the financial cap on claims to $10 million, thereby making this process available to a greater number of claimants. It is important for honourable senators to note that this amendment does not involve an increase in appropriations.

The committee also amended clause 76 and added new clause 76.1 to ensure that, both in making appointments to the commission as well as in conducting the mandated review of the legislation, First Nations are given the opportunity to make representations to the Minister of Indian Affairs and Northern Development.

With respect to the new clause 76.1, the committee also added clause 77.1, which provides a transitional provision to ensure that those who are claimants under the current specific claims policy of the Government of Canada are also entitled to make representations with respect to appointments.

Finally, the committee added new clause 76.2, which seeks to protect the impartiality of the commission by limiting employment with claimants for certain appointees following the completion of their term.

This legislation will not solve all the problems with the specific claims process in Canada, but it is an important beginning. Undoubtedly, this process will continue to evolve and to that end, the committee has appended observations that we hope will help guide the minister as he reviews this legislation within three to five years.

On motion of Senator Atkins, for Senator Stratton, debate adjourned.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. George J. Furey: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

> That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 3:30 p.m. on Tuesday, June 17, 2003 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?

Some Hon. Senators: Agreed.

The Hon. the Speaker: I will allow Senator Cools to take her seat. She is wondering why Senator Furey is requesting leave.

Perhaps Senator Furey will accommodate her.

Senator Furey: I have no problem, Your Honour; I will accommodate Senator Cools.

We have just had Bill C-24 referred to the committee. Quite a number of groups and witnesses want to be heard. We are trying to hear as many of them this week as possible.

● (2020)

Hon. Anne C. Cools: Honourable senators, it should be understood that whenever a senator rises to ask for leave to do something that is not usually done, courtesy at least demands that an explanation be given. Leave is usually forthcoming, but it would be nice if senators would explain.

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

Motion agreed to.

[*Translation*]

CANADIAN INTERNATIONAL DEVELOPMENT AGENCY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bolduc, seconded by the Honourable Senator Cochrane, for the second reading of Bill S-17, respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability. —(*Honourable Senator De Bané P.C.*).

Hon. Pierre De Bané: Honourable senators, I speak today on behalf of CIDA to point out some reservations about Senator Roch Bolduc's bill respecting the Canadian International Development Agency providing in particular for its continuation, governance, administration and accountability.

I would like to state right from the outset that I truly understand the underlying motives of my honourable colleague, Senator Roch Bolduc, in his bill, which is intended to set up a rational framework for CIDA's activities in foreign lands and to propose guidelines for our actions.

Nevertheless, I would like to explain the reservations and objections the minister responsible for CIDA has regarding this bill.

Honourable senators, Canada has set up a program of aid to development that is effective and well regarded, which meets the needs of the developing countries and, to some extent, the new economies of the former Soviet Union, as well as Central and Eastern Europe.

My colleagues know that Canada, through CIDA, contributes greatly to the international community's efforts to promote equitable economic growth and to raise the living standard of the disadvantaged by supporting reform of public and private sector institutions and by fostering a climate favourable to economic growth.

Canada also tries to improve the living conditions of low-income persons, those who have next to nothing, by investing in various sectors such as health, nutrition, education, the fight against HIV/AIDS, malaria and other communicable diseases, and recognizing equal rights of men and women.

CIDA's participation in protection, conservation and management activities has enabled developing countries to increase their capacity and achieve a more sustainable environment. Canadians from a variety of professional backgrounds: law enforcement officers, judges, lawyers, human rights specialists, work in conjunction with the developing countries and our partners in new economies to improve governance structures, bolster civil society and improve the respect of democratic rights and principles.

CIDA also reacts to humanitarian crises arising out of natural disasters or conflicts. I am thinking, for example, of earthquakes, such as the two major ones that have just occurred in Algeria. As well, it supports the long-term reconstruction projects that must follow.

Honourable senators, in all sincerity, I would like to congratulate our colleague, Senator Bolduc, for having undertaken to address this considerable challenge. We can understand, moreover, why there has been no legislation adopted concerning CIDA during its 35 years of existence.

The underlying idea of Senator Bolduc, to put a little order into all this so that CIDA's action internationally reflects the principles on which there is country-wide consensus, is an idea that bears witness to his concern for logic and consistency.

In fact, it is also extremely difficult to come up with a clear mandate for a development cooperation program and to reconcile this mandate with foreign policy. Many specialists in this area feel that including all of this in legislation is a task that is very difficult, if not impossible. If I understand the fundamental idea behind Senator Bolduc's bill correctly, it would give CIDA a legislative foundation and a mandate to support sustainable development activities in a way that is consistent with Canada's values, foreign policy and international standards on human rights so as to contribute to security, equity and prosperity around the world.

CIDA's main objective in carrying out its mandate would be to promote economic development and reduce poverty in recipient countries. According to Senator Bolduc, the Minister of Foreign Affairs would be responsible for directing the agency. As for the president, he would be the director of the agency, which he would administer under the authority, monitoring and control of the minister.

Honourable senators, this would be a fairly complex system and there is nothing to guarantee how it would all work on a day-to-day basis.

Development cooperation has been one of the distinctive features of Canadian foreign policy under every government. It must promote our strategic priorities and our current international obligations. The mandate in this bill differs substantially from what we see in Canada and around the world. It contains an outline of the most recent principles in foreign policy. It does not refer to public life or developing countries, two terms with precise definitions that have been approved by Canada and agreed to with other countries.

• (2030)

It might have been desirable to pay more attention to reducing poverty, which is the primary goal of international aid measures, including those implemented by Canada.

The argument could also be made, honourable senators, that this bill provides a direction that is not in perfect harmony with a number of key issues; namely, the relationship between development cooperation and foreign policy.

For example, subclause 14(2) would prohibit the allocation of resources for the purpose of promoting Canadian trade and commerce. I agree that development aid should be determined above all by the needs of developing countries and the poor but, at the same time, other clauses require that the direction given the agency must, and I quote:

> ...be consistent with other components of Canada's foreign policy.

Honourable senators, given that trade and commerce are an integral part of our foreign policy, what does this mean in terms of aid and promoting trade and commerce?

CIDA is also concerned by the requirement that development aid from the agency will go only to countries that provide evidence of good government and sound public administration.

Many developing countries need aid because they do not have good government or sound public administration. Although many have made progress in this respect, often thanks to Canadian aid, few countries would be eligible for such aid if the bar is placed as high as the Honourable Senator Bolduc is proposing.

Clearly, decisions concerning legislation on CIDA must be made in the context of a general policy review. The Weingard committee had recommended such legislation in 1997, as did the Standing Senate Committee on Foreign Affairs earlier, in 1994.

The Canadian International Development Agency, established by Order in Council in 1968, has the necessary flexibility to respond effectively to Canada's priorities with regard to foreign policy and the needs of people in developing countries. CIDA already operates like a department with regard to the Financial Administration Act.

To date, governments have preferred to provide CIDA with a mandate based on policy rather than legislation, in large part because of the difficulty of defining a clear and concise mandate to include the many objectives and tasks of an aid organization.

Honourable senators, if we are to pass such legislation, it must be well thought out or we are at risk of harming the intended beneficiaries, in other words the less fortunate of the world.

I strongly advise honourable senators to resist the temptation to apply such a rigid solution to the numerous and complex problems that are involved in development cooperation, but in the same breath I recognize that Senator Bolduc is being true to the principles behind his action in that he would like to see policies that reflect fundamental Canadian values.

All that I ask of the honourable senator is to agree that in the highly complex field of development, a rigid legislative framework can, to a large extent, lead to situations where we would be imposing constraints that we do not want to impose on the beneficiaries.

In conclusion, honourable senators, I would like to thank Senator Bolduc, who, through his initiative, has shown to what extent this issue of international development should be a priority of the Parliament of Canada.

[*English*]

Some Hon. Senators: Question.

Hon. Douglas Roche: Honourable senators, I congratulate Senator De Bané on his intervention, which showed sensitivity to the needs of developing countries that CIDA is trying to reach into. He expressed a hesitation about whether CIDA should undergo a legislative process that would give it the structure that would be contained in the bill. However, I did not catch whether he would be entirely opposed to it. Would the Honourable Senator De Bané favour referring the bill to committee for a thorough discussion of its merits and its proposal to enhance CIDA to ensure that the formulation of the CIDA mandate meets current needs?

Senator De Bané: Honourable senators, I thank Honourable Senator Roche for his observation and suggestion. Of course, if the bill passes second reading, it would then be referred to committee.

On motion of Senator Corbin, debate adjourned.

• (2040)

QUESTION OF PRIVILEGE

Hon. Lowell Murray: Honourable senators will have received written notice of this question of privilege, which is the untenable position of an officer of Parliament, namely Privacy Commissioner George Radwanski, of the employees of that office, and of Parliament itself due to the failure of the government to accept its responsibility and take timely parliamentary initiative to deal with accusations made against Mr. Radwanski by a committee of the House of Commons.

Honourable senators, I have always been quite scornful of politicians who feel the need to be heard on every subject that comes before Parliament. Long observation and experience have told me that the easiest way to lose the ear of your colleagues is to pop up on every item on the agenda, whether at caucus or in the chamber. I assure honourable senators that it is only the luck of the draw that causes me to rise now for the third time tonight. There is no end to it. If Senator Day opens debate on second reading on the appropriations bill tomorrow, I will speak then also. That will be my last hurrah for a while, I hope.

On this question of privilege, let me state for the record and by way of background that Mr. George Radwanski was appointed interim Privacy Commissioner by Order in Council on September 1, 2000. On September 29 of that year, the House of Commons approved, by a vote of 182 to 74, a government motion to appoint him as Privacy Commissioner. On October 16, he appeared before Senate Committee of the Whole, and on October 17, we approved, by a vote of 49 to 7, a government motion to appoint him as Privacy Commissioner. On October 19, his seven-year term in that position officially began.

Mr. George Radwanski is not a particular friend of mine, nor even an acquaintance. I knew of his political and professional background at the time of his appointment, but I know him only as a witness in this place and in our various committees.

So far as his conduct as Privacy Commissioner is concerned, I have only his public utterances on privacy issues to go by. On that basis and that basis alone, I would say, if I were asked, that he has done a good job and that he has done the job for which Parliament appointed him.

However, other issues have arisen: administrative and financial issues pertaining to him and his office, issues pertaining to his relationship with one of the Houses of Parliament, the House of Commons and, in particular, with their Standing Committee on Government Operations and Estimates.

Without going into these issues in detail, that House of Commons committee canvassed them for a while with Mr. Radwanski as a witness on June 9 last. Prior to that, there were also issues relating to his attendance or, more particularly, his absence at the committee when that committee was considering the estimates of his office. On May 29, when the committee reported on the estimates of the Privacy Commissioner, they reduced his estimates by the nominal sum of $1,000 as a way of showing their displeasure with him and with his conduct.

Significantly, when the government moved the motion of concurrence on the estimates in the House, they did not restore that $1,000 to the estimates. At the same time, when the Transport Committee had brought in a reduction of $9 million in the estimate of VIA Rail, the government moved to show its disagreement with the committee by restoring the $9 million. I take it that the government, in not restoring the $1,000 to Mr. Radwanski's budget, was somehow signalling their agreement with the committee's displeasure with regard to Mr. Radwanski.

On June 9, the committee had Mr. Radwanski before it as a witness. I have read the transcript a couple of times. There was the question of the deletion of a paragraph of a letter that Mr. Radwanski had sent to Morris Rosenberg, the Deputy Minister of Justice. A copy of that letter was sent to the committee and a paragraph was deleted. Mr. Radwanski explained this as being an administrative snafu that had occurred by reason of his trying to give instructions by telephone to his staff while he was on the road.

The committee seemed to believe that there was a deliberate attempt to mislead them and decided to pursue the matter. The committee held two in camera meetings last week, on June 11 and 12. There was no transcript released of the in camera meetings, and the minutes do not indicate who the witnesses were. However, the very next day, on Friday, June 13, the committee tabled what it called an interim report. The report indicates that the committee had heard in camera from officials from the Privacy Commissioner's office and from officials of the Information Commissioner. I believe Mr. Radwanski was also heard, but it is not clear to me whether he was present when the others testified. It is not clear either from the media reports, which have become quite extensive on this matter, or from looking at the minutes.

The committee stated that some of the officials from the Office of the Privacy Commissioner believed that, indirectly or directly, they had been threatened if they came forward with information, and the committee asked the Public Service Commission to look into this. The committee also expressed concern about financial practices at the Privacy Commissioner's office, and they asked the Auditor General to look into that. Further, the committee stated that the commissioner, Mr. Radwanski, had misled them several times. The bottom line of the whole report is that the committee unanimously expressed its lack of confidence in Mr. Radwanski.

As the committee itself acknowledged in its report, these are grave issues. What happened? This is where I think we have a serious concern in this place and a question of privilege affecting this institution and all of Parliament.

• (2050)

The committee tabled the report, whereupon the government sent the House of Commons home. Gone. Adjourned until September. They did not debate the report. They did not come to any determination on these grave issues. They simply left it on the table, walked away and went home. I think that is irresponsible. I really do.

The committee said that its interim report, the one tabled the other day, would be followed "by a more detailed final report elaborating on the evidence that has led the committee to the above conclusions." Therefore, the committee has scheduled a meeting for tomorrow, Tuesday, in camera, as I understand it, and from that meeting, I presume, a final report elaborating on the evidence that led committee members to the conclusions in the interim report will be presented. It will be a final report to the House of Commons, but who will be there to receive it? Nobody. Who will be there to debate it? Nobody. Who will be there to reach a determination on the grave issues that the committee alludes to and refers to? Nobody will be there. The clerk, one assumes, will receive the report.

Meanwhile, even a cursory examination of the media over the weekend and today leads one inescapably to the conclusion that the juicier tidbits from the in camera meeting are being leaked. Deservedly or not, serious harm is being done to an individual's reputation. More than that, an officer of Parliament is wounded. His ability to function is impaired, and that has to concern us all. Whatever the facts may turn out to be, nobody — I do not care who he is, or what he is accused of — deserves to be treated like that.

Some Hon. Senators: Hear, hear!

Senator Murray: When all the facts are in and judgment is made, if a sanction — perhaps, the ultimate sanction that we have — has to be applied to the commissioner of privacy, that sanction will lack credibility and legitimacy if due process has not been observed and if the principles of natural justice have not been applied. I think that is what is happening here. I do not have any defence to offer Mr. Radwanski. How could I? I do not know the facts.

What I do know is that, as matters now stand, the commissioner is in limbo. An officer of Parliament is in limbo. He is about to be under investigation by the Public Service Commission and the Auditor General, and meanwhile, a committee of the House of Commons thinks it knows enough to have unanimously voted no confidence.

His position is untenable. Parliament's position is untenable. The House of Commons is gone until the fall.

Perhaps it was this very day that Mr. Speaker of the Senate and Mr. Speaker of the House of Commons received a report to Parliament from Mr. Radwanski concerning substantially similar provincial legislation. This has to do with a bill we passed here a couple of years ago, the Personal Information Protection and Electronic Documents Act. In a nutshell, this act that we passed is applicable in the federal jurisdiction as matters now stand, but it will be applicable, notwithstanding jurisdictional problems, in any province that has not passed substantially similar privacy legislation by January 1, 2004. Thus far, Mr. Radwanski and the Minister of Industry, who is responsible for this, found that Quebec has legislation that is substantially similar. Alberta and British Columbia have passed legislation, but Mr. Radwanski says their legislation is not substantially similar. He concludes in his report to the Speakers:

> As I stated in my first Report to Parliament regarding substantially similar legislation in May 2002, I consider it appropriate to defer commenting on sector-specific provincial legislation until it becomes more clear which provinces are likely to have comprehensive private sector legislation in place by January 1, 2004. I accordingly anticipate addressing the matter of substantially similar sector-specific provincial legislation in a further Report to Parliament in the autumn of this year.

This is a man in whom a committee of the House of Commons has just announced it has no confidence, a man who can only be wounded and impaired in conducting his office, telling us that he will be bringing in a report in the autumn on an extremely important piece of legislation, on an extremely important federal-provincial issue, as it happens.

What about the public? What about Canadians who seek to have him and his office adjudicate privacy issues in the meantime? Can they have confidence in that office? Notwithstanding all those circumstances, which I have just related to you, Mr. Radwanski is still in office, still adjudicating cases, spending money, administrating a staff in that condition.

I do not think that we can let that cloud remain there. I think we have to do something to dissipate it. In my opinion, the government should not have sent the House of Commons home. They should not have agreed to go home. In my opinion, the government should recall the House of Commons now to deal with this interim report and with the final report and come to a determination.

If not, what is the duty of the Senate? Mr. Radwanski is an officer of this house as well as their House. He is an officer of Parliament. I considered suggesting that we send a message to the House of Commons, but there is nobody home. I thought of asking for a conference, but where are all the conferees — on the golf course, instead of in the House of Commons doing their duty in the face of this serious report, which was placed on the table and from which they walked away on Friday afternoon for their summer holidays. They vanished — a vanishing act.

There are three investigations, apparently, already underway, by the committee, the Auditor General and the Public Service Commission. I do not think we need a fourth by the Senate. Should we give the Privacy Commissioner an opportunity to state his case? Should we not accept our responsibility and have him come before us in Committee of the Whole?

As far as the dignity of Parliament is concerned and as far as our rights, our reputation and the status of one of our officers are concerned, we cannot allow matters to stand where they are.

I want to close with one quotation from Erskine May, page 155, nineteenth edition:

> Both Houses will treat as breaches of their privileges, not only acts directly tending to obstruct their officers in the execution of their duty, but also any conduct which may tend to deter them from doing their duty in the future.

Honourable senators, what has happened is a serious impairment of the Office of the Privacy Commissioner. If Your Honour finds that there is a prima facie case, I will move that we call Mr. Radwanski before our Committee of the Whole.

Hon. Anne C. Cools: Honourable senators, Mr. Radwanski is a government appointee. The government should be the first to respond to Senator Murray.

● (2100)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, today Senator Murray has raised an extremely serious issue. I do know George Radwanski. I do not know him well, but I do know him enough that I would say, "Hello George," and he would say, "Hello, Sharon."

What has happened here is a strange set of circumstances. The committee in the other place — and I do emphasize, "committee in the other place," and not the government — apparently heard from a number of witnesses, including Mr. Radwanski. As Senator Murray has indicated, that committee tabled an interim report. I understand that they will table a final report later this week.

The committee of the other place has been empowered under their rules, by the way, to do just that, even though the House is no longer sitting. By unanimous consent, it was ordered that at any time the House stands adjourned during June, July, August and September, 2003, and the Standing Committee on Government Operations and Estimates has ready a report, when that report is deposited with the Clerk it shall be deemed to have been duly presented to the House. However, whether it is tabled this week or whether it is tabled next week, there is, as Senator Murray has identified, a considerable time lag, presumably, before the House would then take this report into consideration. This obviously puts Mr. Radwanski into a clearly difficult if not, as Senator Murray has described it, an untenable position.

Honourable senators, what must be considered, however, are our responsibilities here in this chamber. One of the difficulties is that I do not think we would brook any interference if we made a judgment on an issue and then the House of Commons presumed to tell us what to do about that issue. That does cause me some concern. The two Houses work quite independently from one another. What we are doing is using a question of privilege to call into question the proceedings in the other place. That, I must say, does cause me considerable discomfort.

On the other hand, what has happened to a Canadian who is an officer of both these chambers, whether he is at fault or not at fault, also causes me serious discomfort. Therefore I find myself between two discomfort levels, if you will.

We are in a position where we must give advice to the Speaker on whether this is a question of privilege. I must say, in balance, I do not think that any of our privileges have been infringed upon. Whether an officer of Parliament's privileges have been infringed

upon, I do not know that we quite know that yet, since we, unfortunately, have no access to the information. The committee met in camera, and maybe we will have a better opportunity to know when we have seen their final report, but we do not know at this point.

As a chamber, I do not know what exactly we can do. It seems to me that we have a situation in which, at some point, if the other place adopts their report and makes a substantive motion with respect to Mr. Radwanski, then clearly we would then be asked to make either a similar or a different approach to this individual. At that point we would have to hear from him, and presumably have to hear from other witnesses as well, in order to get to the bottom of the matter.

Honourable senators, I am not sure whether we have a question of privilege. I do not believe the judgment of His Honour in this matter will be easy.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the crux of the matter as to whether or not the privileges of this house have been breached turn very much in part on the citation that Senator Murray has drawn our attention to from Erskine May's 19th Edition. I will just repeat it, at page 155, Your Honour, where it says:

> Both Houses will treat as breaches of their privileges, not only acts directly tending to obstruct their officers in the execution of their duty, but also any conduct which may tend to deter them from doing their duty in the future.

The issue, the way I see it, is that as a member of this honourable house, a house to which the Privacy Commissioner reports, and in a sense with hindsight, I regret that I did not pursue a motion that I had brought forward here a while back that we would call the Privacy Commissioner, our officer, to come to Committee of the Whole so that we could discuss his last report. As honourable senators will recall, that was on our Order Paper for 15 days and fell off. I accept responsibility in part for not pursuing that. I was not overly encouraged by the government side to pursue it, mind you, and now that is water under the bridge. However, it does raise the point of the seriousness with which we ought to be taking the reports of those who serve as our officers of Parliament, of whom the Privacy Commissioner is one.

Let me turn to honourable senators who have spoken so far on this question of privilege as to their knowledge of Mr. Radwanski. I know Mr. Radwanski from his work as the Privacy Commissioner. I do not know him socially. However, I have been extremely impressed by his work as Privacy Commissioner. I have sat in public audiences where the Privacy Commissioner has spoken to Canadians outside Ottawa, at universities and other places, on issues of privacy that affect Canadians. I have always been immensely impressed with his pioneering work and his leadership work in protecting our privacy as Canadians. As far as his work as the Privacy Commissioner is concerned, I have always been very proud that he was our officer in Parliament, protecting the privacy rights of Canadians.

What happened in the other place, particularly last Friday, when the Standing Committee on Government Operations and Estimates issued their fourth report that provided their statement of findings concerning the Privacy Commissioner, the committee in the other place stated that the Privacy Commissioner had misled their committee with respect to:

> (a) the circumstances under which the Office provided a copy of a letter from which one of the original paragraphs had been deleted; (b) a set of expense reports whose incompleteness was not acknowledged in the cover letter; (c) travel expense forms on which there had been an attempt to conceal, by the application of white-out material, certain information; and (d) the reasons for his failure to appear in person at a hearing of the Commission's main estimates.

The report was presented and is now public knowledge. That is how I know about the report, and I believe that is how all honourable senators know about the report. It makes the statement that:

> ...members of the committee...

Meaning the House committee.

> ...are in unanimous agreement that they have lost confidence in the Commissioner.

What they do in the other place is their affair. However, what anyone does, including the honourable members in the other place, which affects the privileges of this place and the officers of this place speaks directly to the privileges of this place. That is all I can say.

• (2110)

Honourable senators, the House of Commons, as Senator Murray indicated, and as we all know, not only dropped their report which placed this terrible cloud over our officer, but they went home. We have heard that, yes, under their procedures, a subsequent report may be tabled. However, we know that the House is still adjourned and, unless and until it returns, this is a committee report that the members of the other place have not debated.

It is much like our own committee reports that are issued. Although not having been adopted by the Senate, the world reads such reports and say, "Oh, this is the Senate committee studying such and such a matter. This is what the Senate believes," when the Senate has very often not had a final adjudication on a report that comes from one of our committees.

The question is a fair question to be asked that when the House of Commons considers their committee report, is the House of Commons intending to send a message to the Senate about their views on the Privacy Commissioner? No one knows what will happen, or when it will happen.

In the meantime, the integrity of an officer of this house, as one of the two chambers of Parliament, is under question. As such, the cloud hangs over all of Parliament.

Honourable senators, I call your attention to section 53(1) of the Privacy Act, which states:

> The Governor in Council...appoint a Privacy Commissioner after approval of the appointment by resolution of the Senate and House of Commons.

The House of Commons divided on the resolution appointing the current Privacy Commissioner on October 4, 2000. In the Senate, our approval was given on October 17, 2000, as Senator Murray has informed us.

The Privacy Act states further:

> ...the Privacy Commissioner holds office during good behaviour for a term of seven years, but may be removed by the Governor in Council at any time on address of the Senate and House of Commons.

Honourable senators, the independence and the tenure of the Privacy Commissioner, like ombudsmen in other jurisdictions, is secured by the House. A term of seven years is common, and removal can come about only with an enriched majority of a house. Most often, in legislation concerning ombudsmen across the country, it takes a two-thirds vote in an assembly to dismiss an officer of the house. In this case, it is a resolution of the Senate and the House of Commons.

Why is that mechanism in place? It is there so that officers of Parliament, like the Auditor General or the Privacy Commissioner, are able to do work which is delicate, which protects the citizens, the minority, very often against the awesome power of the majority or the awesome power of the state. These officers need that special protection. They need to be especially afforded a wide berth, I submit, when they become the subject of an attack.

From my point of view, one would have to have enriched proof that somehow an officer holding this kind of role has done something that meets the definition of not good behaviour. This is the protection that is built into the act. This is the protection that we need in order for officers of Parliament, such as a privacy commissioner, to be able to do their work in protecting the privacy of Canadians.

Honourable senators, the fourth report of the House of Commons Standing Committee on Government Operations and Estimates has called into question the behaviour of the Privacy Commissioner. This is now public knowledge across Canada. It is clearly a serious matter, as the Leader of the Government has just told us, and one that should be considered immediately, and I believe considered immediately by this House of Parliament. The fact that a committee of one of the Houses of Parliament has stated that they no longer have confidence in the Privacy Commissioner calls into question the ability of this officer of Parliament to perform his duties in the future.

As honourable senators know, the Privacy Commissioner is an advocate for the privacy rights of Canadians. He can investigate complaints about privacy violations in the public and now, under the Personal Information Protection and Electronic Documents Act, federally-regulated private sector businesses. The Privacy Commissioner is also assessing provincial efforts, as Senator Murray has told us, to enact legislation that is substantially similar to the Personal Information Protection and Electronic Documents Act.

I call the attention of honourable senators to our own *Rules of the Senate,* in particular rule 43(1), which states:

> The preservation of the privileges of the Senate is the duty of every Senator....a putative question of privilege must meet certain tests.

Rule 43(1)(c) states that it:

> be raised to seek a genuine remedy, which is in the Senate's power to provide, and for which no other parliamentary process is reasonably available;

Senator Murray has made the suggestion that should the Speaker find a prima facie case of privilege, his solution might well be a motion to the effect that the Privacy Commissioner be called before a Senate Committee of the Whole. I argue that this would be very much in the spirit and would fulfil the criteria of rule 43(1)(c) which would enable the Senate to hear the views of the Privacy Commissioner in an open and transparent manner, and provide a genuine remedy for the cloud that is now over this officer of our Parliament.

In conclusion, honourable senators, it is important that this matter be cleared, post-haste. Speaker Milliken from the other place stated on May 28, 2001:

> A small number of individuals have the special distinction of being officers of parliament. So great is the importance which parliament attaches to the responsibilities entrusted to these individuals that they are appointed by resolution of parliament rather than by Governor in Council.
>
> Because of the special relationship that exists between these officials and —

— the two Houses. The Speaker referred only to the House of Commons.

> any actions which affect them or their ability to carry out their work are watched with particular attention by members.

Senator Cools: Honourable senators, I should like to contribute to this discussion. I would like to begin by saying that Mr. Radwanski is no friend of mine. I would also like to say that I am not a defender of Mr. Radwanski, neither personally nor politically. However, I am a defender of the people with whom he is working to the extent that many Canadians are appealing to him as the Privacy Commissioner because his role is continuing.

Honourable senators, we can make no mistake about this. Serious harm, if not irreparable harm, is being done to him personally and to his reputation but, more important, to his ability to function and to carry on in his position as Privacy Commissioner. I am speaking about him carrying on in his duties, both statutory duties and those given to him by virtue of the appointment itself.

• (2120)

Senator Kinsella has laid out the statutory basis upon which the Senate has an interest. First, section 53(2) of the Privacy Act states that the commissioner holds office during good behaviour, to be removed on address of both the Senate and the House of Commons. We must understand that those words come from section 99(1) of our BNA Act, 1867. Those words refer to the removal of judges, which words, in turn, were taken from the Act of Settlement of 1701. The reason for the words "during good behaviour" was that superintendence over judges and individuals like this was assigned to Parliament because Parliament always had a reason to be cautious, fearful and vigilant. Parliament always has to fear favour between these people and government or, on the contrary, disfavour between government and these people. In other words, in the old days you would have said between these people and the King. That is why the superintendence was assigned to the Act of Settlement of 1701.

Honourable senators, we must understand that this is not only a question of Senate privileges but also a question of the Senate's powers, rights and duties as the upper chamber.

We have here a most interesting phenomenon. In the fourth report of the House of Commons committee we see hefty and serious allegations. The report talks about misleading the committee and about absolute honesty. What is occurring in that report, honourable senators, is the language of pursuing an individual to destruction. This is the language that is a preface to pursuits to destruction.

From what I have read in the newspapers, it would appear that Mr. Radwanski has many enemies. However, he still has an entitlement to due process. As members of Parliament, it is our duty to ensure that parliamentary due process is followed because it is sound and in keeping with the principles of Parliament.

It is interesting to note with regard to these allegations that they are criminative in essence and in substance. I should like to put on the record a statement from *Parliamentary Government in England*, the book of the great master Alpheus Todd, upon whom I rely.

Honourable senators, there are grand traditions about the use of criminative charges in Parliament, and there are lengthy rules, systems and practices that go back to the time of impeachments.

I, too, have been bothered that, this matter having just arisen, the House of Commons has adjourned. This matter is so compelling that it deserves attention. Under the system of parliamentary governance, when a charge is made, one must take responsibility for it and be prepared to stand by it.

I should like to read from Alpheus Todd as follows:

> And it is the invariable practice of Parliament never to entertain criminative charges against anyone except upon the ground of some distinct and definite basis. The charges preferred should be submitted to the consideration of the House in writing, whether it be intended to proceed by impeachment, by address for removal from office, or by committee, to inquire into the alleged misconduct, in order to afford full and sufficient opportunity for the person complained of to meet the accusations against him.

There is no principle in our system that is older, better established, better known and better accepted than the principle that any person must be afforded full and sufficient opportunity to meet accusations. That is such a sound principle of the *lex parliamenti* and the common law. This whole situation has burst into the newspapers to haunt, if not to embarrass.

Honourable senators, there is a host of questions at issue in this matter in addition to Parliament's right to financial accountability and so forth. It would take many hours to tease them all out.

Honourable senators, we have a role and a duty in this matter. Senator Kinsella made those points. Senator Carstairs suggested that there is not a question of privilege here and that His Honour Senator Hays will have a difficult problem. I submit that there is a question of privilege here but that the proper adjudication is not for Senator Hays.

We used to have an alternative when we had the old Committee of Privileges. That was a far better system because under it senators spoke to senators and senators came to conclusions.

Senator Hays should consider removing himself as the adjudicator in this instance. The most recent report from the Privacy Commissioner of Canada, Mr. Radwanski, submitted only days ago, says "June 2003" and is addressed to the Honourable Daniel Hays, the Speaker of the Senate of Canada.

In the Privacy Act, we see that that is also a statutory requirement. Section 40 of the act states:

> Every report to Parliament made by the Privacy Commissioner under section 38 or 39 shall be made by being transmitted to the Speaker of the Senate and to the Speaker of the House of Commons...

Obviously, the Speaker of the Senate is the mechanism by which the Privacy Commissioner speaks to us, so it may be said that in this chamber the Speaker is the voice of the commissioner.

Honourable senators, this is something to which I have given some thought. This issue will continue to build in the media, essentially because Mr. Radwanski was a media man himself. The media will continue to have much interest because it is such a huge media event. The thing has become a spectacle.

As we know, the Privacy Act stipulates that the appointment by the Governor in Council — although really by Her Majesty — takes place following resolutions of both chambers, as distinct from addresses. The sections about removal use the word "addresses" of both chambers. As we know, addresses are addresses to Her Majesty or, in Canada, to the Governor General.

The Privacy Act also states that the Governor in Council may appoint a Privacy Commissioner after approval of resolutions in both the Senate and the House of Commons, so they are quite different.

• (2130)

My point is that in 2000, on October 5, the resolution in this chamber to approve the appointment of Mr. George Radwanski was moved by Senator Dan Hays, who was then the Deputy Leader of the Government. The resolution reads:

> **Hon. Dan Hays (Deputy Leader of the Government)**, pursuant to notice of October 4, 2000, moved:
>
> That, in accordance with section 53 of the *Privacy Act*, Chapter P-21 of the Revised Statutes of Canada 1985, the Senate approve the appointment of George Radwanski as Privacy Commissioner.

In his remarks, Senator Dan Hays said:

> I am pleased to seek the support of honourable senators today to approve a motion for the appointment of Mr. George Radwanski as Canada's next Privacy Commissioner.

The rest of the speech is essentially an appeal to senators to support that motion, that resolution, for the approval.

Interestingly enough, Senator Hays alludes to what I said a few moments ago about the superintendence of Parliament over these high positions being a response for concern of independence from the executive — not from Parliament but from the Crown. As you know, there was always a problem of judges or higher officers of state seeking favour or getting disfavour from the king. Senator Hays said the following, which confirms what I said earlier:

> Because of the need for independence from the government, the Privacy Commissioner is an independent officer of Parliament and is appointed by and accountable to Parliament. The Privacy Commissioner acts as an ombudsperson on behalf of all Canadians who may have complaints or wish to obtain information about the government's handling of their personal information.

I would submit, honourable senators, that we are placing Senator Hays in a very difficult and, I would even submit, unfair position because Senator Hays, after all, was Deputy Leader of the Government at the time and utilized party discipline to obtain results on a particular resolution. I do not think it is fair to Senator Hays, quite frankly, that he should adjudicate this question.

The question before us is a small point in all these larger points. It is, essentially, whether or not there is a prima facie finding. I would suggest to honourable senators, and to Speaker Hays in particular, that Speaker Hays should best excuse himself from adjudicating this matter and throw the question to the Senate as a whole, where it rightfully belongs. I say that in all sincerity. This matter is a very difficult matter, and I would also say, daily becoming a very unpleasant matter.

Honourable senators, I have much material on these kinds of questions. I have made it my business to read about them. What we are dealing with here is essentially what Senator Murray stated in his notice of question of privilege — the untenable position of an officer of Parliament, namely, the Privacy Commissioner, George Radwanski, the employees of that office and Parliament itself, due to the failure of the government to accept its responsibility and take a timely parliamentary initiative to deal with accusations made against Mr. Radwanski by a committee of the House of Commons.

The House of Commons still has the duty to hear this matter judiciously. Remember, we are the high court of Parliament. The House of Commons has a duty, but whatever reasons they have, they have adjourned, and it is not for me to inquire into them. However, I would follow up by saying that the Senate has an equal duty — not a greater duty, not a smaller duty, not a lesser duty, but an equal duty — to make sure that Mr. Radwanski can meet the accusations and be heard.

I would like to leave that with honourable senators. Honourable senators, one may recall many years ago the case of Mr. Justice Leo Landreville. I can tell you that that was not a great moment in the lives of the then Minister of Justice or the then Prime Minister. We remember how that went on for years after it had left Parliament.

I say to honourable senators, do take an interest in what is going on, regardless of one's personal likes or dislikes. In other words, set aside affections or disaffections for the individual, Mr. Radwanski. This individual right now is a creature that we call an officer of Parliament. I would also submit to you that perhaps, as part of this process, we could discover what the term "officer of Parliament" really means, because from what I have been able to discover it is a word that is bandied about, but we do not really know what it means.

I ask honourable senators to take a profound interest in this matter and make sure somehow that due process is followed and that the most ancient privilege and rule of governance is followed — that a person is allowed to answer accusations.

Hon. A. Raynell Andreychuk: Honourable senators, I want to support Senator Murray. I do not want to add to what he has already stated. I do not wish to get into whether the allegations made against Mr. Radwanski are correct or not. We simply do not have enough information before us.

However, the question of privilege goes to our capacity to function as a legislative body. It would seem to me that we have received conflicting signals from the House of Commons. On the one hand, it has indicated that there is a serious allegation that it will be dealing with next week. On the other hand, the House of Commons has adjourned until September 15. I believe that, as a legislative body responsible for the Privacy Commissioner, we have to act in a timely manner. Getting mixed signals from the House — that it is urgent, on the one hand, but on the other hand, it can wait until September — puts us in a position where we cannot function in a timely manner, and that our legislative function and capacity are being impaired.

In one respect, we do not want to usurp the role of the House of Commons, but we have a responsibility, as has been pointed out — and an equal responsibility — for the commissioner. We did not act on his report. It would appear that the House has acted with some regard to issues surrounding the commissioner.

Because of the mixed signals, are we to wait here at the pleasure of the House for the next two to three weeks, to see what the final report states? If we adjourn, we are giving the public the same message — that we are unconcerned. I do not think we can do that. If we conduct a separate and independent inquiry here, we are in the conundrum of perhaps coming up with less information or different information than is in the exclusive domain of the House, particularly on financial issues.

I believe we have a question of privilege here because it will be difficult for us to function, as Senator Carstairs pointed out. What do we do? That is where the conundrum comes. That is what Your Honour must rule on: whether it was those actions of the House that raised the question of privilege.

Hon. Joan Fraser: Honourable senators, I will try to be brief, the hour being very late. I am quite concerned about what is happening here this evening.

Let me say first that I believe, without reservation, that the Speaker of the Senate is the appropriate person to rule on questions of privilege, and that our present Speaker is eminently qualified to do so. We are, after all, talking about a question of privilege. We are not talking about Mr. Radwanski.

• (2140)

I have been acquainted with Mr. Radwanski for close to 40 years. When he was appointed, I said that I thought he would be a fine commissioner of privacy. However, even I have been struck by the vigour with which he has pursued his mandate, although that is not the point. The point is that tonight we are purporting to stand in judgment on the conduct of the other place. Let us think about what that committee has done and done unanimously. That committee, rightly or wrongly, has concluded that, if you will, its privileges — the House of Commons' privileges — have been breached by Mr. Radwanski. I do not know whether the House is right in that conclusion but when members concluded that they had been misled by their officer — because he is just as much their officer as he is our officer — then it becomes a serious matter for them to deal with. We may all deeply regret the way in which this case is unfolding. It is, to say the least, deeply unfortunate that the House of Commons has risen for the summer recess. Nonetheless, it is, in its fashion and as it deems appropriate, attending to its business.

If and when the matter reaches the Senate, we will attend to our business. In the same way that we would be grossly offended if the House were to rule on the Senate's conduct, affecting senators' privileges, I think it is wrong for the Senate to rule on what the House of Commons clearly views as a serious breach of its parliamentary officer's duty to the House. At this time, I do not think that is a question of privilege, at all.

Some Hon. Senators: Order.

Hon. Serge Joyal: Honourable senators, this is probably one of the most difficult decisions we have been called to reflect upon and to contribute to.

The first aspect that makes me uncomfortable is that we have not received a message from the other place asking us to concur in a specific course of action. We have learned about this issue through the media. Officially, the Senate has not been informed.

On the other hand, as Senator Murray and Senator Kinsella have stated, bribes of information have fallen from the basket. Personally, I am always reluctant to embark on what I call a fishing expedition. There is so much political assassination in political life that it is easy to come to conclusions quickly and expeditiously by cultivating the seeds of doubt. When we address the matter of parliamentary privilege, we must take a stand because the privilege of one is the privilege of all. The Privacy Commissioner protects the privacy of citizens and the privacy of senators.

When we call upon the privileges of this place, our privileges are not absolute. They must be reconciled with the Charter of Rights and Freedoms. The Supreme Court has stated repeatedly that even though we claim privilege, that cannot trump the Charter and the Charter does not trump privilege. Each must be reconciled. In this case, to call upon the Privacy Commissioner on the basis of allegations in the media, and the history that surrounds the media, to come to the bar and be questioned by each and every honourable senator does not make me feel at all comfortable.

I voted to charge Mr. Radwanski with the fundamental responsibility of protecting Canadians' privacy rights and my rights to remain private in relation to government administration. If someone is entrusted with our confidence by a vote, then I would not like to see that person in this chamber being questioned by all honourable senators. I do not think that would be a show of respect for the principle of fundamental justice. The Senate deals with the privileges of an individual senator.

Honourable senators will recall that when the issue arose some years ago, a committee was asked to study the issue and report back to the House. The report that was presented prompted the House to act. However, how would it have felt to call upon a senator to appear before the Senate to explain and answer to charges that originated in the media — a media that magnified the issue and led us to believe that there were many other secrets, juicy or not, that the public wished to have aired in a public forum? It would not do great service to Canadians to be involved publicly in such an initiative.

His Honour's ruling must maintain, as the Supreme Court has stated, the dignity and integrity of the institution, which are also part of the privileges of the Senate. Again, as much as the motion of the Honourable Senator Murray seeks to maintain the confidence and trust of Canadians in the Privacy Commissioner, this house must proceed with the utmost respect of the obligation to maintain the rights and freedoms of the person charged with the highest responsibility to protect the rights and freedoms of individual Canadians.

Hon. Lorna Milne: Honourable senators, I want to speak briefly in support of Senator Fraser and Senator Joyal. Section 53 of the Privacy Act states:

> 53(1) The Governor in Council shall, by commission under the Great Seal, appoint a Privacy Commissioner after approval of the appointment by resolution of the Senate and House of Commons.
>
> (2) Subject to this section, the Privacy Commissioner holds office during good behaviour for a term of seven years, but may be removed by the Governor in Council at any time on address of the Senate and House of Commons.

The Senate has not been asked for such an address. There has been no evidence placed before us whatsoever, except that which we read in the newspapers, of such an address. I do not believe that, at this time, it is the job of this chamber to question how the House of Commons considers the exercise of its authority under an act of Parliament.

I point out that, apparently, this was a unanimous decision in committee in the other place. I say "apparently" because we simply do not know for certain. The interim report was apparently tabled in the other place, but we do not know for certain and no opposition voices were raised against it in the other place.

Senator Murray: There was no debate.

• (2150)

Senator Milne: I understand that, some years ago, there was in this place a committee called the Committee of Privileges, which was a form of Committee of the Whole that would have, had the occasion been proper, looked into something like this. If the motion or the address had been brought to the attention of the Senate chamber, that committee would have addressed it. That committee was abolished in the interests of trying to reduce delays within this chamber. I think, Your Honour, that you have no choice but to rule that this is not a question of privilege, and that it is not something that should be properly before this house at this time.

The Hon. the Speaker: Honourable senators, I have heard from everyone once, and I know some senators would like a second round. However, as I pointed out in the past, the presiding officer, under our rules, must call an end to the interventions, and I have decided to do so with the advice I have received from honourable senators at this point.

This is a matter on which I must spend some time, including not only the issue raised by Senator Murray but also some others that have been raised by other senators. I will do so and bring back a decision on whether or not there is a prima facie case, as soon as I can.

Senator Cools: Honourable senators, I rise on a point of order. Since, Your Honour, you have decided that you have heard enough, I would like to point out for the instruction of the Senate as a whole that Senator Fraser said that the Commons committee made a finding of breach of privilege. Honourable senators, no such thing happened. The committee report does not make such a finding because no committee of Parliament can make such a finding of —

Some Hon. Senators: Order.

The Hon. the Speaker: Honourable senator, it sounds like you are returning to the question of privilege.

Senator Cools: Not at all, Your Honour. I was merely clarifying a piece of misinformation.

Some Hon. Senators: Order.

The Hon. the Speaker: Honourable senators, on these matters, the role of the presiding officer is to consider all of the interventions that have been made. I think I have observed previously that it is not helpful, to do the job that I have been left with under the rules, to have debate between honourable senators on something said or not said.

The way in which we normally proceed in these matters and the way in which I wish to proceed here is that we hear from honourable senators and they give their views, but in terms of an exchange back and forth, I wish that to be limited to the greatest degree possible.

As I said, I have heard all of the arguments that I think I need to hear, and I will come back to you at the earliest opportunity with the decision that you have requested of me.

[*Translation*]

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO STUDY QUOTA ALLOCATIONS AND BENEFITS TO NUNAVUT AND NUNAVIK FISHERMEN

Hon. Gerald J. Comeau, pursuant to notice of June 11, 2003, moved:

> That the Senate Standing Committee on Fisheries and Oceans be authorized to examine and report upon the matters relating to quota allocations and benefits to Nunavut and Nunavik fishermen; and
>
> That the Committee table its final report no later than March 31, 2004.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

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