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THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Wednesday, October 22, 2003

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

Prayers.

The Hon. the Speaker: Honourable senators, I have received a letter from the Honourable Sharon Carstairs, Leader of the Government in the Senate, which reads as follows:

Pursuant to rule 22(10), I request that the time provided for the consideration of "Senators' Statements" be extended today for the purpose of paying tribute to the Honourable Senator Leo Kolber, who will be retiring from the Senate on January 18, 2004.

since long before he was appointed to the Senate. During all this time, I have been directly aware of many of his contributions to his community in particular and to his city in general, supported so affectionately by his talented wife, Sandra. He is to be commended for his exceptional generosity of time and resources that are of such benefit to so many of his fellow citizens.

If he is a most persuasive and effective leader of a good cause — and unlike Senator Carstairs, I exclude any political activity from this term — it is in large measure because he sets the example by a complete commitment to it, staying with any objective for as long as it takes to be achieved.

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE E. LEO KOLBER

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is with both pleasure and sadness that I offer my best wishes to Senator Kolber on his forthcoming retirement. Senator Kolber has made many contributions to the Senate that extend beyond his service with the Standing Senate Committee on Banking, Trade and Commerce, of which he was a long-term member and chair. He has given advice and support to prime ministers, to politicians and to businessmen. Through his close ties with leading political and business leaders in many other countries, he has increased awareness overseas of Canadian capabilities and accomplishments.

Senator Kolber has also been known for his fundraising abilities, both political and charitable, and particularly for his dedication and hard work on behalf of the Jewish General Hospital.

Although others have aspired to the title, I believe the title "dapper dresser" surely must be shared with Senator Kolber.

I know that through their lifetime together, he and Sandra were very devoted to one another, and we were all dismayed at her all-too-early passing. All his personal accomplishments, I think, are much less significant when compared to the pride he feels for their children, Lynne and Jonathan.

Senator Kolber, I join together with our colleagues in wishing you every happiness in your future endeavours. You have characterized your life in your new book as "a tremendous ride." We are glad to have been able to share some of that ride with you, and we hope that you will have many pleasant and interesting memories of the years you have spent among your colleagues in this chamber.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, it is as an old friend that I rise to say a few words about Senator Kolber, as we have known each other

The Senate has greatly benefited from his tenacity, particularly as Chairman of the Standing Senate Committee on Banking, Trade and Commerce, when more than one colleague, witness or staff member have felt his own particular brand of shock and awe. The end result is what counts, he will maintain, and the end result has been hearings and reports of great value to the country as a whole, and I congratulate him for his leadership in this regard.

Well done, Leo, and all the best wishes for many active years from this place, which will certainly miss you.

Hon. Richard H. Kroft: Honourable senators, prior to coming to the Senate in 1998, I did not know Senator Kolber well. We had met on a number of occasions in the course of political activities, cultural events and through mutual friends. What I did know about him, however, was impressive. I knew he was responsible for one of Canada's outstanding business stories — the building of Cadillac Fairview into one of the great real estate companies in North America. I knew he had been a trusted and intimate adviser to one of the most important families in Canadian business, and through that association was involved in an intriguing set of business activities across North America and around the world. I knew he had been a driving force in a wide range of cultural and philanthropic endeavours in his home base of Montreal and many other places.

I have personal knowledge of the extraordinary role he has played as a fundraiser for the Liberal Party of Canada. I was for some years responsible for Liberal Party fundraising in Manitoba, and one day Leo arrived in my office in Winnipeg to talk. It was one of the many stops he made on an amazing odyssey. The Liberal Party had a large financial problem and Leo set out to solve it — single-handedly. He was going across Canada himself, literally coast to coast, to raise the funds the party needed.

I have since come to understand that this action was classic Leo — acknowledge the problem, determine a solution and simply get about doing it. The more I have come to know Leo and the more I have come to know about him, I realize this is his way. Of course it is not as simple as it sounds. Whatever the situation, it takes intelligence and often courage to define and accept the problem, and much more of the same to deal with it.

With Leo, it is not only the doing of things. It is also about style. Leo has a style that all of us who have worked closely with him, here in the Senate or elsewhere, have come to know. The words “shy,” “reticent,” “hesitant,” “guarded,” “devious,” or even “subtle” have absolutely nothing to do with Leo. No one is ever in doubt about Leo’s views or intentions on any subject. He tells you what he thinks and why he thinks it. He values clear, unvarnished communication over diplomatic niceties; he favours action over delay and he certainly gets things done.

With all of this, and because of it, Leo is great fun to work with and be with. His sense of humour is engaging. He has a great enthusiasm for life and for his projects, an enthusiasm that is contagious and endearing. Working with Leo and being his friend are never dull.

• (1340)

For these reasons, and for many more, the Senate will not be the same without Leo Kolber. We will miss him, and we wish him well in whatever he decides to do next.

Hon. David Tkachuk: Honourable senators, I am pleased to rise today to speak on the retirement of Senator Leo Kolber, not as an old friend but as a new friend. You may think there are no two people less alike than Leo and I. When I was appointed Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce, I saw my appointment as an opportunity to make life uncomfortable for the government as well as an opportunity to engage in the particular work of the committee. On a number of occasions, Leo would come to me, wag his finger at me, as only he can, and say, “Dave, you’re going to regret this.”

We had an understanding in the Banking Committee. It was not easy at first. We were somewhat uncomfortable with each other, to say the least. There is some language in the *Debates of the Senate* and in the transcripts of the committee’s proceedings that I know we would both like to take back. However, it was in private, in the steering committee meetings, where we got to know each other, those few minutes before or after a meeting. We learned about each other’s families. We learned about our spouses — his late spouse, Sandra, and my wife, Sharon — our children, our love of Canada, our careers and our ideas.

Leo certainly knew people. I had my own *People* magazine in Senator Kolber. He often had the latest gossip on all the rich and famous people across Canada whom Leo knew.

As we came to know each other, we realized that, in another time and place, we could easily have been in the same political party. That is a fact. He would often say, “If there were a Conservative Party in Quebec, I might be in it.”

However, Leo grew up in the Liberal party. He was a close friend to all of the leaders of the Liberal party that he had come to know. He would talk to me about Pierre Elliott Trudeau, as well as other leaders. It was an educational and interesting experience

for me. Of course, I would talk to him about the leaders of my party. We had a great time and a wonderful friendship.

Leo, you will be difficult to replace. If you were a Tory, I would move that the age of retirement for senators be extended. I know that it will be difficult for whatever prime minister or leader of the Liberal Party who will be making the appointment to replace you, because, Leo, you are irreplaceable.

It has been a wonderful experience working with you on the Banking Committee. Our reports show that ours was a profitable relationship. I wish you good luck, Godspeed and God bless.

Hon. Marie-P. Poulin: Honourable senators, eight years ago Senator Leo Kolber graciously sponsored my entrance into this chamber. At that time, Canada was in a challenging political experience: the few weeks leading up to the 1995 Quebec referendum. Many honourable senators who were here then commented to me privately on our alliance of two cultural and religious minorities. I should like to quote one of them to you. That person said to me, “You and Leo certainly made a statement today, reminding me of what Canada is all about and about what the expression ‘united we stand, divided we fall’ really means.” That is what Leo is all about — that is, standing up for family and friends, loyalty to principles and to the party, and dedication to his community, his country and his roots.

In the last few years, I have had the honour of serving with Leo on the Banking Committee. You must always be careful with Leo in the chair: He has found a way of ensuring that his ideas, knowledge and experience are well-communicated. We thank him for that, as this country has moved forward in many financial areas because of his expertise and experience. It was a joy for me to serve with Leo on the Banking Committee.

Leo’s departure from the Senate is Parliament’s loss, the nation’s loss and the Liberal party’s loss. As you enter this new phase of life, Leo, I fervently hope that you will find peace and contentment in the full knowledge that you have earned the utmost respect of every colleague here.

To you, your children and grandchildren, I extend my deepest best wishes for health and happiness.

Hon. Joyce Fairbairn: Honourable senators, I did not wish this day to pass without expressing my personal admiration and thanks to Senator Kolber for the contribution he has made to this Senate and to the business community, as well as for his generous and determined commitment to the political life of this country through the Liberal Party of Canada.

Over the years, I have had the privilege of being his friend. Senator Kolber has set an example of being what we westerners call a “straight shooter.” Whether the matter at hand was public policy on banking or political strategy, you always knew where Leo stood — blunt, honest and often very colourful with his words.

Leo's business career is well known, but his contribution to the Senate and the support of this institution has only become public knowledge in recent years, particularly as the vigorous chairman of our Standing Senate Committee on Banking, Trade and Commerce. His views are respected and listened to carefully by governments and the financial community.

Leo and his beloved wife, Sandra, were an awesome team in the cultural and philanthropic life of Quebec and the city of Montreal. They were always devoted to the strength and well-being of the Jewish community and all that it serves.

As a friend, I was delighted in sharing Leo's loyal support of the Montreal Expos throughout their glorious years and indeed through their difficult times. With Leo's connection with the world of entertainment, he has always been able to guide me toward less cultural activities such as the joy of watching the Rolling Stones strut their stuff in Montreal.

Leo Kolber has made and will continue to make a remarkable contribution to Canada. He should leave this chamber knowing that it is a finer place because of his presence.

He is a wonderful gentleman and I will truly miss him. I know that he has many wonderful, enjoyable and loving years ahead with his family.

Hon. Herbert O. Sparrow: Honourable senators, today I wish to bring my special thanks to Senator Kolber for his time in this chamber. I wish to thank him for being a new-found friend of mine, because I did not know him prior to his coming to the Senate.

I wish to thank Senator Kolber on behalf of all Canadians for the compassion he has shown to this chamber and to the Canadian people, for the talents he shared with us, for the ambition he has shown to us and for the knowledge he has shared with all of us.

• (1350)

I would just like to make one comment because I know there is a time limit on these remarks. Senator Tkachuk has suggested that Leo was perhaps closer to a conservative way of thinking and the Progressive Conservative Party than to the Liberals. I would say this: Before he leaves, perhaps he could change over to the Conservative side of the house because it would be much better for one of them to go than one of us.

I want to thank Senator Kolber very much. I want everyone to know that when I grow up, I want to be just like him.

Hon. Senators: Hear, hear!

Hon. E. Leo Kolber: I would like to meet the guy you have all been talking about!

Honourable senators, I am deeply touched by the tributes of colleagues on the occasion of my impending retirement from this place. I am particularly touched by the gracious, generous statements of the Honourable Leader of the Government and by my good and long-time friend, the Leader of the Opposition.

Honourable senators will understand that I approach an occasion such as this with mixed emotions — with a sense of nostalgia but equally of gratitude for having the honour to serve in the red chamber for the last 20 years.

It seems to me it was only yesterday that I received a call from Prime Minister Trudeau to inform me of my appointment to what has been known unofficially as the "Jewish seat from Quebec." He said, "I have to tell you, you are not the Jewish community's first choice." I said, "I understand, Prime Minister." "But," he said, "you are my first choice." Then we had a good laugh over that, because I asked him, "Is there anything else that matters?"

I will remain grateful to Mr. Trudeau for the opportunity to serve. I am also grateful to the Right Honourable John Turner and the Right Honourable Jean Chrétien, two other leaders of my party under whom I have had the opportunity to serve.

Pierre Elliott Trudeau became an extremely close friend to my late wife and me, and we went on many trips. On almost all of them, Senator Jack Austin joined us, and we went to strange places. Mr. Trudeau would pick the trip each year, and it was usually to a place I had never heard of. How many honourable senators have heard of the Karakorum Pass in the Himalayan Mountains? Well, I had not. We went there — Senator Austin was with us, and our wives — and we went over the Himalayan Mountains into China. We went to Vietnam and Cambodia and to the Amazon jungle to see the Yanomami tribe, where no other tourists go, and on and on. Getting to know Mr. Trudeau and Senator Austin was one of the great privileges of belonging to this place.

It has been a unique privilege to serve in the Senate for the last 20 years among such colleagues, and whatever our partisan differences, we are all partisans of Canada. We are called upon to represent the interests of our provinces and the Senate, but we are equally motivated by our love for this country.

Mr. Trudeau put it well in the referendum debate of 1980, when he spoke in the House of Commons. He said, "What is the feeling of loving a country, which we call patriotism?" He continued, "Part of the answer lies in our debates, in the policies, laws and Constitution of this country. Part of the answer can be found in geography, in the history of this country, which, in a sense, are collective notions, history being the recital of things that we have done together in the past."

Serving here has allowed me to get a much better sense of both the geography and history of this country. It is a beautiful and bountiful land abundantly blessed by nature and providence alike.

I have also learned, in the words of Sir Wilfrid Laurier, “This is a difficult country to govern.” I am sure Senator Angus — David, you had better be listening because I am mentioning your name — had the same experience I did in fundraising. On the trip to which I referred, I went with Herb Metcalf, who was my assistant and is now a lobbyist. It was not as bad as it sounds because I had the use of our company plane, et cetera, but we travelled coast to coast five times in nine months. We made 235 one-hour visits asking each poor “whoever” for \$25,000. It was amazing that no matter where we went in Canada, the person or persons in that province had a beef about Canada. No one seemed to be satisfied, but all were happy to live in Canada. In British Columbia, they said, “Who needs you? We have the Pacific Rim.” When we got to Calgary, the National Energy Policy was bugging everyone. When we arrived in Manitoba, they were screaming about the Wheat Board. In Ontario, they were saying that they were giving more than they were getting; and in Quebec — I do not have to reiterate all the problems that we had in Quebec. When we got to the Maritimes, everyone was poor; no one had anything. Then we got to Newfoundland, and they said that they should have been part of the United States. I said, “80 per cent of you are on the dole; what are you talking about?”

I could not understand what was going on — but you know what? Almost everyone gave us money. They were all delighted to be in Canada, but I guess complaining was part of it.

There is no question that there are linguistic cleavages and regional divides in this country, but at the end of the day we all stand for a united and prosperous Canada. Those really are the fundamental tests of public policy, and I believe they are met in the Senate.

My Senate service has allowed me to meet thousands of our fellow citizens. There is not a brighter, more diverse or more interesting population anywhere than in Canada.

There is a popular perception, or maybe misperception, of the Senate. Honourable senators are well aware of the caricature of the appointed Senate as a “taskless thanks” — merely a political reward for services rendered to the government of the day. I must say this has not been my experience. I have always been struck by the outstanding work of Senate committees and the bipartisan spirit in which it is performed.

I know that honourable senators will permit me to say a kind word about my own committee, the Standing Senate Committee on Banking, Trade and Commerce, which I was privileged to chair for almost the last four years. This allows me to say to Senator Kroft that I wish him nothing but good luck and great success in becoming chair of that very illustrious committee.

In that spirit, I want, in particular, to thank the Honourable David Tkachuk, the Conservative deputy chairman of our committee, not only for his non-partisan spirit of cooperation — and I mean that — but for keeping his occasionally unruly colleagues in line.

Senator Stratton: I do not believe that.

Senator Kolber: The work of the Senate Banking Committee over the last four years is due, in no small measure, to his leadership and to colleagues on both sides. I am particularly proud of the work on large bank mergers, corporate governance and the question of capital gains. Our committee unanimously recommended that large bank mergers be permitted under appropriate regulatory rather than political oversight — and this within six weeks of having the issue referred to us by the Minister of Finance. So much for the image of the Senate as a group of doddering old men.

Parenthetically, Senator Tkachuk has been a strong advocate of a merger on the right, and I sincerely wish him and his colleagues well in that endeavour. Canadian democracy, in my opinion, will be very well served by a more competitive opposition — and please note I use the word “opposition.”

Senator Stratton: For the moment.

Senator Kolber: We also have reason to be proud of our report entitled “The Perfect Storm,” on ways and means of restoring integrity and confidence to financial markets in the wake of the wave of corporate scandals. If Canadian equity markets are to be competitive, we have to respond with appropriate but sensible frameworks for enhancing corporate governance.

Finally, our committee recommended the reduction of the capital gains tax by 50 per cent to put Canada on an equal footing and level playing field with the United States. The Prime Minister and the Minister of Finance of the day — the honourable member from Ville Émard — agreed. Those were the days when they actually agreed. I regard this as a significant and lasting achievement that will bring new investment and new jobs to Canada and to Canadians.

• (1400)

Finally, allow me to express my gratitude to my family — to my children, Jonathan and Lynne, and to my four grandchildren, whom I must never forget because they are the light of my life — for their encouragement during the years of my service in the Senate, and of course my late wife, Sandra, who, though physically incapacitated during the last decade of her life, remained very much on her game mentally and loved nothing more than a good discussion about politics.

I wish also to thank Shirley Strean, from my office, and the rest of my staff on the Senate Banking Committee. Staffers are the unsung heroes of Parliament Hill. We all know that.

Finally, honourable senators, allow me to express my deep thanks to colleagues on both sides of the chamber. Serving here has been one of the great honours of my life. I hope in some modest way I can continue serving our country for the remainder of my life. Perhaps I could return as the ethics commissioner.

Hon. Senators: Hear, hear!

Senator Kolber: In that sense, we all seek to give back to Canada a small measure of the huge amount that it has given to us. Thank you all very much.

Hon. Senators: Hear, hear!

Hon. W. David Angus: Honourable senators, one thing I have learned since I have been here is that if you cannot do it directly, you can always try to do it indirectly, so Leo, "It ain't over 'til it's over."

Honourable senators, I realize that time is short and restricted, but I earnestly wish to add just a few words of tribute to my very good friend, colleague and co-conspirator, Senator Leo Kolber, as he prepares to take his leave from the red chamber.

You may not be aware of this, honourable senators, but Senator Kolber and I, between us, in the official scheme of things, under the senatorial districts in Quebec, control the entire Island of Montreal. We represent the contiguous districts of Alma and Victoria, having a combined population of more than 3 million Canadians. Honourable senators, as you might expect, Leo represents the wealthy aristocrats, the capitalists and the immaculately tailored denizens of central Montreal, including Westmount, Hampstead, Notre-Dame-de-Grâce and the Town of Mont-Royal, plus the comfortable middle-class bedroom communities of the West Island, whereas I, on the other hand, as you will surely appreciate, am a man of the people, representing the many good, hard-working, working class folks who inhabit that vast area to the east of Rue Saint-Denis. I have the privilege of following the late Senator Hartland Molson in this worthy task.

Although Senator Kolber and I are ardent supporters of different political parties and have differing outlooks in some critical areas, in the main, we are on the same wavelength on nearly all important subjects. We have worked together harmoniously and efficiently for many years. When we have agreed to disagree, we have done so with mutual respect and goodwill in the true democratic spirit that prevails here in this chamber and in the mission of the Senate.

As we have heard, Senator Kolber, before being called to this chamber, had a distinguished career as a lawyer, businessman, fundraiser and philanthropist. He has continued his good works while here in Ottawa and now leaves with an even more enviable and justified reputation as a wise, caring and giving Canadian. After he leaves us, I am certain and confident that he will continue on in the same vein.

I have been proud over the years to have had the privilege of interacting with and being a friend of Leo Kolber. We have raised funds together, at the same time, mutually, for our respective political parties and for charities such as McGill University and its teaching hospital. As well, we have striven together to produce good public policy, always with a strong and abiding mutual respect, and more often than not in a truly non-partisan fashion, the whole in the spirit of doing what is right for Canada and its citizens, regardless of whether it be for the direct benefit of our constituents, the business community or some other particular interest group.

Leo, I deeply admire your manifest honesty, your high level of integrity, and your keen sense of doing what is right for our

nation. Thank you for your friendship, for your mentoring, for your wise counsel and for the high standards you have set for all of us here in the Senate. I join my fellow colleagues in wishing you a happy retirement. God be with you.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, pardon me, I see that all honourable senators had a written text. They were all aware that we would be paying tribute to the Honourable Senator Kolber today, but I was not put in the picture. I particularly want to say a few words about Senator Kolber.

I still remember when his wife fell seriously ill. I sent her a personal note.

[English]

It said, "Get well soon, because I need you against Leo." She appreciated the humour, as did Senator Kolber, I am sure.

We have had occasion to clash immensely in the past. Years ago, by secret ballot, I was elected chairman of the national Liberal caucus, over Sheila Copps. It was quite a campaign, and that is where I learned more about Leo's ability to fight for opinions and ideas. We disagree only on one item — which I do not wish to talk about here today — only one item.

I have witnessed his chairmanship of the Standing Senate Committee on Banking, Trade and Commerce. As honourable senators all know, the Foreign Affairs Committee was my first choice, but I ended up on the Banking Committee, where I know everyone would like to be a member, because it is so prestigious, especially as presided over by Leo Kolber. One can learn an immense amount in that committee. Leo Kolber even saw a majority and unanimous consent for the report on bank mergers, when I objected to it. I have not yet participated in the debate on the committee report, which is still on the Order Paper.

I want to say to Senator Kolber that I have always held him in the highest respect, and he knows that. He has teased me and I have teased him for as long as we have known each other, since he was appointed to the Senate, and that goes back a long time. Opinions can be vigorously held, but respect is more important and should be highly regarded.

I wish to say to Senator Kolber that I learned immensely from him in the very few months I sat with him, face to face or next to him. I found him to be an extraordinary, firm, witty, quick chairman. I wish every chairperson could benefit from a lecture by Leo Kolber on how to chair and get action. Perhaps instead of returning as our ethics commissioner, he could start a school for chairs of committees, where he would show how to keep the respect of everyone while taking action.

I say to Senator Kolber that I am disappointed and surprised. His retirement date is January 18, and as such I feel like it is the last day of December; however, we are only in October. I hope we will have you with us until December, and then in January we will wave good-bye. Good luck.

Hon. Jeremiah S. Grafstein: Honourable senators, I also rise to pay tribute to Leo Kolber. Leo Kolber, Leo Kolber, Leo Kolber — a concise and clear name for a concise and clear-minded man. Leo and I arrived in the Senate within weeks of each other, close to two decades ago, and so have been colleagues and really great if not argumentative friends since that time.

Leo is an impatient man, and I will not try his patience much further today, for Leo is not patient with fools, pomp, cant or ceremony. He is a man of concise and clear common sense. He prides himself, rightly, on his ability to cut quickly through matters, whether business or politics, to reach the heart of any complex problem. This is a rare and great gift, which he has amply demonstrated in both his business and senatorial careers.

• (1410)

Leo is a builder — a builder of great buildings, great networks of friends, and political coalitions. He helped to build one political coalition that I believe helped save Canada.

He has applied his same rare gifts to philanthropy and causes ranging from the arts to education to health, as we have heard here today. If you probe him, you will find that he is a proud, pugnacious Canadian and a fierce, fearsome, proud Jew. This pride comes at a time when his co-religionist rights as an equal citizen are being challenged around the globe.

Honourable senators, Leo has now become an author. I can hardly wait to read the index to see if my many kindnesses to him have been reciprocated in that volume. I remain confident that when he leaves the Senate in a few months, he will not vacate the public arena and will continue to provide his insight, clarity of thought and energy all in the aid of the public good.

His life, his late wife, Sandra, and his family have filled a unique niche in the Canadian mosaic.

Leo, old friend, may I conclude, by giving you a traditional salute — L'chaim! To life!

Hon. Senators: Here, here!

GOVERNMENT OF NEWFOUNDLAND AND LABRADOR

PROGRESSIVE CONSERVATIVE VICTORY IN PROVINCIAL ELECTION

Hon. Ethel Cochrane: Honourable senators, I rise today to herald a new era in the Province of Newfoundland and Labrador and to congratulate the premier elect, Danny Williams, and his Progressive Conservative team.

Yesterday, hundreds of thousands of voters — more than 72 per cent of all those eligible — turned out to cast their ballots. In fact, voter turnout jumped almost 13 per cent over the last election, which was the one called by Mr. Tobin.

The voter turnout was only part of the story. When the results were tallied, the face of government was dramatically different. For the first time in 14 years, we have a Progressive Conservative

government. While the NDP held steady at two seats, the Liberals were reduced to just 12 seats, down from 27.

Some Hon. Senators: Oh, oh!

Senator Cochrane: By the end of the night, seven Liberal cabinet ministers had lost their seats.

Some Hon. Senators: Oh, oh!

Senator Cochrane: Among them was the longest-sitting Liberal, Walter Noel.

The victory has been described as a “Tory tide,” and indeed it was. The Progressive Conservatives received almost 59 per cent of the popular vote and today hold 34 of the 48 seats in the province’s House of Assembly.

With the landslide victory, Mr. Williams says that he has a mandate to chart a new course for our province, one that will bring greater prosperity. He has also declared a mandate to make a meaningful improvement to the everyday lives of my people.

Honourable senators, with Danny Williams and the Progressive Conservative team, voters in my province have chosen strong, confident leadership that will, I am hopeful, set us on our way to new opportunities, growth and renewed pride.

Some Hon. Senators: Hear, hear!

Senator Cochrane: I would like to congratulate all those who ran as candidates. I commend them for their desire to serve the people of the province. Above all, I congratulate Danny and the PC team, not only for their overwhelming victory, but also for a positive, clean campaign that stayed focused on the issues throughout.

Today, like so many other Newfoundlanders and Labradorians, I have renewed hope for the future of my people and my province.

Some Hon. Senators: Hear, hear!

MINE BAN TREATY

Hon. Elizabeth Hubley: Honourable senators, one of Canada’s finest hours within the international community as a nation of peace and humanitarianism took place in 1997 when our government took a leadership role in the adoption of the Mine Ban Treaty. This international treaty prohibits the use, stockpiling, production and transfer of anti-personnel land mines and enables their destruction.

The anti-personnel mine is one of the most inhumane weapons ever developed, killing and crippling not only combatants but also thousands of innocent civilians long after the war has ended. The recent tragic deaths of Sergeant Robert Short and Corporal Robbie Beerenfenger in Afghanistan certainly attest to the insidious and lethal effects of these types of weapons.

The Mine Ban Treaty, or the Ottawa Convention, now ratified by 129 nations, has led to the destruction of stockpiled weapons and the clearing of mined areas. However, anti-personnel land mines continue to be a problem of staggering proportions. About 60 countries throughout the world, including Afghanistan and Iraq, require assistance to eradicate land mines. It is important to point out that those countries with the greatest need are also among the world's poorest, lacking both the financial and technical resources to carry out an effective de-mining program.

Honourable senators, it is also unfortunate that many nations continue to produce and use anti-personnel mines, most notably the United States and Russia. The Canadian Land Mine Foundation has exemplified our country's commitment to the global ban on land mines by supporting de-mining, working to develop new technologies for land mine removal and by assisting the victims of land mines around the world.

A major part of the international campaign against land mines has been the Night of a Thousand Dinners, a unique way for people to promote the land mine cause. The Senate of Canada has been doing its part. On Monday, October 27, our third annual Senators Against Land Mines: Night of a Thousand Dinners will take place right here on Parliament Hill. This year's event will combine exquisite food, a silent auction and a variety of entertainment, including the Singing Senators.

Honourable senators, last year's dinner was extremely successful owing in large measure to your enthusiastic support and participation. I invite all of you to take part once again, and I thank you for contributing toward this important humanitarian cause of helping to free the world from the terrible menace of anti-personnel land mines.

[Translation]

ROUTINE PROCEEDINGS

THE ESTIMATES, 2003-04

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) PRESENTED

Hon. Joseph A. Day, Deputy Chair of the Standing Senate Committee on National Finance, presented the following report:

Wednesday, October 22, 2003

The Standing Senate Committee on National Finance has the honour to present its

NINTH REPORT

Your Committee, to which were referred the Supplementary Estimates (A), 2003-2004, has, in obedience to the Order of Reference of September 24, 2003, examined the said estimates and herewith presents its report.

Respectfully submitted,

JOSEPH A. DAY
Deputy Chair

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

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

• (1420)

INCOME TAX 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-48, to amend the Income Tax Act (natural resources).

Bill read first time.

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

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

[English]

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Richard H. Kroft: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

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

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

Hon. Senators: Agreed.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I thank Senator Kroft for coming to my office to explain his intentions since I am a member of the Standing Senate Committee on Banking, Trade and Commerce. However, I am still hesitant about having committees sit at the same time as the Senate. Nonetheless, I told him I would give my consent because the report is ready and we should discuss it. Mind you, we are having a vote at 3 p.m. and there may be a motion.

[English]

The honourable senator is of the opinion that we should follow the spirit that has been regularly adopted such that the Senate will not sit too late this afternoon. I agree that the Banking Committee may have permission to sit, but if the house continues to sit and certain items come forward, I will not attend the committee; I will stay in the chamber to see what develops. Otherwise, I will fulfil my duty to the Banking Committee.

The Hon. the Speaker: Honourable senators, leave is granted. Accordingly, I will put the question.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITION

Hon. Jean-Robert Gauthier: Honourable senators, pursuant to rule 4(h), I have the honour to table petitions signed by another 2,000 people, for a total of 10,000 people to date, asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the *Constitution Act, 1867* designates the city of Ottawa as the seat of government of Canada;

[Translation]

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French.

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners call upon Parliament to affirm in the Constitution of Canada that Ottawa, the capital of Canada, be declared officially bilingual, under section 16 of the Constitution Acts from 1867 to 1982.

[English]

QUESTION PERIOD

FOREIGN AFFAIRS

ASIA-PACIFIC ECONOMIC COOPERATION SUMMIT— PRIME MINISTER—EXPRESSION OF DISAPPROVAL OF MALAYSIAN PRIME MINISTER'S ANTI-SEMITIC COMMENTS

Hon. A. Raynell Andreychuk: Honourable senators, I would like to return to questions that I placed yesterday with respect to Mr. Mahathir's statements, which can only be characterized as hateful. Could the Honourable Leader of the Government in the Senate explain what the Prime Minister meant when he simply said that the statement of Mr. Mahathir was not well received in

Canada, when, at the same time, Mr. Martin indicated that the statement was terrible and unacceptable? I think Canadians need to know what the Prime Minister meant when he said that it was not well received.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the Prime Minister made a comment with which we would all agree. The statement was not well received; and it was badly received. Canadians believed that the comment was unjustified and full of disrespect.

Yesterday during Question Period, Senator Tkachuk asked how the official Canadian position was announced. Minister Graham announced it by telephone press conference, which was picked up by the Canadian Press and many other newspapers. Obviously, Mr. Graham could not hold a press conference here because he was in Bangkok. That is how the announcement was made.

As well, officials from the Department of Foreign Affairs met with the High Commissioner of Malaysia because, again, the minister was out of the country. Minister Graham believed it important to give the message immediately and so he asked his officials to do so on his behalf.

Senator Andreychuk: Yesterday, the honourable leader indicated that Canada does not advocate regime change as do some other democratic countries. However, it was not intended by me or by anyone on this side of the house to advocate regime change. I think it was Senator Carstairs' statement that Mr. Mahathir would not long be there and someone else would head the government in Malaysia.

The statements made by Mr. Mahathir propagate hate, which leads to violence. Canada has always taken a very strong position, at the United Nations and elsewhere, that we do not tolerate hate statements. The events in Rwanda, if nowhere else, showed us that statements of hate lead to violence and atrocities that this world cannot contain. Surely the Canadian people deserve to hear from their Prime Minister an unequivocal statement that this action is intolerable and must be retracted and that Canada will take action if it is not retracted.

• (1430)

Will the Canadian people hear from the Prime Minister concerning the unacceptability of the Malaysian Prime Minister's statement and will he request a retraction by Mr. Mahathir?

Senator Carstairs: The people of Canada have heard that Mr. Mahathir's statement is unacceptable because the Honourable Bill Graham was speaking for the Prime Minister, as he often does on files that are within his purview, and certainly this one was.

As to the future steps we might take, Mr. Graham has made it clear that we have asked the High Commissioner to make our representations very clear to the Malaysian government. We are now awaiting its response about the unacceptability of its prime minister's statement.

Senator Andreychuk: Will we follow through with action as we have in Zimbabwe and Nigeria? We did not, incidentally, do so in Indonesia when we invited the head of the Indonesian state to come to the APEC convention in Vancouver at a time when we should have been sending strong human rights signals, not economic signals, to that regime. We all suffered the economic consequences, but the Indonesian people are suffering the ramifications of that regime.

I wonder, upon reflection, whether the Canadian government will now take positive steps to encourage the Malaysian government to act within the standards that are requested and obliged by the United Nations from its members? Malaysia is a member of the United Nations.

We know that both Paul Martin and David Kilgour have made unequivocal representations about Anwar Ibrahim being in jail as a political prisoner. This statement from Mr. Mahathir is not an isolated one. There is a consistent, repeated pattern of disregard for the standards of the international community and for those things that Canadians stand for.

Do we have any assurance that Canada will follow through with action to ensure that the people in both Malaysia and Canada know that hate propaganda cannot be disseminated by any individual and, surely, not by a head of state?

Senator Carstairs: Honourable senators, as I indicated to the honourable senator, the Minister of Foreign Affairs is awaiting a response. As far as the rest of her representations are concerned, she can be assured that I will bring them to the minister and the Prime Minister.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, we are trying to find out why the Canadian government is being mealy-mouthed about a statement that is so horrendous that it should have been condemned immediately. Instead, all we hear is that the Minister of Foreign Affairs in Bangkok talked to a few reporters by telephone in Canada. Why did he not hold a press conference in Bangkok and, right away, like Secretary of State Powell, condemn the statement?

We hear that the High Commissioner for Malaysia was called in by officials. Why did they not wait until the Minister of Foreign Affairs was back in Canada to meet with him? Worst of all, the Prime Minister shakes hands with this racist and says, "Well, the Minister of Foreign Affairs has spoken for me." Compare that with Secretary of State Powell immediately condemning the statement and President Bush not hesitating for it to be known publicly that he personally reprimanded the Prime Minister of Malaysia. What is the Canadian government's problem?

Senator Carstairs: The honourable senator asks why the Minister of Foreign Affairs did not wait until he got back from Canada. That would have been the wrong thing to do. The correct thing to do was to order his officials to meet immediately with the High Commissioner for Malaysia to put forward our serious concerns and belief of the unacceptability of Mr. Mahathir's statement.

Senator Lynch-Staunton: Could the minister tell us which officials met with the High Commissioner and why a communiqué following that meeting has not been issued? We ought to have had a formal announcement that condemnation of that statement was made to the High Commissioner.

Senator Carstairs: As the honourable senator knows, I took as notice yesterday Senator Tkachuk's question about who those officials were, and I will get that information to him.

NATIONAL DEFENCE

AFGHANISTAN—AVAILABILITY OF ARMoured VEHICLES

Hon. J. Michael Forrestall: Honourable senators, preferring to accept the word of the commander in the field in Afghanistan, as opposed to the observations of generals here at home, can I indicate that the commander of the battle group in Kabul had said to the press that he has one third of the armoured vehicles he requires for control? Currently, he has 30 armoured vehicles, according to news reports. The government had said it will ship a further 15. He still has, according to him, a need for 45 more armoured vehicles so that his troops can approach their task in Afghanistan in some degree of safety.

Can the government commit to sending a further 45 armoured vehicles to Afghanistan immediately, or as soon as possible, or do we accept the Prime Minister's suggestion that we will be ready to send some by next summer to "patrol the badlands of Afghanistan"?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as I indicated to the honourable senator yesterday, we expect the additional LAV III armoured vehicles and the Bisons to arrive in Kabul by mid-November. These requests were made by the chief located in Kabul, and that is what we are doing.

Senator Forrestall: Honourable senators, may I ask how many vehicles are going and what is the description? How are we getting them there? When will we send the balance?

Senator Carstairs: Honourable senators, as the honourable senator would know, I do not have those details, but I will take his question as notice.

AFGHANISTAN—PRIME MINISTER'S VISIT— TRANSPORT SECURITY

Hon. J. Michael Forrestall: Could the Leader of the Government in the Senate tell honourable senators whether the Prime Minister toured Kabul last weekend in the latest jeep, or did he travel with someone else in a different kind of vehicle?

Hon. Sharon Carstairs (Leader of the Government): The security of the Prime Minister was in the hands of the military officers who took him to visit the troops there. I would assume that as they use good judgment with respect to their own troops, so, too, did they use good judgment with respect to the Prime Minister.

Senator Forrestall: Is the honourable leader suggesting that he did, in fact, ride in one of those vehicles?

Senator Carstairs: Senator, I do not know whether he rode in one of those vehicles or not. I suggested to the honourable senator that the commanders in the field, who know the situation and who take absolute care and caution with their own troops, took the same care and caution with our Prime Minister.

FINANCE

POST-SECONDARY STUDENT DEBT LOAD

Hon. Norman K. Atkins: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Today, on the grounds of Parliament Hill, the Canadian Alliance's student association has constructed a wall of foam bricks meant to symbolize the wall of debt facing Canada's university and college students upon their graduation. After completing a four-year undergraduate degree, the average debt load per student is now estimated to be between \$20,000 and \$25,000.

A September Statistics Canada report found that as a result of crippling debt and high tuition, post-secondary education is far more likely for children from families that make over \$80,000 than it is for those from families that make less than \$55,000.

Could the Leader of the Government in the Senate tell us what concrete measures the federal government is taking to help ease the heavy debt load confronting our university and college graduates?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator asks a question that, I have to say, has been close to my heart for a great many years, as I was President of the National Federation of Canadian University Students at Dalhousie University way back in 1961-62. The issue of student debt and student indebtedness is not new. It was around then. To those who suggest that those who now attend university are from higher income levels, I would suggest that that was even more the case in the 1960s when I went to university.

• (1440)

What kind of concrete steps is the Government of Canada taking? It has entered into negotiations to make student loans more accessible to the students of this country. It has launched the Millennium Scholarship Fund, which is providing more students with scholarships so that they may attend universities. We welcome the initiatives of, and we work with, our provincial counterparts to ease the burden of debt. However, we must clearly recognize that it is becoming higher and heavier, and that much more work needs to be done.

Senator Atkins: Honourable senators, is the government aware of the fact that, if a student graduate cannot repay his or her loan, the bank turns those loans over to collection agencies? The abuses that are being perpetrated by these collection agencies on these students are, in my opinion, unconscionable.

Senator Carstairs: Honourable senators, I do not know specifically whether the government is aware of that issue, but I will bring it to the government's attention. I can only assume that they are aware of this unconscionable behaviour, since it is part of the policy with respect to student loans. I will certainly make them aware of it, and I would welcome and make available any anecdotal information the honourable senator can provide to me.

AVAILABILITY OF STUDENT LOANS PROGRAM

Hon. Norman K. Atkins: Honourable senators, the Canadian Alliance of Student Associations is calling on the federal government to help reduce student debt load by making improvements to the Canada Student Loans Program. Not every student qualifies for a Canada student loan, which means that more people are turning to private loans, student lines of credit from banking institutions, and credit cards, to pay their way through university. Unlike Canada student loans, private debt is not interest-free while a person is in school and often requires monthly payments, long before graduation.

Has the federal government considered making any changes to the Canada Student Loans Program?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, any changes made to the Canada Student Loans Program must be made in conjunction with the provinces that actually operate those programs. They are not operated directly by the federal government, as I know the honourable senator is aware.

Changes have been made to the Canada Student Loans Program, but there is no question that the honourable senator is absolutely right in saying that more and more of our students are turning to private lenders, and the loans they receive do not have the same protections and conditions as those provided under the Canada Student Loans Program, which loans have no waiver in terms of bursaries, nor do they have time constraints for repayment.

One of the initiatives that I believe the government is considering relates to the amount of time within which students must repay their loans, because these loans are becoming so large.

Senator Atkins: Would the government consider a moratorium after graduation of, say, a period of two years, so that students could find employment and become settled before they are faced with paying off these loans?

Senator Carstairs: If my understanding is correct, there is a moratorium of six months. If that moratorium needs to be lengthened, I will be pleased to take that idea forward.

CITIZENSHIP AND IMMIGRATION

MISSING SUSPECTED WAR CRIMINALS

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate.

Fifty-nine suspected war criminals have gone missing in Canada. According to the Chief of Police in Toronto, Julian Fantino, the federal government is doing little to assist law enforcement officials and immigration officials in tracking down these individuals. Citizenship and Immigration Minister Denis Coderre has written a letter to Robert Runciman, Ontario's Minister of Public Safety and Security, stating that the department will not publicly release the names and pictures of these people because of concerns over their privacy rights. Chief Fantino and Mr. Runciman have accused the Department of "an unfathomable lack of cooperation."

Why is the minister unwilling to publicly release the names and photos of these people?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, privacy rights are of concern to all of us. I do not think that one should disparage a comment based on a principle to which we would all aspire.

As to the honourable senator's specific question, I do not have the answer, but I will endeavour to get it for him.

Senator Oliver: Honourable senators, in the past, the department has said that it is reluctant to release the names and photographs of war criminals in part because the public may swamp immigration officials with tips on their whereabouts. This seems like something that the department might actually want to encourage, as it may well lead to the capture of some of these individuals.

Could the Leader of the Government in the Senate tell us if the decision to not publicly release the names and photos of the missing war criminals is in any way related to staffing problems in that department?

Senator Carstairs: Honourable senators, to my knowledge, it is not related to staffing problems. I share the honourable senator's concern, if, in fact, that is the information that would be provided. One would hope that Canadians would come forward and report people they believe are war criminals, and do so as quickly as they possibly can.

As to the honourable senator's specific question, like the other question, I will have to take it as notice.

NATURAL RESOURCES

ONTARIO—INTERNATIONAL THERMAL NUCLEAR EXPERIMENTAL REACTOR BID

Hon. Consiglio Di Nino: Honourable senators, the *Toronto Star* of October 20 had an article headlined "Ottawa to let reactor bid die," accusing the federal government of deliberately stalling and delaying a decision to contribute funds to the \$12 billion international thermal nuclear experimental reactor bid by the Province of Ontario, notwithstanding Ontario premier elect Dalton McGuinty's commitment to match federal contributions to this project.

Murray Stewart, the president of ITER Canada, has said: "It's very tough to attack a non-decision." Can the minister shed some light on this issue for us?

Hon. Sharon Carstairs (Leader of the Government): I can tell the honourable senator that, to the best of my knowledge, no decision has been made on this file.

Senator Di Nino: I thank the minister for her answer.

The article went on to state that the federal stalling, which was confirmed by senior officials, effectively kills any chance for the province to compete next month against bids from other countries. Honourable senators, that implies that a decision has pretty much been made.

Could the Minister let us know whether this is an indication of the federal government's confidence in the newly elected Liberal government in the Province of Ontario to be able to deliver the project?

Senator Carstairs: I would point out to the honourable senator a certain inconsistency in the article to which he has referred. You cannot have made a decision and also be stalling. It is one or the other. To reply to the honourable senator's first question, no decision has been made on this matter.

This government takes a great deal of pride and pleasure in the election of a new Liberal government in the province of Ontario, one that I understand will be sworn into office tomorrow and one with which we look forward to working closely.

Senator Di Nino: Honourable senators, I have a final comment and question. I certainly hope that the minister is correct in suggesting that the decision has not been made. The newspaper article seems to indicate that, at least from its standpoint, senior officials have confirmed that, in effect, a decision has not been made and that stalling is taking place.

• (1450)

However, I hope that the minister is correct in that the decision has yet to be made, as I am sure she will agree with me that Ontario has not only the expertise but the knowledge and ability to be the appropriate place for this kind of a reactor, to serve the needs of the world. I wonder if the honourable senator would comment on that point.

Senator Carstairs: I can comment on the fact that I am aware of the project. It is a very interesting one from a scientific perspective. It is also a very expensive one. A decision will be made in due course.

THE ENVIRONMENT

REPORT OF COMMISSIONER OF THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT— GREENHOUSE GAS EMISSIONS

Hon. W. David Angus: Honourable senators, two weeks ago today, I rose and posed several questions about certain troubling revelations in the recently released report of the Commissioner of the Environment and Sustainable Development, Johanne G  linas.

In the interim, I had an opportunity to study the report in more detail. I regret to note that there exists troubling grounds for concern about the sorry record of this Liberal government on environmental matters. As I said in my earlier questions, the commissioner calls it the "environmental deficit" of the present government.

As a matter of fact, it seems that this environmental deficit extends to the government's so-called strategies for reducing greenhouse gases relating to urban road transportation. In chapter 2, page 7, of her report entitled "The Commissioner's Perspective," the commissioner states as follows: "As my observations continue to indicate, a deficit in performance is partly caused by a gap between the commitments the federal government has made and the results it has achieved."

Could the Leader of the Government in the Senate please comment on this aspect of her government's environmental deficit with respect to the issue of reducing greenhouse gases due to road transportation in urban areas, as outlined in chapter 2 of the report?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, there are a number of new expenditures taking place with respect to the Kyoto Protocol, many of which are directly related to the whole concept of greenhouse gases. We know, for example, of the recent commitments of the Government of Canada to ethanol, something that I suspect is near and dear to the heart of the individual sitting to your right. Certainly, to good Manitobans, it is a very positive step forward. Yesterday, we saw a further commitment on the housing retrofit program.

We have demonstrated leadership on the issue of green vehicles. There are a number of steps that the government is taking. Are we going fast enough? Governments never go fast enough in terms of meeting all the objectives they wish to meet.

Senator Angus: Speaking of objectives, I think the leader would agree with that this commissioner, duly appointed by this government, is objective. In chapter 2, she examines specifically the three programs respecting greenhouse gas emissions due to urban road transportation. These programs are as follows: the Canadian Transportation Fuel Cell Alliance program; the Moving on Sustainable Transportation program; and the Intelligent Transportation Systems initiative.

According to the commissioner, all three programs have shortcomings that may prevent them from achieving their long-term expected results. She states that if these shortcomings are not corrected, it will be difficult for the federal government to know the contributions these programs are making to their stated outcomes, which will include reducing Canada's greenhouse gas emissions.

Honourable senators, the government's inability to get it right in the details and the implementation measures of their greenhouse gas reduction commitments goes to the heart of its

credibility on environmental matters, further exacerbating the environmental deficit. Could the Leader of the Government in the Senate provide any additional insight into what her government will be doing to address the serious deficiencies in how these programs are being run?

Senator Carstairs: As the honourable senator knows, there was a great deal of additional money for Environment Canada in the last budget. The Kyoto commitment will take considerable new dollars just in the areas that the honourable senator addresses. I think we should also indicate that the commissioner stated in her report that there have been substantial improvements.

Are we where we want to be? I would say, probably not. Are we getting there? Better than we were.

UNITED NATIONS

ISRAEL—VOTE TO REQUEST REVERSAL OF CONSTRUCTION OF WALL IN WEST BANK

Hon. Marcel Prud'homme: Honourable senators, some time ago, I showed my displeasure on the way we voted at the United Nations on the deportation of Mr. Arafat. This time, I want to show my pleasure at the vote taken yesterday, 144 to 4, demanding that Israel stop and reverse construction of the wall being built in the West Bank.

Regardless of a resolution that was adopted by 144 to 4, seeing that it is leading to more terrorism, destruction and war, could the government call in the ambassador to apprise him of our immense displeasure, as evidenced by yesterday's vote, and repeat it verbally? I think we would have a good equilibrium in our foreign policy.

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. Of course, I will bring his representations forward.

THE SENATE

INTRODUCTION OF NEW PAGES

The Hon. the Speaker: Honourable senators I should like to introduce more of our new pages. We have with us Agnes Kim. Agnes Jung-Min Kim immigrated with her family to Canada when she was eight years old. She spent all of her childhood and teenage years in North Vancouver, British Columbia. She is entering second year at University of Ottawa, studying linguistics. She enjoys meeting new people and learning new languages.

Next is Dustin Milligan. Dustin was born and raised in the small rural community of Tyne Valley, Prince Edward Island. He currently studies history and political science at the University of Ottawa.

Christopher Reed was born in Halifax, Nova Scotia, and raised in Ottawa. He is studying Canadian politics and governance at Carleton University. He is in his third year of university. This is his first year as a Senate page.

Welcome.

Hon. Senators: Hear, hear!

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to lay upon the table a delayed answer to a question raised in the Senate on June 19, 2003, by Senator Stratton regarding the gun control program, blue ribbon panel.

SOLICITOR GENERAL

GUN CONTROL PROGRAM—BLUE RIBBON PANEL

(Response to question raised by Hon. Terry Stratton on June 19, 2003)

The primary outside advisory group on the Firearms Program was the Minister's User Group on Firearms. The User Group was established in November 1995. Material announcing the establishment of the User Group indicated that its mandate would run from Royal Assent of the Firearms Act through the implementation period for the new legislation.

With the passing of the registration deadline on January 1, 2003, implementation was largely completed and the mandate of the Minister's User Group on Firearms had been fulfilled. Certain amendments contained in Bill C-10A reflect the deep commitment and recommendations made by members of the User Group, who, over many years, worked to ensure that the Firearms Program is both efficient and effective. The Government of Canada deeply appreciates the dedication and commitment shown by all User Group members. In order to ensure a degree of continuity, three members of the former User Group on firearms have been appointed to the recently announced Program Advisory Committee (PAC). The Program Advisory Committee met for the first time in June 2003, chaired by the Commissioner of Firearms.

The creation of a PAC was one of the government's commitments in the Gun Control Program Action Plan that was announced jointly by the Minister of Justice and the Solicitor General on February 21, 2003.

Since the announcement, important progress has been made in strengthening and streamlining the Canadian Firearms Program.

A strengthened Canada Firearms Centre (CAFC) senior management team is in place. Amendments to Bill C-10A, originally introduced in March 2001, have received Royal Assent and consequential regulatory proposals were tabled in both Houses of Parliament in June 2003.

Firearms licence and registration processing is meeting publicly posted service standards. Internet firearms registration, application status checks and online firearms transfers are well received by system users.

Working groups and consultations

A number of ad hoc consultative groups were established in the year 2000 to assist the Canada Firearms Centre in meeting the licensing deadline of January 1, 2001, and the registration deadline of January 1, 2003. In addition, these groups were consulted on measures to streamline program administration, some of which were included in amendments passed as part of Bill C-10A. A firearms users' forum, including members of the former User Group on Firearms, wildlife and firearms organizations, focussed first on licensing compliance issues and later shifted its focus to registration. Other consultations conducted during this period, included police fora, and meetings with firearms manufacturers, importers and exporters.

The National Firearms Technical Committee was established as a result of work done by the firearms users' licensing and registration groups. The technical committee played a key role in the amendments proposed in measures contained in Bill C-10A concerning airguns.

This fall, the Canada Firearms Centre is undertaking consultations with the public, firearms owners and other interested Canadians and stakeholder organizations, as was committed to in the February, 2003 Action Plan. Regulations have been tabled for review by both Houses, and this will provide an opportunity for input to be received from Parliamentarians.

The Canada Firearms Centre also continues to work with aboriginal communities to ensure that the program is administered in a manner that reflects their distinct needs.

Working with governmental partners

The delivery of the Firearms Program requires the involvement of federal and provincial officials. There are two governmental processes that are utilized to ensure federal involvement which are not consultations but rather meetings of federal and/or provincial partners.

First are meetings with provincial Chief Firearms Officers, which are ongoing and essential to program effectiveness.

Second, the CAFC continues to work closely with the RCMP and other federal partners, including the Department of Foreign Affairs and International Trade, and the Canada Customs and Revenue Agency. This working relationship is required to ensure that the Firearms Program is delivered as efficiently and effectively as possible.

Combating firearms smuggling

• (1530)

Following a recommendation from the Auditor General of Canada, a national working group was established in April 1994 to undertake a review of the firearms smuggling problem. As a result, in May 1995 the federal government announced the creation of a National Working Group on the Illegal Movement of Firearms (NWGIMF), under the Minister of Justice, to address policy and program issues relating to firearms enforcement.

In April 1997, the Core Group on the Illegal Movement of Firearms was established to further promote and support inter-agency co-operation and co-ordination in firearms control, complementing the current criminal intelligence and law enforcement work at the federal, provincial and local levels. The core group was comprised of members from Canada Customs and Revenue Agency, the RCMP, the Department of Justice as well as key police representation from Quebec, Ontario and B.C. Funding was extended for three years.

As a result of consultation with the policing community conducted by the Core Group, it was evident that there was a lack of investigative support to front-line police officers dealing with the criminal movement and use of firearms.

In January 2001, the Justice Minister announced the establishment of the National Weapons Enforcement Support Team (NWEST). NWEST is not an advisory group. It is composed of trained and experienced individuals who work in a support role with local law enforcement, to assist in anti-trafficking and anti-smuggling efforts. In April 2003, responsibility for NWEST was transferred from the Department of Justice to National Police Services, which are administered by the RCMP on behalf of all police forces in Canada.

[English]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, it being 3 p.m., pursuant to the order adopted by the Senate on October 21, 2003, I must interrupt the proceedings for the purpose of putting the question on the subamendment of the Honourable Senator Di Nino to Bill C-25.

The bells to call in the senators will now be sounded for 30 minutes, so that the vote may take place at 3:30 p.m.

Call in the senators.

PUBLIC SERVICE MODERNIZATION BILL

THIRD READING— MOTION IN SUBAMENDMENT NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Harb, for the third reading of Bill C-25, to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts,

And on the motion in amendment of the Honourable Senator Beaudoin, seconded by the Honourable Senator Comeau, that the Bill be not now read a third time but that it be amended in clause 12, on page 126, by replacing lines 8 to 12 with the following:

“30. (1) Appointments by the Commission to or from within the public service shall be free from political influence and shall be made on the basis of merit by competition or by such other process of personnel selection designed to establish the relative merit of candidates as the Commission considers is in the best interests of the public service.

(1.1) Despite subsection (1), an appointment may be made on the basis of individual merit in the circumstances prescribed by the regulations of the Commission.

(2) An appointment is made on the basis of individual”.

On the subamendment of the Honourable Senator Di Nino, seconded by the Honourable Senator Nolin, that the motion in amendment be amended

(a) by replacing the words “on page 126, by replacing lines 8 to 12” with the following:

“(a) on page 126, by replacing lines 8 to 11”;

(b) by adding after the words “free from political influence” the following:

“and bureaucratic patronage”; and

(c) by replacing the words “of the Commission. (2) An appointment is made on the basis of individual” with the following:

“of the Commission.”; and

(b) on page 127, by adding after line 9 the following:

[Translation]

“(3) The qualifications referred to in paragraph 30(2)(a) and subparagraph 30(2)(b)(i), and any qualification standards referred to in subsection (1), that are established for an appointment in respect of a particular position or class of positions shall apply to future appointments in respect of that position or class of positions, unless any change established by the deputy head or employer to the qualifications or qualification standards, as the case may be, is approved by the Public Service Commission.”

Motion in subamendment negated on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	LeBreton
Atkins	Lynch-Staunton
Beaudoin	Meighen
Buchanan	Nolin
Cochrane	Oliver
Di Nino	Prud'homme
Doody	Robertson
Forrestall	Roche
Gustafson	Spivak
Johnson	Stratton
Lawson	Tkachuk—22

NAYS
THE HONOURABLE SENATORS

Adams	Kenny
Bacon	Kirby
Banks	Kolber
Biron	Kroft
Bryden	LaPierre
Callbeck	Lapointe
Carstairs	Lavigne
Chalifoux	Maheu
Christensen	Massicotte
Cook	Merchant
Cools	Milne
Corbin	Moore
Cordy	Pearson
Day	Pépin
De Bané	Phalen
Fairbairn	Plamondon
Ferretti Barth	Poulin
Finnerty	Poy
Fraser	Ringuette
Furey	Robichaud
Gauthier	Rompkey
Gill	Sibbeston
Grafstein	Smith
Graham	Sparrow
Hervieux-Payette	Stollery
Hubley	Watt—53
Joyal	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is Wednesday, a day on which we usually try to end the sitting a bit earlier to allow the committees to meet. I would like to wrap up items under Government Business, and the remaining items on the Order Paper can be stood until the next sitting.

COMMITTEES AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I would also seek agreement to allow the committees set to meet at this time to do so during the sitting of the Senate.

[English]

The Hon. the Speaker: Is leave granted?

Hon. John Lynch-Staunton (Leader of the Opposition): Leave is granted, but I would like to make a suggestion. There is a private bill that came from the other place on user fees. It now stands in Senator Kinsella's name. He has informed me that he has no objection, after studying it, to referring it to committee. If we could bring that private bill up before we adjourn, there would be no objection on this side.

Senator Robichaud: I want to make clear that it is well understood that committees are allowed to sit now even though the Senate is still sitting.

The Hon. the Speaker: That has been agreed to.

Hon. Marcel Prud'homme: On the same point, it is very clear that there is government business, plus the one item mentioned by our friend Senator Lynch-Staunton. I have no problem with that.

• (1540)

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

ANNUAL MEETING OF ORGANIZATION
FOR SECURITY AND CO-OPERATION IN EUROPE,
JULY 5-9, 2003—REPORT TABLED

Leave having been given to revert to Tabling of Reports from Inter-Parliamentary Delegations:

Hon. Jeremiah S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association to the Organization for Security and Co-operation in Europe Parliamentary Assembly, OSCE, twelfth annual session, in Rotterdam, Netherlands, July 5 to 9, 2003.

PUBLIC SERVICE MODERNIZATION BILL**THIRD READING—MOTION IN AMENDMENT—
VOTE DEFERRED**

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Harb, for the third reading of Bill C-25, to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts,

And on the motion in amendment of the Honourable Senator Beaudoin, seconded by the Honourable Senator Comeau, that the Bill be not now read a third time but that it be amended in clause 12, on page 126, by replacing lines 8 to 12 with the following:

“30. (1) Appointments by the Commission to or from within the public service shall be free from political influence and shall be made on the basis of merit by competition or by such other process of personnel selection designed to establish the relative merit of candidates as the Commission considers is in the best interests of the public service.

(1.1) Despite subsection (1), an appointment may be made on the basis of individual merit in the circumstances prescribed by the regulations of the Commission.

(2) An appointment is made on the basis of individual”.

Senator Robichaud: Question!

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

Some Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Beaudoin, seconded by the Honourable Senator Comeau, that the bill be not now read the third time but that it be amended in clause 12 on page 126 —

Some Hon. Senators: Dispense.

The Hon. the Speaker: Those honourable senators in favour of the motion in amendment by Senator Beaudoin will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: Those honourable senators opposed to the motion in amendment will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the nays have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators.

Hon. Terry Stratton: Honourable senators, I should like to defer the vote until tomorrow at 3:30 p.m. with a half-hour bell.

Hon. Bill Rompkey: Honourable senators, I was about to make the same proposal.

The Hon. the Speaker: It is it agreed, senators?

Hon. Senators: Agreed.

The Hon. the Speaker: There will be a vote on the motion in amendment tomorrow at 3:30 p.m. with the bells to ring at 3 p.m. by order of the house.

PARLIAMENT OF CANADA ACT**BILL TO AMEND—SECOND READING—
DEBATE CONTINUED**

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Graham, P.C., for the second reading of Bill C-34, to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence.

Hon. Serge Joyal: Honourable senators, the debate on Bill C-34 is a subject that has occupied the minds of all honourable senators for a number of months now. There is nothing more important for the sake of public governance than ethical standards for those who are governed and those who govern.

Speaking to the U.S. Congress in 1961, President Kennedy said that no responsibility of government is more fundamental than the responsibility of maintaining the highest standards of ethical behaviour by those who conduct the public's business. He went on to state that the basis of effective government is public confidence, and that confidence is endangered when ethical standards falter or appear to falter.

We all know the origin of this bill, and we had an opportunity on the previous government motion to express ourselves on the appropriateness of this house, at this point in time, to legislate on ethics.

This bill is important because it is an institutional bill. It is not an administrative bill, nor is it a financial bill. It is an institutional bill that deals with one of the two Houses of Parliament and with the necessary independence of our house to be able to function effectively.

When the Fathers of Confederation agreed on the establishment of a Canadian Senate, they devised a very particular system. I would like to quote Sir John A. Macdonald cited in Professor Janet Ajzenstat's chapter in her book, “Protecting Canadian Democracy: The Senate You Never

Knew," which was released earlier this year. Sir John A. Macdonald had a most acute perception of the principles that should govern our house, the Senate. He said:

There would be no use of an upper house if it did not exercise...the right of opposing or amending or postponing the legislation of the lower house.

Our first Prime Minister went on to add, in respect of this chamber:

It must be an independent house...for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill considered legislation...

In that context, his thoughts were echoed by George Brown. George Brown was of exactly the same opinion. He said that the desire was to render the upper house a totally independent body, one that would be in a position to canvass dispassionately the measures of the House of Commons and stand up for the public interest in opposing any hasty or partisan legislation.

In other words, independence is one of the fundamental characteristics of this house. Honourable senators, this bill impinges on the independence of our house. It is important that, before we vote on it, we should, as the quote from Sir John A. Macdonald reminds us, give the impact of this bill some sober second thought.

This bill has a legitimate objective, as I mentioned earlier, which is to increase the trust and confidence of the public in our system of government. No senator will dispute that objective. However, if this bill is applied as it is drafted, it would weaken the independence of this house and the capacity of our house to exercise its constitutional role in relation to the study of legislation and the scrutiny of government.

We must not allow the principle of independence to be devalued. The architects of our Constitution were unambiguous on the kind of Parliament they envisaged for Canada. They very clearly, in the preamble of our Constitution, expressed the desire of the representatives of what was then British North America to be united under one dominion with a constitution similar in principle to that of the United Kingdom.

• (1550)

What does "similar in principle" mean in relation to the bill under consideration? It means that both Houses of Parliament in the new Dominion of Canada would have the same rights, powers and privileges as those enjoyed by the British House of Commons at the time of Confederation, including — and this is fundamental — that each House be the sole master of its internal affairs. Its origins predate the Bill of Rights of 1689. We must remember that struggle between the Commons and the

king over Parliament's capacity to rule its affairs, free from the meddling of monarchs and magistrates. This is a defining principle of Parliament. The Bill of Rights, 1689, is part of the law we received under the preamble of the Constitution Act, 1867. Article 9 of the Bill of Rights, 1689, is quite simple. It reads:

That the freedom of speech, and debates or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.

Honourable senators, this means that, when we exercise our duty to legislate, we have the fundamental right not to be impeached by, I quote, "any court or place out of parliament."

Article 9 has been discussed in many textbooks on the British Constitution and the Canadian Constitution. Essentially, it is the affirmation of control by Parliament — in this case, by the Senate — of its affairs, free from interference by the courts, often called "exclusive cognizance of parliamentary business." Thus, it is up to parliamentarians to decide how they will perform their duty.

Those who have studied the Bill of Rights, 1689, understand that Parliament must have sole control over all aspects of its own affairs, to determine its own procedures and the discipline of its members.

Indeed, acceptance by the executive and judicial branches of Parliament's undisputed right to make its own rules and procedures is on par with the right of legislators to freedom of speech. Clearly, honourable senators, parliamentarians must have freedom of speech, for if they cannot speak freely, there can be no Parliament. According to article 9 of the Bill of Rights, the control of our own affairs is as important as the principle of freedom of speech. This must be paramount in our minds when we examine this bill, which I am coming to now.

Bill C-34 has a legitimate objective, which is to ensure that we establish a balance between the public trust in Parliament and the privacy rights of its members. The bill should seek to reconcile those two objectives in proposing an approach to legislate ethics. The various clauses of this bill that deal with the Senate are few — not more than four pages. In reading the clause in respect of the appointment of the ethics commissioner, honourable senators will immediately conclude that something new will happen. That something new is the loss of control by this house of its internal affairs, owing to the appointment of the ethics commissioner.

In respect of this, proposed section 20.1 of the bill states:

The Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate.

Honourable senators, that means the government would consult with the leaders of the recognized parties, after which a resolution would be introduced. Following the adoption of that resolution, the ethics officer would be appointed.

What does this mean in practical terms? This house has dealt with the appointment of officers of Parliament on the nomination of the Prime Minister. The nomination is canvassed in internal caucuses and then its confirmation becomes a matter of confidence in the Prime Minister. Of course, there is also the whip, and what is the whip's argument? The Prime Minister wants it. If the Prime Minister wants it, then you vote for it. That has been my experience in the past.

What does "approval of the appointment by resolution" mean? It means that, of 105 senators, 53 senators must approve the appointment. What about the other 52 senators? What happens to those senators who do not agree with the appointment of the person to whom they will not only have to open their hearts but also their pockets and their files in an unprecedented way? There is no parallel in the professional private sector with the responsibility that this ethics officer will have. It will entail much more than the declaration in an income tax file, honourable senators. It may go beyond what one might even declare to his or her spouse, because, in our common law regime, each partner is the master of his or her own affairs.

Bill C-34 proposes, after consultation — which is not agreement — the appointment of an ethics officer that, in reality, as many as 52 senators may not want and in which they have no trust. I contend, honourable senators, that each one of us should have equal trust and equal confidence in the person with whom we will open our files.

The Governor in Council, which is the cabinet, would initiate the consultation and, through majority rule in this chamber, would impose the appointment. Honourable senators, this would impinge on our individual capacity to rule our own affairs.

In reading the bill, honourable senators will see that it takes the same direction. Proposed section 20.2 of the bill states that the Governor in Council may remove the ethics officer upon an address of the Senate. Thus, we are not even masters of the future role of the proposed ethics officer, should we lose confidence and trust. We would have to ask cabinet to remove the officer. Proposed section 20.2(2) states that, if that ethics officer is incapable or is absent, then it is the Governor in Council alone who finds a replacement, with no consultation and with no concurrence. In other words, a kind of tutorship of the Senate under cabinet rule who would be the temporary replacement. Proposed section 20.3(1) states that the government would establish remuneration for the officer.

Proposed section 70.06 of the bill —

The Hon. the Speaker *pro tempore*: Honourable senators, I regret to inform Senator Joyal that his time has expired.

Senator Joyal: Honourable senators, I would ask leave to continue.

Hon. Senators: Agreed.

[Senator Joyal]

• (1600)

Senator Joyal: Thank you, honourable senators.

I will try to conclude as soon as possible, and I will not take any questions so that we reduce the time of this house. It is not because I am afraid of taking questions, believe me — we will have other opportunities, I am sure, to continue the debate — but for the sake of the business of the house today, I will be brief.

Proposed section 72.06 of the bill as drafted puts our ethics officer under the control of the ethics officer of the other place in terms of his own conflict of interest guidelines. In other words, honourable senators, again I express my views that ethical standards are essential to maintain public confidence. However, that should not be at the expense of the capacity of the Senate to rule its own internal affairs unfettered by the Crown as enshrined in those fundamental principles that we have in our Constitution. We have the capacity to perform our duty as we see fit and proper on the basis of our own judgment on each bill and on each issue that is in front of us.

If we go back to the Oliver-Milliken report, we find that Oliver-Milliken saw that problem. Let me quote recommendation 2 of the report:

After consultation with the leaders of the recognized parties in the Senate and...such other persons..., the Speaker shall table a nomination in the Senate....

That is totally different from what is in this bill. The initiative comes from our Chair, and our Chair has to retain the confidence of this house. That recommendation comes from the Oliver-Milliken report. I think that it is a sound solution, which is why I have prepared an amendment to this aspect of the bill. The proposed amendment would read:

The Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate ethics counsellor.

Of course, I understand that we are at second reading so I cannot table an amendment, but that is the gist of my proposal — the Senate shall, by resolution and with the consent of the leaders of all recognized parties — so that the rights of the other side are protected. We may find ourselves on the other side 10 years from now, as we were 10 years ago, in the minority position. I would like to remind my colleagues of that.

It is a very important principle because once we go overboard with this, we lose control over the person who will be charged, for now, with giving us the advice — advice to which we will be bound. This is the first important element that we should balance in this bill before moving on.

Another aspect in this bill is of great concern to me. It is the section of the bill that provides that the ethics counsellor, or officer, will be acting under the privileges of Parliament. The Honourable Leader of the Government spent a great length of

time in her speech earlier this month trying to show that the future ethics counsellor will be acting within the confines of parliamentary privilege and, as such, will be immune from court intervention. I think this proposal of the government, unfortunately, does not meet the constitutional test.

What is the constitutional test? It is included in section 18 of the Constitution Act, 1867. What does section 18 say? It states, essentially, that we in the Senate enjoy the same privileges that, by act of Parliament, we can grant ourselves. However, one limit, one condition, is provided; that they do not exceed those that existed in the United Kingdom House of Commons at the time of Confederation.

What does that mean? It means that we, as a Parliament, can enact through legislation that the future ethics officer will be acting within the privileges of this house. That is to say, the court would not be able to review that. However, when we do that, when we legislate that, we have to ask ourselves: "What exists in the British House of Commons? Do they have those privileges?" The answer is no, they do not have those privileges.

I want to quote the joint committee of the House of Lords and the House of Commons, which released its report in 1999. That is not a long time ago. The Joint Committee on Parliamentary Privilege laboured for two years to review the status of parliamentary privilege in the British Parliament.

What did that committee have to say about the privileges over their own registry of interests? They have a commissioner of public standards, who would act on a similar basis to our proposed ethics commissioner.

The committee cited the 1990 case of *Rost v. Edwards* in its conclusion that the registry of interests, which is their version of the ethics commissioner, is not protected by privilege.

Let me quote the *Rost* decision:

This case, that since the register of members' interests was a public document, the court would not be astute to find a reason for ousting its jurisdiction, and, therefore, unless and until Parliament enacted that the register was privileged, the court will not rule against the admission of evidence on the practice and procedure for the registration of members' interests.

That is the status of the law of parliamentary privilege in Great Britain. If we legislate to protect the role and the status of our ethics commissioner, we cannot go beyond the historic rights of the British Parliament. This is so much so that the joint committee concluded in section 11 of their recommendations:

The registers of members' interests and related proceedings should be declared by statute to be proceedings in Parliament.

What does that mean? It means they recognize that they have not legislated, and since they have not legislated, we cannot legislate to give us the same protection. Honourable senators

might find it odd, but this is the status of the law. As long as they have not legislated, nor have we changed our Constitution, those are the parameters on our capacity to legislate in this regard.

Therefore, the proposed section of the bill that deals with the protection of the activities of our ethics officer is not protected. This is a fundamental point because, as honourable senators will remember, when we legislate on this we want to be sure that we maintain a fair distance with the courts and with the government, such that we can monitor our internal affairs.

• (1610)

Another aspect of this bill raises concerns. In the English version, proposed section 20.1 says:

The Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer...

In the English version of the bill, the word "officer" is used. The French version is quite different. In the French version, it says "conseiller sénatorial en éthique." We all know the difference between an officer and a counsellor. A counsellor is somebody who gives advice, whereas an officer is somebody who speaks with authority. In fact, *Carswell* — which is a legal dictionary — defines an officer as someone in a capacity of authority. That is different from a counsellor. A counsellor is someone from whom one asks advice. An officer is somebody who has the authority.

I contend that the proper concept is counsellor, not officer. In my humble opinion, honourable senators, the concept of officer, which is found at different places in the bill, is confusing. For instance, clause 20.4(3) of the bill states:

The Senate Ethics Officer may employ any officers and employees and may engage the services of any agents...for the proper conduct of the work of the office of the Senate Ethics Officer.

That it is not at all the concept of "officer of Parliament" we have been referencing. It is important, legally, if we accept the concept of a counsellor, that it be clearly stated in the bill.

[Translation]

We are referring to two completely different realities.

[English]

Even in the English text, it is confusing. What is the officer we are talking about? The word "officer" is used in clause 20.5 when it talks about carrying out the duties and functions of the office as members of the Senate. Everybody is an officer, and the officer employs officers.

Honourable senators who are familiar with legal text will recognize a discrepancy of concept. It is very important that we all have the same understanding in this bill.

Therefore, honourable senators, this bill needs some thorough, sober second thought, if it is to conform to the principles we want to serve. As it is currently drafted in the first section, all the weight is on the ethics officer; the senator has no status, no protection.

Senator Cools: That is right.

Senator Joyal: In its current form, the proposed legislation requires a senator to open his or her books, files, wallets and bank accounts, to disclose debts and assets. Hence, honourable senators, we must ensure that honourable senators trust the person with whom they will be dealing.

Honourable senators, there needs to be balance in this bill. The conversations and exchanges that take place between senators and the Senate ethics officer must be protected, and the bill should be amended in that regard. In other words, communications in confidence between senators and the Senate ethics officer, in the course of performing his or her duties, must be treated as privileged, in the same way that solicitor-client communications are treated in confidence.

In other words, honourable senators, when meeting with the ethics counsellor, a senator should be guaranteed the same confidentiality protections he or she would receive in a solicitor-client relationship. This it is very important, because there have been examples in the recent past of leaks, and we have read about them in the papers and the media. I do not think that any one of us would like to see that, especially at this very moment.

In order to protect the interests of senators, there should be a method to recognize that a senator who follows the advice and recommendations of the ethics counsellor complies totally with his or her responsibility under his or her ethical obligation. If there is an allegation outside the relationship between the two, the senator has totally satisfied his obligations.

We have laboured on this bill, or the concepts enshrined in it, for a long time, but I sincerely advise honourable senators that those issues are fundamental to the future of this chamber.

I want to repeat that I am not opposed to a code of conduct for senators. I am not opposed to an adviser for senators. I am not opposed to the fact that we would maintain the continuity of that function. However, I want to ensure that we in this chamber remain in control of the internal affairs that are so fundamental for the maintenance of our capacity to perform our constitutional duty. If we are to assume some obligations that are exceptional, we need some protection so that the two objectives are fairly balanced.

Honourable senators, I know I have spoken at length this afternoon. The legal text of what I have been proposing will be circulated. There is an opportunity here, honourable senators, to improve this bill in a way that the fundamental objectives are met and fully satisfied in the full respect of equality and trust that each one of us in this chamber should enjoy and, of course, protect.

Hon. Joan Fraser: Honourable senators, it is always a hard act to follow Senator Joyal. Senator Joyal himself followed Senator Oliver, who is another hard act to follow in these matters. Nonetheless, I should like to use this opportunity, if I may, to explain to honourable senators why I support this bill — not just the principle of it but the actual fact of it.

As I have said a number of times before, the creation of a modern ethics regime for the Senate is an idea whose time has come. I believe that that is what modern legislatures need to do, including this one. It is one of the essential steps we need to take to maintain public confidence in the integrity of our institution.

• (1620)

This bill is a crucial first step in that process. It is, however, only a first step. Let us be very clear about what this bill does and what it does not do.

Bill C-34 does not set up an ethics regime. It provides, as far as the Senate is concerned, for the establishment of a Senate ethics officer, but it does not even say what his job will consist of because we, and only we, are the ones who will decide that.

As an aside, I will make a note following from Senator Joyal's interesting comments about the word "officer." For those senators who are not aware of the discussions in the Standing Committee on Rules, Procedures and the Rights of Parliament last spring, the word "officer" is there because it is taken directly from the unanimous report of the Rules Committee. The Rules Committee used the word "officer" because it was casting around for a word that would be completely neutral. We did not want to talk about a "commissioner" or use any number of other words because we wanted to ensure that we were not conveying independent authority on this person that would erode the rights, privileges and independence of this chamber. Therefore, we came up with the word "officer."

The drafters of this bill, who, as the Leader of the Government has pointed out, worked hard to accommodate all of the Senate's points in that report, included that word. That was the word of the Rules Committee. There is nothing mysterious or nefarious about it at all.

I have heard some senators suggest that we do not actually need to act in this field immediately because there is no problem. We do not have an ethics problem in the Senate, therefore, there is no need to act.

I think that is true. We do not have an ethics problem in the Senate. I am proud to serve with colleagues in this chamber, as I know we all are. However, I would suggest that there is no better time to act than precisely when there is no problem because it is when there is no problem that one can examine issues in a dispassionate manner, rather than making decisions based on reaction to a specific circumstance. That may not result in wise decisions and would likely be perceived by the public as defensive, rather than dispassionate and dedicated to the integrity of government.

This proposal, as has been noted, has changed a great deal in the year since it first came to us. It has changed for the better in large measure because of the Senate. We pointed out serious problems with the original proposition, and we were heard.

Honourable senators, the most important single change from our point of view is that this proposal no longer lumps the Senate in under a general ethics regime. It gives us full control over our own separate and independent ethics regime. That is vital. I know that every senator cherishes that which Senator Joyal so rightly called the necessary independence of our house. That was an essential change, and it has been made.

Some senators, however, have serious, legitimate concerns — the issue is serious — about the unintended consequences of providing for an ethics officer through a statute rather than through a resolution of this chamber. As Senator Joyal has so eloquently suggested, some senators fear that, in so doing, we would create the risk of erosion of our privilege, rights and independence through intervention by the courts.

It is a serious matter. It is a serious question and one that we have to look at carefully. I have tried to do so.

Let me tell honourable senators why, after considerable reading and reflection both in the Rules Committee and on my own, I have come to the conclusion that I do not share these concerns in the context of this bill.

First, honourable senators, there is in fact nothing new about having the courts examine the nature and extent of parliamentary privilege. They have been doing that not for decades, but for nearly two centuries —

Senator Cools: Nonsense!

Senator Fraser: The main case that set the standards in these matters was *Stockdale v. Hansard*, which was decided in 1839. In *Stockdale v. Hansard*, a British court confirmed that it had the right to examine the extent of privilege. It stated — and this is an interesting point — that it was not sufficient for the House of Commons alone to determine what parliamentary privilege is, which would presumably apply *mutatis mutandis* to the other House of Parliament. That suggests to me that we might be on shakier ground simply passing our own resolution than we would be by adopting a statute that had been formally debated and passed by the whole of Parliament — the House of Commons, the Senate and the Crown.

However, the main point is that we cannot evade the notion that courts will examine how far our privilege runs. It is inescapable. They will. That is what courts do. Courts examine legal matters.

The question then is: Are we doing this in a way that will protect our privileges? It seems to me very clear that we are.

I shall quote from the text of the bill, proposed section 20.5(1):

The Senate Ethics Officer shall perform the duties and functions assigned by the Senate...

No other duties and functions are assigned to the Senate ethics officer other than those duties and functions that we, after deliberation, decide to assign to the ethics officer. I read from the bill again.

20.5(2) The duties and functions of the Senate Ethics Officer are carried out within the institution of the Senate. The Senate Ethics Officer enjoys the privileges and immunities of the Senate and its members when carrying out these duties and functions.

That is a clear assertion of privilege in a statute.

20.5(3) The Senate Ethics Officer shall carry out those duties and functions under the general direction of any committee of the Senate that may be designated or established by the Senate for that purpose.

20.5(5) For greater certainty, this section shall not be interpreted as limiting in any way the powers, privileges, rights and immunities of the Senate or its members.

Honourable senators, it seems to me that we have not just a belt and suspenders but a belt and suspenders and buttons and zippers. Several sets of safeguards have been established over and over again, unmistakably.

The structure that is proposed here — the establishment in statute of an ethics officer who then advises or works under the direction of a legislature — is not some new or novel concept that was dreamed up the other day in an Ottawa office. It is the structure that exists in almost all the provinces. The mere fact that the provinces do it does not mean we should do it, but it does mean that there is a body of history that we can examine to see how it works. Indeed, the Rules Committee heard from some provincial and territorial ethics commissioners. They were clear that in their experience, both in practice and before the courts, parliamentary privilege has not been eroded in any way by the fact that the position was created by statute.

• (1630)

The *Roberts* case in the Northwest Territories, to which Senator Oliver referred yesterday, did not involve the activities of the ethics officer. It dealt with the way in which the Northwest Territories decided to fire their ethics officer. The courts concluded that the government had not followed the established procedures for firing him. They did not say, "You cannot fire him," but they did say, "You've got to do it the way you said you were going to do it." That is very different from saying parliamentary privilege is eroded and Parliament can no longer decide its own fate, rules and practices.

It is perhaps worth quoting a passage from one of the key cases cited often in these matters, the *Tafler* case in British Columbia. The British Columbia Court of Appeal said that it was noteworthy, first, that the commissioner was an officer of the assembly; second, that the commissioner's obligation was to report his opinion to the assembly, and, thereafter, if he considered it proper to do so, to make a recommendation with respect to discipline of the member, but not himself to reach any enforceable decision. The court said that the actual decision on any question of conflict of interest is made by the assembly itself.

If we, in step two of our process of establishing an ethics regime, just instruct our ethics officer — once we have one — that he or she make no decisions, but simply report to the Senate and leave the decisions to the Senate, we would be doing exactly what was set out in *Tafler*, and our privileges would, as far as I can see, remain utterly unimpeded.

Incidentally, the *Tafler* case was decided in 1998. As a recent case, I think it is quite pertinent.

I believe we will have an ethics officer who will do what we tell him or her to do; and what we will tell him or her to do, I trust, is give us advice, make recommendations, but make no decisions. Thus, we would preserve what all authorities, whether they be jurists, political scientists or simple parliamentarians, agree is our own undisputed right to make and enforce our own rules.

However, I repeat, that is step two. Step one is to pass a bill that has a provision for the appointment of an ethics officer. Then he or she will do what the Senate tells him or her to do. I see no danger at all to us in adopting such a system. In fact, I see great advantages in adopting it.

Canadians have seen Parliament come to the brink on this matter so many times, and they have become very cynical about the fact that we have never appointed an ethics commissioner. It is time for us to do it.

This is a simple bill, as far as the Senate is concerned, but it has been the subject of a year's discussion in this place. It has been passed by the other place. Honourable senators, this is not a rush to judgment, but it is time for us to move forward.

Hon. Anne C. Cools: Would the honourable senator take a question?

The Hon. the Speaker: You have one minute.

Senator Fraser: I will take one minute's worth of questions.

Senator Cools: Could the senator tell us what process this Senate can use to ensure that the government brings us ethical legislation to vote upon? Many in this chamber do not believe that this particular ethics bill is an ethical bill.

Senator Fraser: Honourable senators, all senators have the right and the duty to reach their own conclusions. It is my conclusion that this is an extremely ethical bill. However, in this or any other case, if we do not approve of what anyone — be it the government

or a private member — proposes, then we consider the legislation in that light. This legislation, in my view, passes the test with flying colours.

Senator Cools: Would the honourable senator tell us why this bill —

The Hon. the Speaker: I regret to advise that Senator Fraser's time has expired.

Senator Cools: The honourable senator could ask for more time. We would be pleased to continue the debate.

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

[Translation]

AMENDMENTS AND CORRECTIONS BILL, 2003

SECOND READING—SPEAKER'S RULING

On the Order:

Second reading of Bill C-41, to amend certain Acts.—(*Speaker's Ruling*).

The Hon. the Speaker: Honourable senators, yesterday, when Bill C-41 was called to begin second reading debate, Senator Lynch-Staunton promptly rose on a point of order to challenge the procedural acceptability of the bill in its current form.

[English]

The basis of the senator's challenge, as he explained it, has to do with the bill's title, which he claimed was inadequate. Citing various Canadian and British parliamentary and legal authorities, the Leader of the Opposition maintained that the current long title of Bill C-41, "An Act to amend certain Acts," is defective because it is not sufficiently descriptive to cover all that the bill actually seeks to accomplish. As the senator stated, the language used in the long title of this bill does not give anyone any sense of what is being amended or corrected.

Equally problematic, according to the senator, is the fact that the bill proposes to amend a regulation and that it also has attached to it a Royal Recommendation signifying the authorization of expenditures from the Consolidated Revenue Fund.

Given the situation, the only appropriate course, in Senator Lynch-Staunton's view, is to withdraw the bill and introduce a new one with a more accurate long title.

By way of reply, Senator Carstairs maintained that the title of Bill C-41 was indeed sufficient and that its table of provisions makes it clear which acts the bill purports to amend. The Leader of the Government also referred to previous bills similar in nature to this one which had titles that did not indicate all the

[Senator Fraser]

miscellaneous statutes they were amending. The senator concluded by stating that there is no authority for the assertion that the title must be relevant to each and every clause, and there is no authority to sustain the alleged point of order.

In a subsequent intervention, Senator Carstairs cited, as a relevant precedent, a bill considered in the previous session, Bill C-40, which, as the senator explained, amended or repealed 37 statutes, none of which was mentioned in the title of the bill, which was "An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the statutes of Canada and to repeal certain provisions that have expired, lapsed or otherwise ceased to have effect."

Senator Cools also participated in the exchange on the point of order to generally support the position taken by Senator Lynch-Staunton.

[Translation]

I wish to thank the honourable senators who spoke to this point of order. I have taken the time to review Bill C-41 and to consider the arguments, precedents and authorities that were mentioned. I am now prepared to make my ruling. In doing so, I am particularly conscious of the need to avoid delving into any questions of law that are beyond the scope of my authority as Speaker. Nonetheless, I have had to look into elements of Bill C-41 in order to properly consider the arguments that were presented on the point of order.

[English]

Following what I understand to be established drafting conventions, Bill C-41 has two titles: a long title and a short title. The long title is "An Act to amend certain Acts," and the short title is the "Amendments and Corrections Act, 2003." Both are meant to be descriptive of the purpose of the bill. In recent years the length of the long and short titles has varied and, on occasion, we have seen bills in which the short title was actually longer and more descriptive than the long title. While it is admitted that a title is important with respect to determining the scope of a bill and the amendments that can be proposed with respect to it, this can be somewhat less important in the case of amending bills intended to correct a battery of statutes. This is because amending bills do not have the same integrity as a bill that constitutes an original act. Once enacted, the content of an amending bill is absorbed into the various acts to which it applies. The amending bill, as an act, has no independent existence. Its title, therefore, has a limited value.

• (1640)

According to the authorities cited by Senator Lynch-Staunton, the long title should set out, in general terms, the purpose of the bill and it should cover everything in the bill. The senator argues that with respect to Bill C-41, the long title fails to meet this requirement and is, therefore, procedurally defective. Whatever the merits of this claim, I am not certain that I have the authority as Speaker to rule the bill out of order on this basis.

I say this for several reasons. It is agreed that the general purpose of the bill is to amend certain acts. In this case, the question seems to be how specific the general terms must be. Given the uneven practice of long and short titles, particularly with respect to these omnibus amending bills, I do not feel that I can make that determination.

In addition, the remedy of withdrawing a bill belongs to the Senate rather than to me as Speaker. In this instance, however, we are dealing with a House of Commons bill, not a Senate bill. We cannot overlook the fact that this bill has already been debated and passed in the House of Commons. As Senator Lynch-Staunton has acknowledged, it is possible to amend the bill in its title if the Senate determines that this is appropriate.

Furthermore, as Senator Carstairs pointed out, Bill C-41 has a detailed table of provisions that constitutes a list of all the acts being affected by the bill. It may be that this table will be a feature for this kind of legislation to make up for any descriptive inadequacies of a bill's title. In any case, I do not think that this feature can be ignored.

Senator Lynch-Staunton raised two other issues in addition to the problem of the title in presenting his point of order. Though do I not believe they are determinative, I do feel it is appropriate to address them in this case.

The first issue is the matter of the Royal Recommendation that has been attached to the bill. In my review of the bill, I can point to at least one explanation for it. Clause 20 of the bill seeks to replace the position of the Executive Director of the Round Table on the Environment and the Economy with a president. Clauses 21 and 22 provide for remuneration and expenses of this replacement position, which requires a Royal Recommendation since the funds previously paid to the executive director and now allocated to the president are public monies.

Senator Lynch-Staunton also mentioned the fact that Bill C-41 amends some regulations. What clause 28 does is to change the effective dates of the enforcement of the regulations enforcement. The bill proposes to set the effective date for the regulations back from January 2003 to April 1998. There is another provision in the bill, clause 24.1, that does the same thing with respect to a regulation under the Parliament of Canada Act. The regulations per se are not being changed, only their coming into force date. This kind of change cannot be done by regulation; it must be done by statute.

For these reasons, it is my ruling that the point of order is not well founded and it is no impediment to moving the motion for second reading of Bill C-41.

POINT OF ORDER

Hon. Terry Stratton: Honourable senators, I rise on a point of order in respect of other issues relating to the form of Bill C-41 before this chamber. I would note at the outset, citing Beauchesne's 6th Edition, page 195, citation 636, that the Standing Orders in the other place do not even permit the introduction of a bill that is in either blank or imperfect shape. The specific reference is to Standing Order 68(3), which states:

No bill may be introduced in either blank or in an imperfect shape.

At citation 638, Beauchesne's goes on to state:

The Speaker has ordered the alteration of a bill to correct errors contained in the bill, but in doing so noted that the errors did not affect "the essence, the principles, the objects, the purposes or the conditions" of the bill.

That citation later states:

...Those who are responsible for such errors should take no comfort that future mistakes can be similarly cured.

In this instance, honourable senators, the bill cannot be cured by an order of the Speaker, if for no other reason than that the bill has come too far in the legislative process and such an order would necessarily constitute an amendment to the bill requiring the concurrence of the other place.

The short title of this bill is irredeemably flawed, meaning that the bill is in an imperfect shape and cannot be readily corrected. The solution is for the bill to be withdrawn or returned whence it came.

The short title of this bill is the "Amendments and Corrections Act, 2003," a short title that I would point out to the Senate is, in fact, longer than the long title of the bill, at least in number of characters if not in number of words. Quite apart from this flaw, an act that amends other acts should not have a short title at all. This is clearly stated in Beauchesne's at citation 627(2):

Short Title — The short title, under which the Act is cited amongst the statutes, is set out in the final clause: "This Act may be cited as the...." Acts to amend Acts do not have short titles.

Senator Lynch-Staunton, in his point of order yesterday, quoted former Deputy Minister of Justice Elmer Driedger, who also confirms that amending acts do not have short titles. At page 154 of his book entitled *Composition of Legislation, Legislative Forms and Precedents*, 2nd Edition, he writes:

Amending acts do not, as a rule, have short titles, the reason being that under the terms of the Interpretation Act they are to be construed as one with the Act amended thereby, and there is rarely an occasion for referring independently to the amending Act.

I would also like to speak to the question of the content of Bill C-41. Is there any unifying theme in this omnibus bill that would tie the bill together such that it is not inherently offensive to the legislative process? Yesterday, the Leader of the Government in the Senate listed each of the acts that the bill proposes to amend. She stated: "In fact, Bill C-41 is a technical corrections bill." What are these technical amendments and how, if at all, are they related?

First, we have a series of amendments to sections of the Canada Customs and Revenue Agency Act that change the title "commissaire adjoint" to "commissaire délégué."

Next, there is an amendment to the Customs Act to correct a missing reference to Costa Rica in the French text. Could the unifying theme be miscellaneous corrections to errors and omissions in the French text of the bills? No.

The amendments to the Financial Administration Act make some technical alterations in both languages. The importation of the Intoxicating Liquors Act changes a reference to a section to a reference to a list, which simply makes the matter a little clearer.

There is a lengthy sequence of amendments to the Lieutenant Governors Superannuation Act, constituting one-half of Bill C-41, with amendments to the Salaries Act also in relation to former Lieutenant Governors. The list goes on and on. The only unifying theme, although I hesitate to label it as such, is that amendments are being made.

Honourable senators, if these amendments are of a minor or relatively inconsequential nature, they ought to be included in the existing process under the rubric of a miscellaneous statute amendment act. Otherwise they ought not to be jumbled together in this disjointed, unconnected and unrelated omnibus form.

As the Deputy Speaker of the House of Commons stated in his ruling on May 6, 1971:

It is of course a matter of judgment in each case as to when a bill offends to the point that it should be ruled as unacceptable because it contains disparate matters.

• (1650)

Honourable senators, we have a case before us in which there is no visible connection or relationship between the clauses of a bill and the statutes that it amends. If Bill C-41 does not offend to the point at which it ought to be ruled unacceptable, it is hard to imagine a bill that would do so. This bill cannot and ought not to be saved in its present guise. It is fundamentally flawed in both structure and form. It should be withdrawn or simply returned to the other place.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am amazed to hear this point of order, which sounds to me more like an appeal of the Speaker's judgment than a new point of order, but so be it.

The first basis upon which the intervention was made was that it somehow or other offended the standing orders of the other place. Honourable senators, we are not bound by the standing orders of the other place. If it offended the standing orders of the other place, the other place was the place for the point of order to have been raised. They clearly did not raise such a point of order, and the bill passed all stages in the other place.

As to the arguments respecting the short title, I think the Speaker has already dealt with those.

Regarding the final point about a unifying theme, I would remind honourable senators that this is exactly what miscellaneous statute law amendments and technical corrections bills do. A technical corrections bill encompasses a variety of amendments to legislation, some controversial. Other amendments of a non-controversial nature are dealt with in a miscellaneous statute law amendment bill. The Senate deals with these on a fairly regular basis, and I think we should deal with this one with dispatch.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, this is not a miscellaneous statute law amendment bill. Is the Leader of the Government suggesting that this resembles a bill to amend miscellaneous statute law?

Senator Carstairs: No, honourable senators. Yesterday I clearly made the distinction between a miscellaneous statute law amendment bill, which is submitted in draft form, and a bill that encompasses amendments of a controversial nature. Those are removed by the committee studying the bill. The result is that those amendments of a controversial nature are lumped together in a technical corrections bill. That is done with the understanding that, when a technical corrections bill is presented in this chamber, it will be recognized that there may be some amendments of a controversial nature in the bill, and that it deserves the careful consideration of senators.

Hon. Anne C. Cools: Honourable senators, I have just a few minor points. My understanding is that omnibus bills are in order, and that their purpose may be to amend many statutes. However, there must be a common theme running through the amendments to tie them together in a bill. A long time ago during the debate on free trade I remember that Herb Gray, in the other place, made a definitive statement about the need for proposed amendments in omnibus bills to have a consistent theme that ties them together. In other words, the bill has to be intelligible to members of Parliament. As a member of the opposition at the time, I remember the strong position that our side, the Liberal side, took with respect to the Free Trade Agreement.

I should also point out that there are precedents in this chamber for the Speaker to withdraw bills. I have not researched this point, since it was sprung suddenly upon me, but I recall my private members bill on the Homolka-Bernardo situation and, at the behest of Senator Carstairs, a point of order was raised. His Honour the late Speaker Molgat ordered that bill be withdrawn from the Order Paper and declared it out of order. I remember at the time thinking that it was a rather strident action. However, the precedent is in place. One must be mindful that the Speaker of this chamber has taken such actions before.

Some weeks ago, I argued in this chamber that every act does not make a precedent, and some single acts can be bad practice, and I was overruled on that. It seems to me that we are now in a state of affairs where, if something happens once, the fact that it has happened at all sets a precedent. Honourable senators, I argued that some weeks ago when I argued that the splitting of Bill C-10 was based not on true precedents but on a bad practice. At the time, I was overruled, so obviously there is a precedent. If

His Honour wanted to apprise himself of that, he may look up the record. I have records of it myself in my office and would be happy to furnish those to him.

Coming back to the main substantial point, there is no doubt, honourable senators, that the sheer weight of legislation that is coming before us, the pace at which it is coming and the enormity of it is causing me considerable distress. Perhaps the government should admit that the time frame is too short, the load is too heavy and the program simply cannot fit into the time available. It simply is not possible to run a leadership convention and manage a heavy legislative program simultaneously. If the government were to ease off on its timetable, some pressure would be relieved and more care could be given to these bills. Bill after bill is being introduced here, many of which are questionable. Some months ago, we found many mistakes in Bill C-24, the party financing bill. Hence, care has to be taken in dealing with these bills.

The Hon. the Speaker: Senator Cools, I understand your views on this particular point of order, and I thank you. If no other senators wish to speak, I shall take the matter under consideration and bring a ruling back as soon as possible.

CANADIAN FORCES SUPERANNUATION ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Jack Wiebe moved the second reading of Bill C-37, to amend the Canadian Forces Superannuation Act and to make consequential amendments to other Acts.

He said: Honourable senators, another title for this particular piece of legislation could be the "Armed Forces Pension Modernization." The Canadian Forces Superannuation Act was introduced well over 40 years ago and has seen several changes and improvements over the years. However, there have been no major amendments to the pension legislation for Canada's military for more than 30 years, with the exception of some amendments that were brought in 1999 as part of the pension reform of the federal public service.

The 1960s were certainly different from today, and new issues have arisen, issues that oblige us to look closely at the military pension legislation and to start working towards its modernization.

• (1700)

One significant challenge that has arisen in recent years is recruitment and retention in the Canadian Forces. When the military's pension plan was first implemented, our society was quite different. At that time, it was assumed that the Canadian Forces could draw from a large number of potential recruits. The act was therefore designed with a view to supporting the force's profile and human resource realities of that time. In effect, it was a different Canadian force defending a different Canada.

Today, the job market has changed significantly and recruitment has become more difficult for the military. Families are getting smaller, the population is aging, and enrolment in post-secondary education is increasing, all of which means a smaller pool of potential recruits for the Canadian Forces. Competition for skilled workers is intense and the employment opportunities available to people with the right skills are better now than ever.

In response to this pressure, the Canadian Forces has taken, and is continuing to take, action to become an employer of choice. Pension modernization is part of this process. To compete in the current job market, the Canadian Forces must be able to offer a comprehensive benefits package, one that is on par with packages offered by other employers.

The Canadian Forces needs a pension plan that acts as a strong incentive to potential recruits. They need a modern system with a more flexible and responsive pension arrangement, arrangements that give military personnel more control and choice over their career paths and personal financial planning.

Honourable senators, modernizing the Canadian Forces pension arrangements is about more than recruitment and retention. It is about ensuring a high quality of life for the men and women of the Canadian Forces.

Great strides have been made in improving the quality of life of our military personnel. A modern flexible and effective pension plan is one of the many ways that we can ensure that the Canadian Forces members and their families will be well compensated for their dedication to Canada.

The amendments contained in this bill represent another positive step toward that goal. Honourable senators, our Armed Forces personnel deserve nothing less.

The bill before us will modernize military pensions through a series of amendments to the Canadian Forces Superannuation Act. For example, Bill C-37 provides greater flexibility for members in building their pension incomes by basing calculations on total pensionable service, rather than on completing a term of engagement. The bill shortens the period of time required to qualify for a pension benefit, from ten years to two years. Bill C-37 improves both pension portability and pension benefits for survivors. A final but important point, and I find this very exciting personally, the bill provides pension coverage for reservists. Honourable senators, we all recognize the outstanding contributions that our reservists make to Canada and to the Canadian Forces. We have a duty to ensure that their service is appropriately recognized.

As a first step, the reserve force retirement gratuity was introduced in 1997. This provides a lump sum benefit to encourage and reward long service with the primary reserves. However, the Standing Senate Committee on National Security

and Defence along with the House of Commons Committee on National Defence and Veterans Affairs, and many others, have continued to call for the implementation of a real pension plan. Pension modernization sets the groundwork for doing precisely that.

The amendments set out in Bill C-37 will mean that long-term, full-time reservists and their regular force counterparts will have equivalent pension arrangements. This bill also lays the foundation to develop a pension plan for our part-time reservists.

The Minister of National Defence has said, concerning this bill, that pension modernization will not require new funding from the Department of Defence programs. Any cost increases are related to the implementation of initiatives that were approved, as I mentioned earlier, by the 1999 pension legislation. The cost for these initiatives has already been earmarked in the fiscal framework.

The chief actuary of the Office of the Superintendent of Financial Institutions estimated that the other changes contained in Bill C-37 would not result in cost increases but might in fact result in modest savings.

To conclude, honourable senators, I should like to emphasize two key reasons why this proposed legislation is critical for our military and, by extension, for all Canadians. First, the proposed changes will help the Canadian Forces in the essential areas of recruitment and retention by making the Canadian Forces an employer of choice. Second, the bill will provide the basis for a pension plan that better meets the needs of both regular and reserve force members and their families, a plan that guarantees they will get the benefits they need and deserve.

For these reasons, honourable senators, I sincerely hope that you will support this piece of legislation.

On motion of Senator Atkins, debate adjourned.

[Translation]

PARLIAMENT OF CANADA ACT

NOTICE OF MOTION FOR TIME ALLOCATION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is my duty to inform the Senate that it was not possible to come to an agreement on how many days or hours would be allocated to complete second reading debate on Bill C-34.

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

That, pursuant to rule 39, not more than a further six hours of debate be allocated for the consideration for second reading of Bill C-34, An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the second reading of the said bill; and

That any recorded vote or votes on the said question be taken in accordance with rule 39(4).

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it was agreed earlier that all items after Government Business should stand, except Item No. 1 under Commons Public Bills, that is, Bill C-212.

USER FEES BILL

SECOND READING

On the order:

Resuming debate on the motion of the Honourable Senator Stollery, seconded by the Honourable Senator Cools, for the second reading of Bill C-212, respecting user fees.—(*Honourable Senator Kinsella*).

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, having read the bill and in his absence, I am authorized by Senator Kinsella to inform the Senate that he does not object to the bill being referred to committee.

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

REFERRED TO COMMITTEE

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

On motion of Senator Day, bill referred to the Standing Senate Committee on National Finance.

The Senate adjourned until Thursday, October 23, 2003, at 1:30 p.m.

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