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(HANSARD)

Thursday, February 26, 2004

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Thursday, February 26, 2004

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

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore***:** Honourable senators, I would like to draw your attention to the presence in the gallery of George Bowser and Rick Blue, Canada's number one musical comedy duo. They have been writing and performing music and comedy together for more than 20 years. They are recipients of the Du Maurier Council for the Performing Arts "Special Merit Award," recipients of the COCA Entertainer of the Year Award, and twice recipients of the Best in Comedy and Variety on Campus Award.

On behalf of all honourable senators, I welcome you both to the Senate of Canada.

As well, honourable senators, I would like to draw your attention to the presence in the gallery of Ms. Lisa Freedman, Clerk of Committees at the Legislature of Ontario, who is on attachment to the Senate Committees Directorate for 10 days. She is meeting with members of the legislative sector to discuss many areas of mutual interest to the Senate and to Queen's Park.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

[*Translation*]

SENATORS' STATEMENTS

HEALTH

FEDERAL FUNDING IN SUPPORT OF FRANCOPHONE SERVICES, TRAINING AND RESEARCH

Hon. Rose-Marie Losier-Cool: Honourable senators, I would like to draw your attention to a recent announcement by the federal government that has not, I think, received enough publicity. On Monday, February 23, the Honourable Pierre Pettigrew, federal Minister of Health, Minister of Intergovernmental Affairs and Minister responsible for Official Languages, and his colleague Mauril Bélanger, Deputy Leader of the Government in the House of Commons — my counterpart in the other place — announced five-year funding of over $25 million for three organizations in the nation's capital that defend the right of access to health care in their own language for francophones in minority situations.

The University of Ottawa will receive over $17.5 million to train more students in medicine and related fields; La Cité Collégiale will get over $4.1 million to improve and extend its training programs; and the Consortium national de formation en santé will get over $3.3 million to encourage recruitment, training and research in French in the health care field.

Three of my fellow New Brunswickers are heavily involved in the Consortium: Mr. Yvon Fontaine, Rector of the Université de Moncton; Dr. Aurel Schofield, coordinator of French-language medical training in New Brunswick; and Mr. Pierre LeBouthillier, CEO of the Corporation hospitalière Beauséjour in Moncton.

The $25 million in funding announced on Monday proves that the federal government cares about minority francophone communities. This financing is only one part of the $63 million that is to be spent over the next five years by the Contribution Program to Improve Access to Health Services for Official Language Minority Communities. This program was announced in the 2003 budget.

[*English*]

UNITED NATIONS

FORTY-EIGHTH SESSION ON STATUS OF WOMEN

Hon. Mobina S. B. Jaffer: Honourable senators, from March 1 to 12, the United Nations will hold in New York their forty-eighth session on the Commission on the Status of Women. Canada is proud to send a dynamic delegation under the leadership of Minister Jean Augustine.

The UN Commission on the Status of Women was created to prepare recommendations and reports to the UN Economic and Social Council on promoting women's rights in political, economic, civil, social and educational fields. The commission will focus on two themes this year: the role of men and boys in achieving gender equality; and women's equal participation in conflict prevention, management and conflict resolution and in post-conflict peace building.

The second theme of women, peace and security goes hand in hand with the United Nations Security Council Resolution 1325. Resolution 1325 is a landmark document that clearly recognizes the distinct impact of war and conflict on our men, women and children. In acknowledging how war affects men, women and children in different ways, resolution 1325 calls for women's full and equal participation in the peace processes and, of course, specific protection for the rights of women and girls.

The resolution is a commitment made by the United Nations and member states to take action on the issues of women, peace and security. Women's organizations and peace groups around the world are working to hold their governments accountable in the implementation of resolution 1325.

Honourable senators, this resolution has already made a difference in women's lives. It resonates on the ground with women who are surviving conflict and building peace. Madam Claudine Tayaye Bibi from the Democratic Republic of Congo, who was presented to the Senate last October, said to me that she does not feel peace when the guns stop. She feels peace when her voice can be heard, and that is what resolution 1325 does. It provides a voice for women who are otherwise silenced by war.

Ms. Bibi is from the Democratic Republic of Congo, a country devastated by war and the intervention of regional powers.

• (1340)

As an educator and activist, she recently co-organized a 10,000-strong march calling on the Congolese government to implement the Pretoria peace agreement and to include women in any implementation efforts.

It is through her work that resolution 1325 becomes a reality. By bringing women together next week in New York, not only can we benefit from the knowledge of outstanding women like Madame Tayaye-Bibi but the governments can also share their lessons learned in the implementation of resolution 1325.

I look forward to sharing the outcome of this incredible event, and I encourage honourable senators to contact me if they wish to have further information on the Commission on the Status of Women or the Canadian Committee on Women, Peace and Security.

[*Translation*]

QUEBEC

MONTREAL—RESTORATION OF ST. JAMES UNITED CHURCH

Hon. Marisa Ferretti Barth: Honourable senators, it is a pleasure to talk to you about St. James United Church. Built on Ste-Catherine Street West, in the heart of Montreal, in the 19th century and inspired by the great French Gothic cathedrals, it is considered one of Canada's finest treasures.

In 1926, however, the institution needed a great deal of capital to survive. Over a period of 10 to 15 years, commercial businesses, several stories high, were temporarily erected, completely obscuring the church's facade and its beauty. These temporary buildings remained for over 75 years. To our discredit, we totally forgot about part of our heritage: the magnificent facade of the church was hidden from view.

Today, nearly 75 years later, thanks to the work of provincial and municipal governments and the private sector, the church's facade will be uncovered and we will finally be able to look upon this majestic building.

This brings me great pleasure. I think that it will bring great pleasure to Canadians, Quebecers and tourists alike. I applaud all those who worked to restore St. James Church as a historical monument. Its ornate towers, its great rose window and its numerous gargoyles will be the pride of Montreal and a delight for tourists.

[*English*]

ROUTINE PROCEEDINGS

REPRESENTATION ORDER 2003 BILL

REPORT OF COMMITTEE

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, February 26, 2004

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SECOND REPORT

Your Committee, to which was referred Bill C-5, respecting the effective date of the representation order of 2003, has, in obedience to the Order of Reference of Friday, February 20, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

GEORGE FUREY
Chair

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

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

USER FEES BILL

REPORT OF COMMITTEE

Hon. Lowell Murray, Chair of the Standing Senate Committee on National Finance, presented the following report:

Thursday, February 26, 2004

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

SECOND REPORT

Your Committee, to which was referred Bill C-212, respecting user fees, has, in obedience to the Order of Reference of Wednesday, February 11, 2004, examined the said Bill and now reports the same with the following amendments:

1. Page 1, clause 2:

(*a*) Replace lines 8 and 9 with the following:

““Committee” means, in respect of each House of Parliament, the appropriate standing committee of that House.”;

(*b*) Replace line 17 with the following:

““Minister” means the appropriate minister, as defined in section 2 of the *Financial Administration Act*, who is responsible for”;

(*c*) Replace lines 21 to 23 with the following:

“body mentioned in Schedule I, I.1 or II to the *Financial Administration Act* that has the power to fix a user fee under the authority of an Act of Parliament. Where the Act gives that power to the Governor in Council or a Minister, it means the body proposing the user fee.”; and

(*d*) Replace lines 25 to 28 with the following:

“product, regulatory process, authorization, permit or licence, facility, or for a service that is provided only by a regulating authority, that is fixed pursuant to the authority of an Act of Parliament and which results”.

2. Page 2, clause 3: Replace lines 1 to 9 with the following:

“**3.** (1) This Act applies to all user fees fixed by a regulating authority.

(2) This Act does not apply to a user fee fixed by one regulating authority and charged to another.”.

3. Pages 2 and 3, clause 4:

(*a*) *Page 2:*

(i) Replace lines 29 to 31 with the following:

“(*e*) establish an independent advisory panel to address a complaint submitted by a client regarding”, and

(ii) Replace lines 34 and 35 with the following:

“to those established by other countries with which a comparison is relevant and against which the”; and

(*b*) *Page 3:*

(i) Replace lines 2 and 3 with the following:

“Minister must cause to be tabled in each House of Parliament a proposal”,

(ii) Replace line 4 with the following:

“(*a*) explaining in respect of what service, product, regulatory process,”,

(iii) Replace lines 9 to 12 with the following:

“(*c*) including the performance standards established in accordance with paragraph (1)(*f*), as well as the actual performance levels that have been reached;”,

(iv) Replace line 17 with the following:

“the costs that the user fee will cover; and

(*e*) describing the establishment of an independent advisory panel in accordance with paragraph (1)(*e*) and describing how any complaints received under section 4.1 were dealt with.”, and

(v) Replace lines 20 and 21 with the following:

“higher than that existing in a country with which a comparison referred to in paragraph (1)(*f*) is relevant, the”.

(*c*) *Page 3:* Add after line 25 the following:

“**4.1** (1) A regulating authority that receives a complaint about a proposed user fee within the period set out in a notice issued by that authority must

(*a*) try to resolve the complaint; and

(*b*) give the complainant notice in writing of proposed measures for its resolution.

(2) If the complaint is not resolved to the complainant’s satisfaction within 30 days after the expiry of the period set out in the notice, the complainant may request in writing that the regulating authority refer the complaint to an independent advisory panel.

(3) Within 40 days after the expiry of the period set out in the notice, the regulating authority and the complainant must each select one member to sit on the panel and those members must select a third member.

(4) The regulating authority may decide, for reasons of economy and efficiency, that two or more complaints about a particular proposal be dealt with by the same panel. In that case, the panel member to be selected by the complainants is selected by a majority vote.

(5) The panel must, within 30 days after all members have been selected, send a report in writing of its findings and recommendations for resolving the dispute to the regulating authority and the complainant.

(6) Subject to subsection (7), the panel has the power to award costs of the proceedings, including the cost of the fees and expenses of panel members.

(7) If, in the opinion of the panel, a complaint is frivolous or vexatious, the complainant bears all the costs.

(8) Costs payable by the complainant become a debt due to Her Majesty and may be recovered as such in any court of competent jurisdiction.".

4. *Page 3, clause 5:*

(*a*) Replace lines 27 to 29 with the following:

"for a user fee referred to it"; and

(*b*) Replace line 31 with the following:

"Senate or the House of Commons, as the case may be, a report containing its".

5. *Pages 3 and 4, clause 5.1:*

(*a*) *Page 3:* Replace lines 34 to 38 with the following:

"**5.1** Where a regulating authority's performance in a particular fiscal year in respect of a user fee does not meet the standards established by it for that fiscal year by a percentage greater than ten per cent, the user fee shall be reduced by a percentage equivalent to the unachieved performance, to a maximum of fifty per cent of the user fee. The reduced user fee applies from the day on which the annual report for the fiscal year is tabled under subsection 8(1) until the day on which the next annual report is tabled."; and

(*b*) *Page 4:* Delete lines 1 and 2.

6. *Page 4, clause 6:*

(*a*) Replace line 3 with the following:

"**6.** (1) The Senate or the House of Commons may pass a"; and

(*b*) Replace lines 7 to 12 with the following:

"(2) If, within twenty sitting days after the tabling of a proposal under subsection 4(2), the Committee fails to submit a report containing its recommendation to the Senate or the House of Commons, as the case may be, the Committee is deemed to have submitted a report recommending that the proposed user fee be approved.".

7. *Page 4, clause 7:* Delete clause 7 and renumber the subsequent clauses accordingly.

8. *Page 4, clause 8:*

(*a*) Replace lines 21 and 22 with the following:

"before each House of Parliament, on or before December 31".

(*b*) Add after line 27 the following:

"**8.1** A review of the provisions and operation of this Act shall be completed by the President of the Treasury Board during the third year after this Act is assented to. The Minister shall cause a report of the results of the review to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the report is completed.".

9. *Pages 4 and 5, clause 9:* Delete clause 9 and renumber the subsequent clauses accordingly.

10. *Page 5, clause 10:* Delete clause 10 and renumber the subsequent clauses accordingly.

Respectfully submitted,

LOWELL MURRAY
Chair

The Hon. the Speaker *pro tempore***:** When shall this report be taken into consideration?

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

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*i*), I move:

That Order No. 1 under Government Business, Bills, to resume debate on the motion for the second reading of Bill C-4, not be called before 5:30 p.m. today; and

That if the business of the Senate has been completed before that time, the Speaker shall suspend the sitting to the call of the Chair.

The Hon. the Speaker *pro tempore***:** Is leave granted?

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

ANNUAL SESSION, NOVEMBER 7-11, 2003— REPORT TABLED

Hon. Jane Cordy: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canadian NATO Parliamentary Association to the Annual Session of the NATO Parliamentary Assembly held in Orlando, Florida, November 7 to 11, 2003.

• (1350)

UNITED STATES MISSILE DEFENCE SYSTEM

NOTICE OF MOTION RECOMMENDING NON-PARTICIPATION

Hon. Douglas Roche: Honourable senators, Senator Austin will like this. I give notice that, at the next sitting of the Senate, I will move:

> That the Senate of Canada recommend that the Government of Canada not participate in the U.S.-sponsored Ballistic Missile Defence (BMD) system because:
>
> 1. It will undermine Canada's long-standing policy on the non-weaponization of space by giving implicit, if not explicit, support to U.S. policies to develop and deploy weapons in space;
>
> 2. It will destabilize the strategic environment and impede implementation of Article VI of the Nuclear Non-proliferation Treaty;
>
> 3. It will not contribute to the security of Canadians, and Canadian non-participation will not diminish the importance of Canada-U.S. defence cooperation under NORAD in addressing genuine threats to Canadian security.

[*Translation*]

OFFICIAL LANGUAGES

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

Hon. Maria Chaput: Honourable senators, with the leave of the Senate and notwithstanding rule 58(1)(i) I give notice that later this day I will move:

> That the Standing Senate Committee on Official Languages be empowered, in accordance with rule 95(3), to sit at 5:30 p.m. on Monday, March 1, 2004, even though the Senate may then be adjourned for a period exceeding one week.

[*English*]

BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITION

Hon. Jim Munson: Honourable senators, pursuant to rule 4(h), I have the honour to table petitions signed by another 50 people 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 French or English;

[*English*]

> 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 ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada, is officially bilingual, pursuant to section 16 of the Constitution Act, from 1867 to 1982.

[*Translation*]

Hon. Pierre De Bané: Honourable senators, pursuant to rule 4(h), I have the honour to table in this chamber petitions signed by 95 people 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;

[*English*]

> 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 ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada, is officially bilingual, pursuant to section 16 of the *Constitution Act*, from 1867 to 1982.

QUESTION PERIOD

FOREIGN AFFAIRS

HAITI—RESPONSE TO CIVIL UNREST

Hon. Consiglio Di Nino: Honourable senators, earlier this week, Canada sent a military reconnaissance unit to Haiti to assess the security situation in that country and the potential for an intervening force. The worry among experts and diplomats is that things could quickly spiral out of control, with rebels in the north who now control that part of Haiti poised to attack Port-au-Prince in the next few days. Widespread bloodshed is a very likely scenario.

The foreign minister has said that he is monitoring the situation on a daily basis, along with U.S. Secretary of State Colin Powell. Mr. Graham also said that he is not convinced sending in police or military forces would produce a long-term solution, and I understand he is waiting for some word from Port-au-Prince. What does the government expect to hear from our people on the ground that we do not already know, or is this just another stalling tactic?

Hon. Jack Austin (Leader of the Government): Honourable senators, I hope everyone in this chamber will take the situation in Haiti with the utmost seriousness. We see in that very unfortunate country a breakdown in civil order, militant units attacking people and destroying lives. We see a situation in which Canadians who have been working in Haiti either in an official capacity, for example, in the embassy or with NGOs, are now under threat of their personal safety. The Minister for Foreign Affairs, the Honourable Bill Graham, has asked all Canadians who do not have an absolutely essential role to play in Haiti to leave the country for their own safety.

With respect to the actions of the international community, I know that the Honourable Senator Di Nino is aware of CARICOM, an organization of Caribbean countries along with some others in the Western Hemisphere. CARICOM has been pressing the international community to assist in a negotiated settlement among the contending parties.

It is with great regret that the facts on the ground seem to be that the militants have rejected any stand-still arrangement with the Aristide government or a stand-still arrangement of any kind, and have said that they will only be content when the Aristide government has been removed and President Aristide is gone from the country.

The situation is quite complex. The United States and France are playing a leading role in assessing the situation. Canada, as well, is working with those two countries and others, and there is a desire on the part of the international community for a coordinated response.

The Security Council has also undertaken to review the situation, so at the moment we have a highly fluid situation in Haiti. We are hopeful a resolution that protects human life can be found.

Senator Di Nino: I have a lot of sympathy for what Senator Austin is saying. However, we have seen massacres take place over and over again in various countries while the rest of the world talks. Talk is cheap.

• (1400)

I shall bring honourable senators up to date on something they may not know. Last September, the current Prime Minister's good friend and predecessor Jean Chrétien made his final speech as Prime Minister before the UN General Assembly. In that speech he said the following:

> Too often, conflicts are allowed to ignite, even when the whole world can see what the dreadful consequences will be. Too often innocent civilians are left to their fate.

Those are direct quotations from Jean Chrétien, then Prime Minister of Canada. He argued that, when a government cannot protect its people, protection becomes an international responsibility. Basically, he called for humanitarian intervention to prevent large-scale loss of life.

This is one of those times that I agree with Jean Chrétien, even though everyone in this place has heard me criticize him. He was absolutely right on this one.

It seems to me that Haiti bears all the earmarks of the type of situation Mr. Chrétien was talking about. Yet, the only thing the government has done thus far is to send a nine-member reconnaissance unit of our Armed Forces to Haiti, to evacuate our people. In other words, we are cutting and running.

My question for the Leader of the Government in the Senate is this: In this urgent humanitarian situation in Haiti, will the government live up to the principles stated by the former Prime Minister, or does the government intend, once again, to become a follower instead of a leader, as has too often been the case in the last few years?

Senator Austin: Honourable senators, first, I want to say how delighted I am that Senator Di Nino recognizes that former Prime Minister Jean Chrétien, in speaking to the United Nations, laid down one of the finest series of Canadian values in the international theatre.

My questions are as follows: How are these values to be applied? Is Canada to be a "Lone Ranger" and put its forces into Haiti without the consent of the Government of Haiti and without any role to be played by other countries? Is Canada a member of a group of nations trying to make a collective decision? The United Nations debate tried to take a collective decision. Is Senator Di Nino saying that we should act unilaterally and put Canadians at the highest level of risk, given the circumstances?

These are not easy questions to answer, honourable senators. I do not expect Senator Di Nino to advocate unilateral action on the part of Canada.

We are working very hard in the international community, urging international players, who have a responsibility in the issue of Haiti, to come to a quick conclusion. We are prepared to be a part of the solution that the international community decides is the correct solution.

Senator Di Nino: Honourable senators, I am more than happy to recognize and applaud actions that are worthy of recognition and applause at any time, regardless of who made them and regardless of their politics.

However, as honourable senators know, this is a serious issue. We are now seeing dead bodies on the streets of Haiti. If this insurgence continues, and the people of Haiti are left to their own resources, we will see a slaughter about which all of us will be embarrassed.

Yes, I am saying that Canada should take a leadership role and say to the world, "Who will join us to do this? We cannot allow this to happen." That is what I am saying. That is what I think should happen.

CITIZENSHIP AND IMMIGRATION

DEPORTATION OF SONG DAE RI

Hon. A. Raynell Andreychuk: Honourable senators, as a postscript to the previous question, some day we may have to answer why we intervened for humanitarian purposes in Kosovo while the people of Haiti did not deserve the same attention. The people of the world must be treated equally. I would urge Canada to take a leadership role in attempting to find some unique and lasting solutions in Haiti. We have intervened in the past, but the duration of our intervention was too short — which, consequently, is part of the problem.

I wish once again to ask the Leader of the Government in the Senate about the case of Mr. Ri.

Last Friday, a senior Citizenship and Immigration official upheld an earlier decision by the Immigration and Refugee Board to deport Mr. Song Dae Ri to North Korea, despite the real threat that he may be executed upon his return.

Mr. Ri's lawyer has said that two reports on the case were prepared for Public Safety and Emergency Preparedness Canada Minister Anne McLellan. A 16-page pre-removal risk assessment found that Mr. Ri would be put in danger if he were sent back to North Korea.

However, a second report consisting of two pages recommended upholding the original ruling to deny refugee status to Mr. Ri while allowing his young son to stay in Canada.

Why were the findings of a pre-removal risk assessment seemingly ignored in this instance? Will Minister McLellan issue immediately a ministerial exemption for Mr. Ri?

Hon. Jack Austin (Leader of the Government): Honourable senators, first, I wish to deal with Senator Andreychuk's comment with respect to Canadian actions in Kosovo. I know the honourable senator well understands that with respect to Kosovo, Canada was part of an action by the international community.

With respect to the situation in Haiti, it would be very noble for us to act on our own, but it would not necessarily be effective. To act alone would place us in a very difficult situation, if the international community itself were not assuming part of the responsibility.

With respect to Mr. Ri, Senator Andreychuk also knows that the consideration of the issue has two tracks. The first track is the adjudication by the Immigration Appeal Board and by the risk assessment officers based on criteria that are well established. That process appears, to me at least, to have come to an end, so that track two now takes over. Track two is the humanitarian-consideration track. It is my information that that is an active and ongoing file. Mr. Ri certainly will not be removed from Canada until there is a determination by the minister with respect to the humanitarian issues.

Senator Andreychuk: Honourable senators, to keep two dialogues going, it was never the intention that Canada act alone. However, honourable senators, Canada has always taken a leadership role. Canada developed the peacekeeping models. We developed Article 2 of the North Atlantic Treaty. I am simply saying that Canada should exercise leadership in the world community, and not alone.

With respect to Mr. Ri, I understand that Mr. Ri cannot appeal the ruling against him on the risk assessment as the government has still not implemented a refugee appeals division at the Immigration and Refugee Board. The federal government has claimed that a high number of refugee claims in recent years has forced it to delay creating an appeals process. The caseload problems are well documented but cannot be used to justify denying people a means of recourse when their very lives are hanging in the balance, as is Mr. Ri's.

When does the federal government anticipate that the Immigration and Refugee Board will have an appeals division for people like Mr. Ri?

Senator Austin: Honourable senators, I shall take the representations of Senator Andreychuk to the Deputy Prime Minister.

VETERANS AFFAIRS

COMPENSATION FOR VETERANS EXPOSED TO CHEMICAL AGENT TESTING

Hon. Michael A. Meighen: Honourable senators, late last week, the government announced that it would compensate veterans who had been subjected to chemical agent testing, which took place mostly during the Second World War. I think we would all agree that it is about time.

Even the Minister of National Defence recognized this, when, in his announcement, he stated, "We are finally setting things right for the chemical test veterans."

Of course, contrary to government claims, the amount settled upon, $50 million, is stingy, to say the least. It is far less than the money the government has wasted in the sponsorship scandal, and it is less than half of what the veterans' own lawyers have been seeking.

How did the government settle on the figure of some $24,000 per veteran? Is that amount taxable in their hands?

• (1410)

Hon. Jack Austin (Leader of the Government): Honourable senators, I will have to make inquiries with respect to the specific question that Senator Meighen has put to me.

Senator Meighen: I will look forward to a response. At the same time, perhaps the Leader of the Government in the Senate could seek clarification as to why, according to reports, only 2,000 of some 3,500 veterans who participated in the testing are eligible for compensation. I hope this is not the case of the government once again distinguishing between two classes of veterans — those who are eligible for benefits and those who are not — based on some arbitrary reason. This reminds us of the situation that occurred with the Veterans Independence Program benefits.

Senator Austin: Honourable senators, I will be happy to add that question to my inquiry.

AGRICULTURE AND AGRI-FOOD

BOVINE SPONGIFORM ENCEPHALOPATHY— DECISION NOT TO BAN BLOOD IN FEED

Hon. Mira Spivak: Honourable senators, in late January, the U.S. Food and Drug Administration added new firewalls to prevent the spread of BSE, the mad cow disease. Among them was a complete ban on feeding blood and blood products to cattle. The FDA said this science-based safeguard was based on recent evidence that blood can carry BSE.

Part of that evidence, according to *The New York Times*, was a new case of the human form of the disease that came to light in December of 2003. Britain's Secretary of State for Health, John Reid, told his Parliament that a British citizen was the first probable blood transfusion victim of the disease, suggesting that blood can be a carrier.

In Canada, the Minister of Agriculture said he wanted to consult with the animal feed industry; then, his spokesman said that Canada does not plan to ban the feeding of cow blood to calves.

What consultations took place with the United States FDA officials and U.K. officials before our government decided to continue this ill-advised practice? What science supports our policy of which governments in the U.S. and the U.K. are unaware?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will have to take Senator Spivak's question as notice.

Senator Spivak: As a further comment, I am sorry that I did not give the Leader of the Government in the Senate notice. I understand that he cannot answer at this time.

In October 2001, Canadian Blood Services, as part of its policy on the human form of mad cow disease, declared that people who had spent three months in the U.K. since 1980 were not eligible to donate blood in Canada, as everyone knows. If this precautionary measure is sound, then we should not continue to allow cattle to receive potentially tainted blood. We are spending $92 million to test animals and millions more in compensation to farmers because we did not take the precautions in the feed industry that other nations took years ago. That is well documented, not only with the British delegation's visit here but also with questions that I and others have raised in the Senate for a number of years.

I would hope that the government is not just listening to the rendering plants and that it will review this policy.

Senator Austin: Honourable senators, these questions are interesting and important. I have not prepared myself for the answers, but I am interested in what would be provided to me by way of answer. I hope to respond to Senator Spivak quickly.

QUALITIES OF SASKATCHEWAN BARLEY

Hon. John G. Bryden: Honourable senators, I have a question for the Chair of the Standing Senate Committee on Agriculture and Forestry.

Hon. Terry Stratton: He is not here. The Chair is Senator Oliver.

Senator Bryden: I apologize. I thought it was Senator Gustafson.

I will state my question. Is it true that Saskatchewan barley really is an aphrodisiac?

Senator Stratton: We all know, or most of us, that he cannot answer.

Senator Forrestall: I would have thought he is living proof.

NATIONAL DEFENCE

POSSIBLE TRANSFER OF HEADQUARTERS AND LAND EXPROPRIATION FOR JTF2 TRAINING GROUNDS

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government. He will be pleased to hear that I have found the resolution to the Sea King problem. We have one trying to get out West. Perhaps we could send out one every other day from Shearwater. We can get rid of them all and then offer them to the nearest museum.

I want to come back to the apparent decision to transfer National Defence Headquarters from its current site here in the heart of Ottawa to Nepean. It has been reported in the press that the Minister of National Defence has absented himself from the decisions — indeed, most of the debate — regarding the dispute between JTF2 and his constituents over farmland expropriation; yet, when it comes to moving National Defence Headquarters, we find his fingerprints all over the file.

Can the minister tell us why there is some discrepancy between these two files, and is he prepared to indicate to the chamber that there is no apparent conflict?

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank Senator Forrestall for raising this topic toward the end of his question yesterday so that I would have the opportunity this morning to speak to the Minister of National Defence with respect to the possible removal of DND headquarters to, I believe, the empty JDS Uniphase offices in Nepean.

Minister Pratt told me that he has recused himself from that decision, that he will not participate, in any way, in any decision to move the headquarters into his riding, and that he has asked Minister Albina Guarnieri to act in his stead with respect to this decision.

Senator Forrestall: Do you suppose we will all get an invitation to that wedding?

Yesterday, the cost of the purchase of the JDS Uniphase office, excluding the costs of the move itself, was estimated at between $100 million and $125 million. The air force is short $150 million. That money would keep open five bases across Canada. Can the minister tell the chamber why those funds could not have been used to keep open those five bases across Canada that we now know are threatened — Goose Bay, Bagotville, North Bay, Winnipeg and, in all likelihood, Trenton, not to mention CFB Gagetown — and other sites we do not yet know about, instead of using them for a building someone built and cannot seem to fill?

Senator Austin: Honourable senators, no decision has been taken with respect to the removal of DND Headquarters from the Rideau Shopping Centre here in Ottawa. I was told by one of the minister's officials that it is the only National Defence Headquarters that anyone is aware of that is attached to a shopping centre.

Senator Forrestall is quite aware of the security vulnerabilities of that particular location, but in the trade-off among the use of very limited funds, no decision has been taken. I am sure it will be taken on the wisest possible circumstances.

I want to assure Senator Forrestall, who throughout his political career has taken an enormous interest in the state and nature of our military capability, that this government is cognizant of the current circumstances with respect to the military. I am, dare I say it, of the view that the budget of the Minister of Finance will begin to take steps in a more aggressive direction with respect to the capabilities of our Canadian military.

Senator Forrestall: I appreciate that response.

• (1420)

BUSINESS DEVELOPMENT BANK

AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—POLITICAL INTERFERENCE IN LOANS—FORENSIC AUDIT

Hon. Marjory LeBreton: Honourable senators, Michel Vennat, President of the Business Development Bank, was suspended, partly for his role in the sponsorship fiasco but mainly for his role in the vendetta against former BDC President François Beaudoin. The Shawinigate affair has brought startling evidence to light about political interference in the operations of BDC with questionable loans advanced to the Auberge Grand-Mère and others. As well, Mr. Vennat and the former Prime Minister's friend Jean Carle also played a role. The inquiry is looking at BDC's role in the sponsorship fiasco but not at the bank's lending practices.

Can the Leader of the government assure the Senate that Michel Vennat and Jean Carle limited their political interference just to the Shawinigate file and that no other questionable loans were made or carried out under the instructions of the former Prime Minister?

Hon. Jack Austin (Leader of the Government): Honourable senators, of course I cannot give assurances with respect to the specific question raised by Senator LeBreton. There are inquiries underway, as the honourable senator well knows. If the questions are germane to those inquiries — that is, if they go in those directions because they are relevant — then we will have the answers in due course.

Senator LeBreton: Honourable senators, could the Leader of the Government in the Senate then find out for us whether the Beaudoin judgment has precipitated a forensic audit into the management and lending practices of the Business Development Bank and those who ran it?

Senator Austin: Honourable senators, I have no information at this time, but I will seek it.

CONFIDENCE IN CHAIRMAN AND CHIEF EXECUTIVE OFFICER

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, on the question of banks, Senator Comeau yesterday asked if the government was to keep the board of directors of the bank in place because they had voted confidence in the chairman and chief executive officer now suspended by the government. As I recall it, the Leader of the Government said he was not aware of that statement. There was a statement made by the BDC in a press release indicating that it would not appeal the judgment against it. The board of directors stated publicly through this official press release that it had full confidence in Mr. Vennat, yet the government has now indicated that it does not have confidence in him. There is a conflict between the government and the board of directors, and I would assume that the board of directors also does not have the confidence of the government.

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Lynch-Staunton is right and quoted me correctly. I was not aware, when I answered Senator Comeau's question, that the board of directors of the Business Development Bank had passed a resolution expressing their confidence in Mr. Vennat. I have not seen the terms of that resolution, so I do not know whether it is a resolution in general or whether conditions are attached to it. I have asked to see the resolution so that I am fully informed.

With respect to whether the government has confidence in the board of directors, I have no information to provide the Senate at this time.

AGRICULTURE AND AGRI-FOOD

INCOME STABILIZATION PROGRAM— SUPPORT OF PROVINCES

Hon. Leonard J. Gustafson: Honourable senators, the Canadian Agricultural Income Stabilization Program was announced in December and is the key element of Ottawa's agricultural policy framework. To come into force, this program requires the support of two thirds of the provinces representing half of Canada's agricultural production. Could the Leader of the Government in the Senate provide an update on how many provinces have joined? My understanding is that only Alberta, Ontario and Prince Edward Island have joined. Are there more?

Hon. Jack Austin (Leader of the Government): Honourable senators, I do not have an answer to that question at this time, but I will seek it.

Senator Gustafson: Honourable senators, we keep mentioning that one of the problems that some provinces have is that the federal contribution to this program is insufficient. For instance, according to Saskatchewan's Minister of Agriculture, the BSE crisis would use up all of the money that is projected to be in the program.

Given recent reports that the federal surplus will be much greater than it was previously projected to be, why is the government not moving some of this excess money into agriculture?

Senator Austin: Honourable senators, I cannot speculate with Senator Gustafson about the government surplus. It is a highly dynamic number that depends on a number of factors with respect to government revenues and the claims on government revenues. Those are moving targets, However, I can, I hope, assure Senator Gustafson that the government is giving serious and immediate consideration to the situation in the cattle industry and recognizes that funds provided by the federal government to the provinces to this time will not, unfortunately, stabilize it. My hope is that further measures will be taken in the near future.

PUBLIC WORKS AND GOVERNMENT SERVICES

AUDITOR GENERAL'S REPORT— SPONSORSHIP PROGRAM— ACCESS TO TALKING POINTS IN RESPONSE

Hon. Terry Stratton: Honourable senators, today's *Toronto Star* reports an access to information document that confirms that Public Works officials were worried about the mismanagement of millions of taxpayers' dollars in the sponsorship program as early as October 2000. Public Works officials were so concerned that talking points were developed at the time. These talking points denied systemic problems, political interference and criminal wrongdoing. The Prime Minister has recently said that there had to be political direction, and we know now that several files have been sent to the RCMP for investigation. Can the Leader of the Government tell us who asked for these talking points to be prepared, who approved them and to whom were they distributed? Did the cabinet, including Mr. Martin, get copies?

Hon. Jack Austin (Leader of the Government): Honourable senators, I think it is obvious to all senators that I would not have answers to those questions. The government has put in place several inquiries, such as the judicial inquiry, the public accounts inquiry and the RCMP inquiry. No doubt the answers to those questions will be relevant to one or all of those inquiries and will be made public in the due course of those inquiries.

[*Translation*]

OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Maria Chaput: Honourable senators, with the leave of the Senate and notwithstanding rule 58(1)(i), I move, seconded by the Honourable Senator Gauthier:

> That the Standing Senate Committee on Official Languages be empowered, in accordance with rule 95(3), to sit at 5:30 p.m. on Monday, March 1, 2004, even though the Senate may then be adjourned for a period exceeding one week.

[*English*]

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

Some Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should hope that the members of the opposition on the committee had been consulted and are in agreement. Otherwise, we may have a problem.

• (1430)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, my understanding is —

Senator Lynch-Staunton: Let the chairman answer, please. It is the chairman's motion, not yours.

Senator Rompkey: Very well.

[*Translation*]

Senator Chaput: I consulted the Honourable Senator Beaudoin and he will be present. I also spoke to the Honourable Senator Keon, who had already said he would be present.

Senator Lynch-Staunton: Honourable senator, you have been very courteous to all your colleagues. I hope all committee chairs will follow this example.

Motion agreed to.

[*English*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I call government bills in the following order: First, Bill C-20; second, Bill C-7, and third, Bill C-17.

[*Translation*]

PUBLIC SAFETY BILL 2002

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Christensen, for the second reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

Hon. Gérald-A. Beaudoin: Honourable senators, I would like to say a few words at second reading of Bill C-7.

Senator Andreychuk delivered a very good speech on the scope of Bill C-7. A number of senators have addressed this legislation, including Senators Joyal, Kinsella and Grafstein.

After reading the speeches made, I think this bill should immediately be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

During our in-depth study of Bill C-36, the anti-terrorist legislation, we thoroughly examined all the legal issues raised by this bill, and also the constitutional ones. To a large extent, Bill C-7 can be compared to Bill C-36.

We should conduct a thorough review in committee of the bill that is before us to ensure that it fully respects our constitutional law, particularly the 1982 Canadian Charter of Rights and Freedoms. This is of the utmost importance. It is difficult to strike a balance between public safety and the individual rights listed in the charter.

As I wrote in an article published on pages 73 to 105 of the 2003 *Revue du Barreau*, that balance must be struck. We must guarantee public safety, while also safeguarding individual rights.

Of course, we must ensure the safety of our citizens and grant additional powers to law enforcement agencies. However, we should never forget the Charter and the privacy and human rights provisions that we enshrined in the Constitution, in 1982.

Despite all the time we devoted to examining Bill C-36, it may well be that, as the bill provides, we will have to review this. We have written in a clause requiring us to do just that, and this is very important, because it is the first time we have enacted such legislation. In our history, we have had urgent situations such as the First and Second World Wars, but we have never had a catastrophe like that of September 11, 2001. We must adapt to a new system and we must legislate well.

We are giving a great deal of power to the ministers, but not enough according to the case law, which tells us to go before the courts. I am thinking, for example, of search warrants; I am thinking of privacy. According to well-established case law, we are required to apply to the court for search warrants before we take action.

Another very important matter that should be examined is that of interim orders, such as those provided in clause 34 of Bill C-7 and in other clauses in which ministers are allowed to grant exemptions. The courts have ruled, however — as in *Parker* — that exemptions must be limited. Limitations must be placed on the absolute discretion of ministers. These limitations must be clear, specific and set out in law; otherwise, they will be unconstitutional. I believe that in committee, it will be necessary to examine all these issues, whether they relate to policy, criminal law or constitutional law.

Powers can be given to ministers, but in some cases, we must turn to the courts.

It is not up to me to move referral to committee, but if I might make one suggestion, I would like Bill C-7 to be referred to the Standing Committee on Legal and Constitutional Affairs because, in the end, Bill C-7 has to do with constitutional law.

[*English*]

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak at second reading of Bill C-7, the Public Safety Act, 2002.

Honourable senators, with our appointment comes the responsibility to protect the rights and civil liberties of Canadians. This holds especially true for the rights of those Canadians who are members of minority groups.

The tragic events of September 11 provoked immediate reactions. Our national security needed to be protected, and we needed to safeguard the security of our country and our citizens. We responded. Bill C-36, the Anti-terrorism Act, was implemented. Since that time, we have had some time to reflect. As Senator Day has said, Bill C-36, Bill C-44 and this bill are all pieces of legislation to protect our rights.

• (1440)

Honourable senators, I must say that I have seen the results of Bill C-36 firsthand. For the last three months, I have been travelling across the country to hold racial profiling round tables with community groups in many cities. The stories that I have heard have kept me awake at night because they are not about the Canada that I know. Frequent visits by CSIS, constant stopping at the border by Canadian officials, being detained by airport authorities, questions about religious affiliation and country of origin are events that have become all too familiar for many of our citizens.

Honourable senators, at the Ottawa International Airport, not many months ago, my husband was stopped. When I questioned why he was stopped, I was told that he looks like a terrorist. I have met with people who have lived in Canada for more than 30 years who have told me that since September 11, they have been visited by CSIS constantly for no reason. They have been warned that if they go to SIRC their papers will be cancelled.

Honourable senators, I was at a university in Alberta and a senior professor there told me that he has constant visits from CSIS. Before September 11, he never identified himself as a Muslim. Today, he feels he has to again become a Muslim just to have protection from a group. This is not the Canada that I know.

Being detained and questioned for hours for no reason was a humiliating experience, and these people were made to feel less Canadian. Many people told me that before September 11, Canada and being a Canadian citizen was the only thing they knew. They were proud Canadians. Now, they are second-class Canadians. Now, they feel that the treatment they have received has made them feel less Canadian and as if they do not have a right to belong here. Honourable senators, if you walk in the shoes of people who look like me, the impacts of Bill C-36 have been chilling.

I agree, and I approve, that we have to protect our national security but we also have to protect our citizens. There are indeed clauses of Bill C-7 that seem necessary and are clearly linked to the goal of preventing terrorism. Amendments to the Explosives Act to provide better control of the acquisition, possession and handling of explosives are good examples of this kind of change. A new Criminal Code provision making it an offence to create a hoax regarding terrorist activity also seems more than reasonable.

The implementation of the United Nations' Biological and Toxic Weapons Convention is something that I think most of us can support. The changes to the Quarantine Act may be another example of a necessary change. Our government must be prepared, and must have the necessary authority to act immediately and efficiently. If terrorists are able to find ways to release the Ebola virus into the air, our government must be able to respond within seconds. Bill C-7 provides for this, as it most definitely should. The bill must, however, contain sufficient protections to ensure that such powers, however necessary, are not abused.

Amendments to the Explosives Act will provide better control over the acquisition, possession and handling of explosives and will improve the offences related to the illicit trafficking of explosives. These amendments seem clear-cut. However, while many provisions within the act are necessary, certain provisions have the potential to infringe on the civil liberties and freedoms that are so integral to the fabric of our country. Proposed section 4.82 of the bill allows for the sharing of data and information relating to all passengers flying into Canada. The former Privacy Commissioner expressed that provisions in 4.82 of the bill may go far beyond the needs of national security.

Parts 5 and 11 of the bill specifically deal with information and the expansion of the Minister of Immigration's powers to enter into agreements with foreign countries. In Part 5 of the bill, the Citizenship and Immigration Act would be amended to give the minister explicit authority to enter into agreements with the provinces and foreign nations with approval from the Governor in Council. However, it is worrying because it also allows less formal arrangements to be made with provinces and foreign states that require no Governor-in-Council approval.

In Part 11, the Immigration and Refugee Protection Act would be amended to give the Minister of Citizenship and Immigration the authority to make regulations that set out how information is collected and disclosed. This part notes that disclosure of information collected may be shared under an agreement or arrangement with a foreign country for not only reasons of national security and defence of Canada but also for the conduct of international affairs. Our committee must examine whether there is a lack of accountability and transparency in these provisions. The case of Maher Arar brings all of this together and illustrates the many dangers associated with this kind of system. We must wait to see the results of the public inquiry on the Arar case before moving forward on these provisions that I have set out.

We do not know what happened and what went wrong. Before we enact legislation that could increase the possibility of a sequence of events, such as the experiences of Mr. Arar, we must have a thorough, exhaustive review. We must take the necessary time to ensure that the privacy rights and fundamental liberties of all Canadians are balanced against our national security as a nation. The events of September 11 have demonstrated that individuals who are likely to commit terrorist acts are not necessarily known beforehand. My husband is not a terrorist, but a security person in Ottawa can say that he looks like one and that is good enough reason to question him.

Honourable senators, I say again, if these measures would be useful in finding terrorists, I have no objection. However, when these powers are expanded to allow police, CSIS and other officials to tap into information for other purposes and to share it with foreign governments, then we may be heading down a very dangerous path. Once we allow this expansion of powers, the argument could be made: Why not the same for renting a car, or boarding a bus or a train? How far will we go in cooperating with some foreign governments?

Honourable senators, September 11 was a terrible tragedy. It changed our country and the world as we knew them. We needed to respond. I do not dispute that. We needed to ensure that our government had the powers it needed in the wake of another attack. I do not dispute that. We needed to ensure that the national security of our citizens was looked after. I do not dispute that. It was our duty and we responded. However, honourable senators, we must not forget in this chamber that we have a duty to ensure the civil liberties and freedoms of all our citizens, and that all our citizens are protected. That is fundamental to our Canadian system and to our security as a nation.

The Anti-terrorism Act is due for review at the end of this year. The Arar inquiry is underway.

• (1450)

Both these events provide our government with a unique opportunity to undertake a critical and public review of the anti-terrorism agenda. We have an opportunity to ensure that Canada's response to terrorism is equal to the apparent risks. It provides us with an opportunity to assess how we have balanced national security against civil liberties.

Before we justify every clause of Bill C-7, I would urge honourable senators to examine some of them at the conclusion of the Arar inquiry.

Honourable senators, when I was young, my grandmother was a very wise woman. She was a storyteller. She often used to say to me, "Have you tried to protect rights today?" I was little. My family had everything it wanted. I had all the rights and resources a person could want. I did not need to protect anybody's rights, but my grandmother always used to inquire of me: "Did you stand up for your girlfriend when she was being bullied? Did you stand up for people's rights that were being taken away?" She instilled in me her wisdom, how important it is to protect rights of people.

Suddenly, in 1972, all my rights were taken away, and I was made stateless. Canadians and the Canadian government restored my rights. They gave me a state, home, clothing and confidence. Canadians and the Canadian government gave my family and myself the right to live in full harmony with my fellow Canadians.

Today, I urge honourable senators not to take away the rights of people who look like me. Thank you, honourable senators.

Hon. Senators: Hear, hear!

On motion of Senator Kinsella, for Senator Oliver, debate adjourned.

[*Translation*]

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Trenholme Counsell, seconded by the Honourable Senator Massicotte, for an Address to Her Excellency the Governor General in reply to her Speech from the Throne at the Opening of the third Session of the Thirty-seventh Parliament. — (*12th day of resuming debate*)

Hon. Gérald-A. Beaudoin: The Speech from the Throne highlights those areas in which the federal government wants to take action. These areas are primarily education, health, welfare and municipalities. I should start out by saying that I am not opposed to the federal government using its spending powers in areas of provincial or primarily provincial jurisdiction as long as it does not legislate in such areas, as the Privy Council stated in its 1937 decision.

In the fifteen minutes I have at my disposal, I want to address something that was a guiding principle for me; I am talking about respect for the Canadian Constitution, particularly for the division of powers between the federal Parliament and the ten provinces.

The division of powers is fundamental, in my opinion. In 1982, the Supreme Court of Canada declared that federalism is the dominant characteristic of the Constitution Act, 1867.

We owe this national characteristic to the 33 Fathers of Confederation and, perhaps especially, to Sir Georges Etienne Cartier. Sir John A. Macdonald would have agreed to a decentralized unitarian state, but Cartier convinced him that Quebec wanted nothing less than a federal state. Cartier knew something about this since he had created a commission to draft a civil code in Quebec (Lower Canada). This code took effect on August 1, 1866. Cartier believed in Canada's bijuralism.

[*English*]

I draw attention to our juridical system at this stage because it is very important in our federation. Very few countries, very few federations, have two systems of law — but Canada does. It is also a tremendous advantage for us.

[*Translation*]

To protect the Civil Code of Lower Canada, in section 92.13 of the Constitution, in the list of provincial jurisdictions, Cartier used the expression "Property and Civil Rights" that came directly from the Quebec Act, 1774, which reinstated the French civil law from France. That was quite something, the United Kingdom reinstating French law in one of its colonies! It was Lord North, the Prime Minister at the time in London, who had the Quebec Act passed in Westminster. Very few people have heard of Lord North. I never miss an opportunity to point out what he did, which was so important for our country.

Our ancestors, who were undoubtedly happy to have their French civil law back, remained loyal to the British Crown and did not join the American rebels, who separated from England with the help of the French navy and General Lafayette. That is what took place.

[*English*]

In my opinion, the distinct character of Quebec is enshrined in the Quebec Act, 1774, which has never been revoked. I am pleased to refer to Eugene Forsey's declaration: "Quebec is not, has never been, and will never be a province like the others. Quebec is the 'citadelle of French Canada.'" All provinces have the same powers. It is normal in a federation. However, one has a distinct system of law.

Quebec has had a civil code since August 1, 1866. The other provinces have the common law system. New Brunswick has translated into French the common law applicable in that province. The bijuridism in Canada is enshrined in the Constitution. There was also an embryo of bilingualism at section 133 in the Constitution Act, 1867, and at section 23 of the Manitoba Act, 1870. In 1982, that bilingualism was considerably extended at the federal level and in the Province of New Brunswick. Again, such equilibrium was of the greatest importance to the Canadian federation.

The Constitution is a living tree. We have been saying that since the early 1930s. It evolves. Furthermore, the interpretation of the Constitution is as important as its drafting.

• (1500)

[*Translation*]

Ontarians under Sir Oliver Mowat and Quebecers under Honoré Mercier and his successors defended the autonomy of the provinces and the division of powers in sections 91 to 95 of the Constitution. The Judicial Committee of the Privy Council was generous when it came to heading 92.13 on property and civil rights, and split in two the heading trade under section 91, local trade being considered provincial. Thus, the Privy Council decentralized our Constitution. The Supreme Court has taken the same line. In matters of trade, however, it has broadened federal jurisdiction to include competition in *General Motors*, which was a very good decision.

More than one economic power was listed in section 91 as coming under federal jurisdiction, such as commerce, fisheries, navigation, maritime law, banking, and currency and, for the provinces, section 92 and its 16 headings were generously interpreted by the Privy Council, especially heading 13 on property and civil rights, which was well received in Quebec and would ensure Canadian federalism a special place in the great federations of the world. We do not have a lot of concurrent powers. Perhaps we should have more.

These days, the federal government is interested in education, health, social welfare and municipalities. That is quite understandable. In 1867, the Fathers of Confederation could not predict the tremendous development ahead in health and welfare. Today, the demands in these areas must be met.

It must be repeated that education as covered in section 93 is provincial in nature. The federal intervention provided for under section 93 was not used until the 19th century. I will come back to education later.

Health is also a provincial jurisdiction, for the most part because of sections 92.7, 92.13 and 92.16 of the Constitution. The same is mostly true of social welfare. In 1964, the federal government was given power over old age pensions under section 94A. The federal government has the right to intervene through its power to spend, according to the case law.

The 1938 decision of the Supreme Court in *Re Adoption Act* should not be forgotten. The Supreme Court declared that, while education and welfare are primarily provincial matters, the federal government is subject to the temptation to expand its powers in these domains from time to time. This is not surprising.

[*English*]

It is in the nature of federalism to have an era of centralization and an era of decentralization. In 1937, the Judicial Committee of the Privy Council declared that it was within the power of the federal authority to spend money even in the provincial spheres, but — and this is important — the Parliament of Canada has no authority to legislate in the provincial spheres. This decision of 1937 does not go further and, as we say in French, the spending power n'a pas été balisé. Some limits should take place, in my opinion.

Many federal-provincial conferences have taken place since the Second World War to circumscribe the spending power. We may refer to the conferences before and after 1982, to the Meech Lake accord, to the Charlottetown accord, and many other conferences, but so far we have not yet succeeded. We should continue our efforts.

[*Translation*]

I want to say a word about universities. We are told that universities are desperate for money. I spent 20 years of my life in a university and I know something about this. For several years now, we have been hearing about federal assistance to universities and municipalities.

Again, I am not opposed to providing federal assistance to universities, on the contrary. I remember the days when Duplessis would prevent universities from accepting federal assistance. We settled this issue. We found an appropriate formula. Quebec and the other provinces benefit from the federal assistance provided to universities.

An important event occurred in 1982. Section 36 was included in the Constitution Act of 1982. This is a remarkable provision. It reads:

[*English*]

> Without altering the legislative authority of Parliament or of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority, Parliament and legislatures, together with the government of Canada and provincial governments, are committed to
>
> a) promoting equal opportunities for the well-being of Canadians;
>
> b) furthering economic development to reduce disparity in opportunities; and
>
> c) providing essential public services of reasonable quality to all Canadians.
>
> Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.

[*Translation*]

Some legal experts wonder about the scope of section 36.

Is it purely indicative or is it imperative? In my opinion, it is imperative. If the federal and provincial governments do not implement this section, the courts could say that these governments must take action and take every measure to create equal opportunities. However, it will always be up to Parliament and the legislatures to set the amount of subsidies.

I will conclude with a word on municipalities. We must be very careful. It is fine for the federal government to give money to universities, but let us not forget that municipalities come under the jurisdiction of the provinces, as provided under section 92.8 of the Constitution. I have read other constitutions in which municipalities came under the federal authority, the central authority, but the Fathers of Confederation put municipalities under provincial authority. However, we can surely find a way to give federal subsidies to universities, municipalities and large urban centres and still respect the Constitution. Why not?

• (1510)

Canada is not the only federation that finds itself in this situation, quite the contrary. The federated states of most federations do not have the same population and the same budget. There are several forms of federalism, but the Canadian federation may be the one with the best balance between the federal government and the provinces.

What I hope is that we will continue to have the utmost respect for the Canadian Constitution and for the federalism that is enshrined in it. If we compare our Constitution to other ones in the modern world, we realize that it is one of the most democratic.

Our 1982 Charter of Rights and Freedoms is an important achievement that has had a major impact on our lives, thanks to the remarkable work done by the Supreme Court of Canada which, over a period of 20 years, has issued 450 Charter rulings. This court of ultimate recourse, which is also our constitutional court, is truly modern, effective and independent.

The Hon. the Speaker: Senator Beaudoin, I am sorry to interrupt you, but your time is up. Do you request leave to continue?

Senator Beaudoin: Yes.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Senator Beaudoin: Honourable senators, the Supreme Court is the ultimate authority that settles disputes between Ottawa and the provinces, and that gives their true meaning to each of the headings under sections 91 to 95.

Honourable senators, I will conclude by saying that Canadian federalism is definitely one of the best balanced that I have seen in my life.

[*English*]

Hon. Marjory LeBreton: Honourable senators, the Speech from the Throne laid out the Martin government's plans regarding our health care system. Unfortunately, as with other items in the speech, the government neglected to offer much in the way of specifics.

Although many health care problems were mentioned, with many pledges made to address them, hardly any solutions were offered. If there is an issue in our country today that is in desperate need of a solution it is health care. Platitudes and vague promises do not stop our doctors and nurses from going to the United States. They do not help pay for diagnostic equipment or deal with imminent threats to public health.

Last fall, the federal SARS advisory panel chaired by Dr. David Naylor from the University of Toronto released a report that recommended, among other things, that Canada have its own version of the U.S. Centers for Disease Control. As we heard in the Throne Speech, the government has committed itself to a Canada public health agency and a chief public health officer. These are laudable commitments. However, there are many details surrounding these new entities that need to be worked out. How quickly will the agency be set up? What will its budget be? Will it be centralized in one city? Where will the expertise come from?

The new Minister of Health, Pierre Pettigrew, has said that he hopes that the Canada public health agency will be in place within a year. If that is the case, the particulars related to the public health agency and the chief public health officer must be fleshed out quickly. New and emerging diseases do not wait for a convenient time to strike, as we learned firsthand last spring with SARS. Although it appears that the federal government heeded some recommendations from the Naylor report, one wonders what it plans to do to improve disease surveillance and to speed up the transfer of information between federal and provincial health authorities.

One year ago, the former Prime Minister promised the provinces $2 billion for health care, if the budget surplus allowed. After weeks of the government publicly going back and forth on the issue, first saying the payment would be made, then warning the money might not be available, the premiers were finally told at the first ministers' meeting that they would receive the full amount.

The Martin government asserted this in the Speech from the Throne and said that the $2 billion payment to the provinces for health care will reduce waiting lists. Despite the fact that the provinces are glad to see the money come through as promised, the truth is that this $2 billion payment is simply a stopgap measure. It does not address the structural problems within the system that have led, in part, to the lengthy waiting lists. We only have to read articles in the papers today and the release yesterday from the Canadian Medical Association to realize what a serious problem this is. Also, decreases in transfer payments will offset this one-time payment meaning that the provinces will actually have lower operating budgets this year.

The Throne Speech also stated that the government would support the newly formed health council of Canada in the development of information on which waiting time objectives can be set. Again, many questions arise from this statement. Will these objectives be set in consultation with the provinces? What happens if a province does not meet these objectives? Will a person be given treatment in another province or in the United States? What tools will the health council have in communicating waiting times to patients? Will these waiting lists be based on optimum or maximum wait times?

People should be told how long they must wait for testing or treatment, especially invasive treatments. A person who has fasted and has been prepped for surgery and subsequently finds out that it has been cancelled should be told when the surgery will be rescheduled. We know that in many cases this does not happen. Although the government pledged in the Throne Speech to reduce waiting times for diagnostic tests and treatment, it did not provide an explanation as to how this will actually occur.

We should remember, honourable senators, that the Prime Minister who is giving $2 billion to the provinces today is the same person who, as the finance minister, cut $25 billion from health care over the last 10 years. Unfortunately, that in itself gives us reason to believe that the Liberal status quo will be maintained.

Any Canadian who has been to a crowded hospital emergency room in this country over the last decade has already experienced what wait times will be like under a Martin government. There can be no serious discussion of health care reform in this country without giving consideration to how it is to be paid for. Remarkably, the Throne Speech did not contain any mention of long-term sustainable funding for health care. Perhaps anticipating that this would be the case, the premiers have instructed their health and finance ministers to review their systems in light of sustainability, as the first ministers' meeting this summer will address the need for long-term funding.

Although the feeling today between the premiers and the Prime Minister does not seem to be as combative as it was under former Prime Minister Jean Chrétien, it will surely change if this government is not prepared to make a long-term commitment to health care funding, and very soon.

Honourable senators, another notable omission in the Throne Speech was the lack of any recognition that the baby boomers are rapidly approaching their senior years, and the resulting strain that this will place on the cost of delivering health care. A few years ago, Ottawa author David Cork wrote a book called, *The Pig and the Python: How to Prosper from the Aging Baby Boom.* While this book is largely about investment advice, the analogy of a pig moving through a python helps to put our aging population into perspective. The pig, so to speak, is the baby boom generation, a bulge in the middle of the snake slowly moving toward its tail.

There are now some 4 million Canadians aged 65-plus, equal to one adult in six, or one Canadian in eight. By the year 2021, there will be roughly 6.7 million seniors, equal to one adult in four, or one Canadian in five. By 2041, as those graduating from university today approach retirement, there will be 9.2 million Canadians aged 65-plus, equal to one adult in three, or one Canadian in four.

Of far greater significance is the growing number of Canadians aged 85 and above. There are now just half a million people above age 85, a figure that is expected to grow to 846,000 by 2021, and to 1.6 million Canadians by 2041.

It is in the first few and in the final few years of life that we are most in need of medical attention and services. A young man or woman in his or her 20s may go two or three years without visiting a doctor. When you get to your 60s, it is rare to go two or three months without seeing one. The visits get more frequent and you spend more time sitting in the offices of specialists who practice in areas of medicine that you did not know existed.

At age 65, you may need one or two prescriptions. For many in their 80s, the pills come already packaged for you by day and night and time of day, high blood pressure, low blood pressure, rapid heart beat, inactive thyroid, gout and blood thinners, to rhyme off just a few. For many seniors, the drugs are subsidized by their provincial governments.

If you are young or middle-aged and need to recuperate from a fall or surgery, you stay at home and make do with the help of family and friends. If you are 85, you find yourself recuperating in a nursing home, usually at considerable cost to the province in which you live.

You can imagine what this demographic shift will do to the health care costs which are largely borne by the provinces. There will be more visits to doctors, more prescriptions filled and more need for nursing home beds. These costs will rise very quickly. Every province is worried about meeting these rapidly escalating costs.

This leads to another notable omission in the Throne Speech. By paying lip service to fiscal prudence, the government made no commitment to debt reduction.

• (1520)

The Minister of Finance said last month that he wants to reduce the debt-to-GDP ratio to 25 per cent from the current 44 per cent. Honourable senators, this is an empty promise, for the very simple reason that economic growth alone would achieve that goal within a decade, even if not a dime was paid down on the debt. If the denominator, in this case GDP, rises, then the per cent falls. This is basic elementary school arithmetic.

Debt-service costs would not fall but would continue to eat up $37 billion per year. Indeed, if we are at the bottom of the interest rate cycle, then debt-servicing costs would rise in the years ahead. We can only hope that the interest rates stay low.

Honourable senators, if we are to meet the costs of the health care system 10, 20, 30 or 40 years from now, we have to look beyond the next election, and even beyond the election after that. We have to ensure that the federal government can continue to do its share, and that means that we must make paying down the debt a high priority, not just as a percentage of GDP but in absolute terms.

It means that we cannot go on, year after year, tossing money at boondoggles such as the gun registry or sponsorship programs. It means that we cannot, year after year, hand out government grants and pretend that there are no long-term implications to not, instead, applying the money to debt reduction. It means that spending review exercises cannot just be about where we can shift money from one program to another, but where we can shift money from low-priority spending to debt reduction.

Dr. Suni Patel, head of the Canadian Medical Association, said this in response to the Speech from the Throne: “We need to restore the confidence of Canadians in their health care system. Confidence does not get built overnight with a simple speech which is long on words but empty of specifics.”

Honourable senators, health care professionals and patients alike deserve to know specifically what the government will do to improve the delivery of what it calls its number one priority. It is time for this Liberal government to stop merely saying that health care is its top priority; it is time for action.

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question!

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

Some Hon. Senators: Agreed.

Senator Kinsella: On division.

Motion agreed to, on division, and Address in reply to the Speech from the Throne adopted.

On motion of the Honourable Senator Rompkey, ordered that the Address be engrossed and presented to Her Excellency the Governor General by the Honourable the Speaker.

THE ESTIMATES, 2004-05

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY MAIN ESTIMATES

Hon. Bill Rompkey, (Deputy Leader of the government), pursuant to notice of February 24, 2004, moved:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Estimates for the fiscal year ending March 31, 2005, with the exception of Parliament Vote 10.

Motion agreed to.

VOTE 10 REFERRED TO JOINT COMMITTEE ON LIBRARY OF PARLIAMENT

Hon. Bill Rompkey (Deputy Leader of the government), pursuant to notice of February 24, 2004, moved:

> That the Standing Joint Committee on the Library of Parliament be authorized to examine the expenditures set out in Parliament Vote 10 of the Estimates for the fiscal year ending March 31, 2005; and

That a message be sent to the House of Commons to acquaint that House accordingly.

Motion agreed to.

OFFICIAL LANGUAGES ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Gauthier, seconded by the Honourable Senator Gill, for the second reading of Bill S-4, to amend the Official Languages Act (promotion of English and French).—(*Honourable Senator Stratton*).

Hon. Terry Stratton: Honourable senators, I have assured Senator Gauthier that, having checked with our caucus and with no one wishing to speak on this side, we would now move second reading of this bill.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I move that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Senator Kinsella: Official Languages.

Senator Rompkey: I should like to move that the bill be referred to the Standing Senate Committee on Official Languages.

The Hon. the Speaker: Honourable senators, if unanimous leave is given, Senator Rompkey can vary his motion.

Hon. Senators: Agreed.

The Hon. the Speaker: I will put the question, as amended by unanimous agreement.

It was moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Losier-Cool, that the bill be referred to the Standing Senate Committee on Official Languages.

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

Hon. Senators: Agreed.

Motion agreed to and bill referred to the Standing Senate Committee on Official Languages.

BILL RESPECTING THE EFFECTIVE DATE OF THE REPRESENTATION ORDER OF 2003

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, for the second reading of Bill S-7, respecting the effective date of the representation order of 2003,

And on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, that the original question be now put.—(*Honourable Senator Robichaud, P.C.*).

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, this has been in Senator Robichaud's name now for well over a week. I wonder when he intends to speak to this very important matter.

• (1530)

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, as soon as I understand why such a motion was put on the Order Paper, I will speak about this matter. This bill was debated and was defeated in a vote. Next, there was a motion for the previous question. It was argued that if this motion were defeated, the bill would be completely struck from the Orders of the Day.

[*English*]

The Hon. the Speaker: Is the wish of honourable senators to stand this item, or should I put the question?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I thank the honourable senator for speaking to this motion. As I moved the motion that the original question be now put, I guess His Honour should say that if I speak, it would close the debate.

The Hon. the Speaker: Did you wish to speak, Senator Robichaud?

[*Translation*]

Senator Robichaud: I think that I was clear when I said I had no intention of giving my speech now. In answer to the Honourable Senator Lynch-Staunton, I explained why I was hesitant and I clearly indicated, at the end, that as soon as I understood what was happening, I would give my speech. This is another way of asking that the debate be adjourned until the next sitting of the Senate.

[*English*]

The Hon. the Speaker: To dispose of this matter, honourable senators, it is necessary for Honourable Senator Robichaud to move the adjournment.

Are you moving the adjournment, Senator Robichaud?

[*Translation*]

Senator Robichaud: I said "adjourned" initially; no one believed me. Consequently, I ask that the debate be adjourned until the next sitting of the Senate.

[*English*]

On motion of Senator Robichaud, debate adjourned.

2002 BERLIN RESOLUTION OF ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY

REPORT OF HUMAN RIGHTS COMMITTEE— DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the second report of the Standing Senate Committee on Human Rights (clarification of its mandate), presented in the Senate on February 17, 2004.—(*Honourable Senator Rompkey, P.C.*).

Hon. Shirley Maheu: Honourable senators —

The Hon. the Speaker: I am informed by the Table that the Honourable Senator Maheu has already spoken to this item. Pursuant to the rules, she can only speak once. Is she asking for leave to speak again?

Senator Maheu: I am asking for leave to speak again.

An Hon. Senator: No.

The Hon. the Speaker: Leave is not granted, Senator Maheu.

Hon. Bill Rompkey (Deputy Leader of the Government): I would be happy to have Senator Maheu speak now.

The Hon. the Speaker: I will ask again because I heard someone say "no."

I would ask honourable senators to please come to order. I want to see if there is leave.

Is leave granted, honourable senators, for Senator Maheu to speak a second time to Order No. 1 under Reports of Committees?

An Hon. Senator: No.

The Hon. the Speaker: Leave is not granted.

Hon. John Lynch-Staunton (Leader of the Opposition): As long as the honourable senator is adding to what she said earlier and not closing debate, I would be in agreement.

Hon. Marcel Prud'homme: Your Honour, two times it is yes, then no, then a few words. I want to make sure it is understood that if the honourable senator speaks now, she will not close the debate.

The Hon. the Speaker: The only speaker who has a right of reply is the mover of the motion. I am under the impression that Senator Maheu was not the mover of the motion. Accordingly, by our rules, this is not a right of reply closing debate.

Senator Maheu: Honourable senators, I just wanted to clarify one point. I have no objection if Senator Prud'homme wishes to take the adjournment.

Our committee has discussed the mandate again, and we are clear and ready to proceed with our hearings. The Senate has already given us a mandate to hold hearings. We will eventually hear from many diverse groups.

As well, we intend to accept suggestions from senators as to any other groups they think we should hear. We would like to advise the Senate that we are, therefore, ready to initiate our first meeting.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I thank the Chair of the Human Rights Committee for that explanation and I agree with everything she said. Therefore, I move, seconded by Senator Stratton, that this item be stricken from the Order Paper.

The Hon. the Speaker: Is it agreed that we put the motion, honourable senators?

Senator Prud'homme: This is becoming more and more obscure! This clarifies that we need some debate. Therefore, I move not the adjournment of the motion of the honourable senator, since there has been another one, but I move the adjournment of the debate, seconded either by Senator Nolin or by Senator Watt, if he does not mind. I move the adjournment of the debate on the motion of Senator Kinsella.

Senator Lynch-Staunton: Before doing so, I understand from Senator Maheu that she is now quite prepared to hold hearings on the order that was given to her committee. Whether this item remains on the Order Paper or not, I gather the committee is prepared to initiate the instruction that was given by this chamber.

Senator Maheu: Yes.

Senator Lynch-Staunton: In effect, this motion becomes redundant, whether it stays on the Order Paper or not.

Senator Maheu: That is right.

Senator Prud'homme: I have a few comments for my honourable friend, Senator Lynch-Staunton. The committee asked for clarification; I heard that. I was told that, privately, that clarification was given. We are the Senate of Canada, so who knows what goes on between one or two or three or four or five individuals. The Honourable Senator Maheu came to the chamber and asked for clarification from the senator who put

the motion. That senator is not here. That is why I did not speak the last time this order was called. I felt that, in all due fairness, I would like to see the gentleman who put the motion to send the resolution to the Human Rights Committee. The committee then wanted clarification of its mandate, I now hear that Senator Maheu is satisfied because clarification was given to her — by whom I do not know. At any rate, this Order Paper item has now been pushed aside by the good motion of Senator Kinsella, who said, "I move that this item be stricken from the Order Paper." That is a debate within the debate. I then moved the adjournment on Senator Kinsella's point.

Until the Senate is satisfied — not one individual or two — about the clarification that the full committee has asked the Senate to provide, I do not think the committee can begin its deliberations and start spending its budget. That would not be appropriate.

Therefore, if I were the honourable senator, I would be careful not to hold hearings until we finish with Senator Kinsella's motion asking that this item be struck from the Order Paper today.

Senator Lynch-Staunton: The point is that the Senate was always satisfied with the motion; it passed unanimously. A representative of the Human Rights Committee said that its members needed clarification. In the meantime, I gather that the clarification is there; they have it. The motion is redundant. Let us get on with the work. Senator Grafstein's motion regarding the OSCE is very worthy of study and report. I think we all look forward to it. I encourage the chair of the Standing Senate Committee on Human Rights to begin as soon as possible.

• (1540)

Senator Kinsella: I agree with what the Leader of the Opposition has just said. In fact, there was no motion before the house. We simply had a report and were debating it. The issue has been clarified, as Senator Maheu has indicated to us. My motion is simply to strike the item from the Order Paper. That is a debatable motion, and Senator Prud'homme is quite right. He has moved the adjournment of the debate on the motion to strike this from the Order Paper.

Senator Prud'homme: Your Honour, I am not a child. I have seen enough wheeling and dealing on this matter. I still propose that we were not given clarification. Maybe some members of the committee are happy, but it is the Senate that was asked. The honourable senator came back and said, "You have given us a mandate, thank you very much." It is the first time that someone has come back to us for clarification. I am waiting for the clarification before the honourable senator goes ahead with her motion.

The Hon. the Speaker: Procedurally, I am getting into an area where I think I should clarify, for no other purpose than my own.

Senator Kinsella moved a motion that I mistakenly thought required notice. When he moved his motion, I paused to see if there was consent that he move the motion. I was incorrect, and under rule 59(13), notice is not required for the motion. I cannot remember whether or not I identified a seconder.

Senator Lynch-Staunton: Yes, Senator Stratton.

The Hon. the Speaker: If I did that, the motion is before us.

Senator Prud'homme: That is right.

The Hon. the Speaker: Senator Kinsella has helped us here. Senator Prud'homme, in order to make his points, can either speak to the motion and make his points now or move the adjournment of the debate and do so later on. Do you wish to speak now or do you wish to move the adjournment of the debate?

Senator Prud'homme: Maybe I should yell. I clearly said that I was adjourning the motion of Senator Kinsella. I know sometimes it is tough to hear in this chamber.

The Hon. the Speaker: It is difficult for you and I to sometimes hear one another. I now am clear on what you said. It is not a debatable motion. I will put the motion. You had selected a seconder. Is it Senator Plamondon?

Senator Prud'homme: No, Senator Watt.

The Hon. the Speaker: It was moved by Senator Prud'homme, seconded by Senator Watt, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Senator Prud'homme: Some day the honourable senator should give us the clarification that she has not yet shared with us. This is a game!

On motion of Senator Prud'homme, debate adjourned.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

MOTION TO AUTHORIZE COMMITTEE TO STUDY CERTIFICATION OF PETITIONS TABLED IN THE SENATE—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Gauthier, seconded by the Honourable Senator Fraser:
>
> That the Standing Committee on Rules, Procedures and the Rights of Parliament be authorized to examine, for the purposes of reporting by March 1, 2004, all Senate procedure related to the tabling of petitions in this Chamber in Parliament assembled, that a procedural clerk, having examined the form and content, certify the petitions in accordance with established standards and that follow-up be provided for in the Rules of the Senate,

And on the motion in amendment of the Honourable Senator Corbin, seconded by the Honourable Senator Maheu, that the motion be amended by deleting all the words after the word "That" and substituting the following therefor:

"the history of the practice in both the Senate and the House of Commons relating to petitions other than petitions for private bills, as well as the customs, conventions and practices of the two Houses at Westminster, be tabled in the Senate and distributed to the honourable senators before being referred to the Standing Committee on Rules, Procedures and the Rights of Parliament."

The Hon. the Speaker: Honourable senators, before I give the floor to Senator Corbin, I should advise that he has already spoken to this item. Is leave granted for him to speak again?

Hon. Senators: Agreed.

Hon. Eymard G. Corbin: Honourable senators, I will take only a moment of your precious time.

The other day, His Honour the Speaker ruled on a point of order raised in connection with an amendment I had presented to a motion by the Honourable Senator Gauthier. In his ruling, His Honour suggested that, though he accepted the amendment, certain precisions, if I may call them that, should be added to the motion. I am prepared, ready and willing to proceed with this matter, but I need the unanimous consent of the house to put my proposal forward. Therefore, I seek unanimous consent to amend my amendment.

The Hon. the Speaker: I think, Senator Corbin, you should indicate what you propose, and then I will ask if leave is granted for you to propose it.

Senator Corbin: Honourable senators, with respect to who should do the research referred to in the amendment, I am suggesting that it should be prepared by the Table Officers and tabled in the Senate by His Honour the Speaker no later than October 15, 2004.

[*Translation*]

I move:

That the history of the practice sought through this motion in amendment be prepared by the Table Officers and tabled in the Senate by the Honourable The Speaker no later than October 15, 2004.

I seek the unanimous consent of the senators in order to proceed with this amendment to my amendment. I would also like to add a few words, if the honourable senators will allow me to do so.

[*English*]

The Hon. the Speaker: Is leave granted, honourable senators, for the variation in the motion as proposed by Senator Corbin?

Hon. Senator: Agreed.

Senator Corbin: Honourable senators, I think that the date of October 15 is not excessive. I have conferred with the Clerk of the Senate and he has indicated that that committee has quite a workload right now, and that it would not be possible to proceed with this type of request in the immediate future.

I explained the other day that I take the position that, before we do change anything fundamental in our way of doing business here, we should be well informed as to why such a practice exists in the first place, rather than referring the thing right away to the Standing Committee on Rules, Procedures and the Rights of Parliament, which committee has quite a program before it as of now. In that sense, our proceeding today will not make a substantial difference because my understanding is that the Rules Committee will not be able to deal with the matter for some time.

It is important because Senator Gauthier, for whom I have a great deal of respect, is right in wanting to make a change. I subscribe to his intentions. However, if we are to make any changes to the rules, we should also look at a few other things in the process.

We now know that the rules in the other place — we do not necessarily follow the rules of the other place — do now have a procedure whereby if petitions are in conformity with the rules, and after being examined by a clerk of petitions, they are then referred to some office in the Privy Council. I do not know if one, two or three persons are charged with examining the petitions, but within 50 days, I believe it is, they do need to come up with a governmental response, which is then referred back to the other place. The matter then, as I understand it, is automatically referred to a particular committee for examination and report. That is time consuming, requires additional personnel and incurs costs. Is that the way we want to proceed? Perhaps. However, before we take that road, we ought to inform ourselves of the consequences.

• (1550)

Honourable senators will recall when the decision was made in this chamber to keep a scroll of attendance in the Senate. That resulted in the hiring of an extra person in the clerk's office who tabulates on an ongoing basis the presence of senators in the house, in committees and in public business so that the press is informed and may report on it from time to time. Costs are incurred. I would like to know the consequences in this instance. The Table Officers could examine that question and include it in their report as well.

Before we ask the committee to undertake its examination of such a proposal, it would be useful to have a statistical table of the action that follows in respect of positive or negative results and responses, and in terms of the committee's recommendations to the house once these petitions start moving. We would all want to be informed of that. I think that all honourable senators would want to be informed.

The Hon. the Speaker: Honourable senators, I note that Senator Gauthier is not in the chamber.

Senator Corbin: The question is on the motion in amendment.

The Hon. the Speaker: We would vote first on the motion in amendment as granted by unanimous leave, after which we would vote on the motion of Senator Gauthier, as amended.

Is the house ready for the question?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): When I first read this motion in amendment, I thought that it would be a good approach. However, as I listened and thought about it again, I decided that perhaps this would not be the best way to proceed.

It seems somewhat strange that we would deal with the amendment to this motion and then refer the item to a standing committee for study. The main motion is to refer the item to the Standing Committee on Rules, Procedures and the Rights of Parliament but the committee will not be seized of it until after the study that is envisaged in this amendment.

Senator Prud'homme: May we have clarification?

Senator Kinsella: It seems to me that there is a contradiction between the main motion and the motion in amendment. I will not oppose it because I think that the parliamentary calendar will transcend everything. I merely place my concerns on the record.

Hon. Bill Rompkey (Deputy Leader of the Government): In view of the concerns expressed, perhaps it might be better to adjourn the debate to allow honourable senators time to study the amendment and ensure that all honourable senators who wish to participate would have that opportunity.

Senator Prud'homme: Give us some clarification.

The Hon. the Speaker: It is moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Losier-Cool, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Rompkey, debate adjourned.

ABORIGINAL PEOPLES

MOTION TO ADOPT SIXTH REPORT OF COMMITTEE OF SECOND SESSION AND REQUEST GOVERNMENT RESPONSE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Sibbeston, seconded by the Honourable Senator Adams:
>
> That the sixth report of the Standing Senate Committee on Aboriginal Peoples, tabled in the Senate on October 30, 2003, during the Second Session of the 37th Parliament, be adopted and that, pursuant to Rule 131(2), the Senate request a complete and detailed response from the Government, with the Ministers of Indian Affairs and Northern Development, Justice, Human Resources and Skills Development, Social Development, Canadian Heritage, Public Safety and Emergency Preparedness, Health, and Industry; and the Federal Interlocutor for Métis and Non-status Indians being identified as Ministers responsible for responding to the report.

Hon. Nick G. Sibbeston: Honourable senators, it is with great pleasure that I rise today to speak to the sixth report of the Standing Senate Committee on Aboriginal Peoples, "Urban Aboriginal Youth: An Action Plan for Change." It represents the first time a parliamentary committee has studied the needs and conditions of urban Aboriginal youth in Canada. The report has 19 recommendations and is the result of extensive work by members of the Aboriginal Committee who travelled throughout the country and spent 18 months examining this very important topic.

I wish to thank honourable senators who served on the Standing Senate Committee on Aboriginal Peoples, and especially the Honourable Thelma Chalifoux, former Chair of the Aboriginal Committee, whose leadership and dedication made this study possible.

Honourable senators, in the Speech from the Throne on February 2, the government recognized the reality that is described in our report. It was encouraging to hear that the government is serious about dealing with Aboriginal issues when it alluded to Aboriginal people in urban centres. The Aboriginal experience is increasingly an urban experience. Today, one-half of Canada's Aboriginal people live in urban areas. This increasing Aboriginal presence in Canada's cities is changing not only the make-up of those cities but also, in a very real sense, urban politics as well.

This is especially so for the larger urban centres of the West where a significant percentage of Aboriginal peoples reside. In Saskatoon, Aboriginal peoples currently comprise 9 per cent of the population; in Winnipeg it is 8 per cent. These numbers are growing quickly each year. In smaller cities, such as Prince Albert, Aboriginal people already make up 30 per cent of the population. This is because of the Canadian phenomenon of Aboriginal peoples moving from the rural areas into the urban centres. Increasingly they are becoming a significant portion of the population in these cities.

The federal government to date has generally focused its attention and policies on the rural, reserve setting where First Nations live. Now is the time in our Canadian history when the federal government must recognize that most Aboriginal people no longer live in rural, reserve areas because they have moved to the urban centres in our country's cities.

Until recently, the rapid migration of Aboriginal people into the cities attracted little attention among policy makers. As a consequence, Aboriginal policy in Canada has focused almost exclusively on reserve-based First Nations. This approach to

Aboriginal policy no longer reflects the geographic and social reality of Aboriginal peoples. While I do not want to minimize the problems that exist for Aboriginal peoples in rural areas and on reserves, the increasing urbanization of Aboriginal people makes a new direction in policy development an urgent necessity.

The profound demographic shift of Aboriginal population to the cities holds significant implications for federal responsibility for Aboriginal people. Federal responsibility is no longer focused where the majority of Aboriginal people are living. Of the nearly $8 billion that the federal government will spend on Aboriginal programs, only $270 million will flow to urban and off-reserve Aboriginal programs of the federal government.

In a significant move away from current federal policy, which largely limits government responsibility for on-reserve status Indians and Inuit, the committee's report calls upon the federal government to recognize the mobility rights of First Nations when they leave their reserve communities. The report recommends a start to formal negotiations with the Metis people of Canada, the most heavily urbanized segment of the Aboriginal population, in order to recognize and clarify these rights. It was encouraging to hear in the Speech from the Throne that the government, in its policies, will engage in creating and dealing with a place for the Metis.

As honourable senators are aware, when measured against nearly every social and economic indicator, Aboriginal youth living in urban areas face major disadvantages in comparison with other Canadian youth.

• (1600)

It is usually a problem of Aboriginal people being poorer and having a difficult time coping within the urban settings. For many Aboriginal youth, city life is an overwhelming experience. While cities may seem to offer great promise, countless arrive ill-prepared to take advantage of these opportunities, and promise eventually turns to despair.

The issue is Aboriginal people living in rural areas moving to urban centres, and it is the problem of people not knowing the lifestyle and all that is involved in living in a more sophisticated urban centre. That is the essence of the problems that Aboriginal people face.

My uncle used to say, when he came from the North to the city, that he often wished he could carry a little axe, to mark his way as he moved around the city, to remember where he had gone. In the bush in the North, he was a very capable hunter and trapper, but when he went to the city, for just a few days, he found it mesmerizing and very difficult. That illustrates, in part, the difficulty Aboriginal people have in coming to a city and coping with the lifestyle there.

I could quote endless negative statistics. I would encourage my colleagues to read the report that we worked so hard to produce. I shall not go through all the statistics, the detail, that is provided there, which really shows the plight and state of Aboriginal youth in our cities. We need to look beyond the statistics for answers, and that is what the report has done.

The committee's report maps out long- and short-term strategies to address both the needs and aspiration of youth, and it lays the foundation upon which their potential can be valued, nurtured and realized. Most notably, the report highlights the need for transition services to help youth adjust to city life. The report also discusses measures to address the high dropout rates, deals with community-based programs to promote sound parenting skills, as well as long-term strategic approaches for labour market readiness. These and other initiatives we describe will create a positive environment within which urban Aboriginal youth can thrive.

It is encouraging that the federal government stated in the Speech from the Throne that it would expand the urban Aboriginal strategy, which will provide more needed assistance to Aboriginal peoples in the cities.

Improving educational outcomes for Aboriginal youth must be a key part of any solution to improve the lives of Aboriginal youth. As we state in our report, ensuring meaningful access to higher education for Aboriginal youth is an investment we make not only in their future but also in ours. Despite recent reassuring gains, however, Aboriginal youth continue to lag behind the rest of the Canadian population, at a time when jobs require more and more education.

While the general situation in cities is bleak, I should like to refer to a situation in the North, to show people the kind of progress that some native people in our country are making. In the Northwest Territories, where I come from, the Dogrib people, who live in the area around Yellowknife, have become very involved in the diamond mines. The Dogrib people are the most traditional group of Aboriginal people in the North, yet, in the course of the last few years, they have made the jump to an industrial-type society. In terms of education alone, five years ago, six Dogrib students were attending technical schools and universities in the South. As a result of making the jump to the industrial age, as it were, and having funds available to give to their students, there are now 200 students attending universities and technical schools in the South. Obviously, the Dogrib people have made a decision to get involved in an industrial development, and are putting money in education.

My uncle used to say that education is power. Education is the means by which one can move from a tepee, out in the bush, to living and working in cities, wearing a white shirt, in an office. There are people from our area, who have come right from the bush, who are now professional people, which demonstrates the importance of education. Therefore, honourable senators, much of the report emphasizes education as a means of helping Aboriginal youth, so that they can become good contributing members of our society.

The report calls for the federal government to remove artificial status-based restrictions, so that all Aboriginal youth are eligible for post-secondary student assistance. The reality is that, while First Nations treaty people get financial assistance to go to universities, the Metis do not. I am not aware of a federal program that assists Metis people to go to university. Hence, it is recommended in the report that federal programs should apply to all Aboriginal youth, to give all of them a fair chance to get a good education.

Honourable senators, while post-secondary education is important, the emphasis cannot be on that alone. It is not realistic to expect that everyone can become a professional as a result of going to university. The trade and technical schools offer many good programs as well, so it is important to recognize that and have programs attuned to those areas.

I am familiar with the problems youth face when they move to the bigger centres. I faced them myself, as a young person going to Edmonton to attend university. I am aware of the struggle Aboriginal youth face when they are forced to leave the small communities to go to the bigger centres.

Honourable senators, I do not intend to go into much more detail about our report. I would encourage honourable senators to read the report, which maps out strategies for positive and meaningful change.

Aboriginal youth have talents, aspirations and hopes for better life. In this country, we always talk of labour shortages and the need to have people migrate from other countries to meet the labour needs. Honourable senators, my answer to that is that there is a large group of people in our country who can eventually be trained and educated to fill that labour-market deficiency that now exists. If the government is serious about this, it ought to read the report and look at the recommendations so it can do something very positive.

A sustained, cooperative effort among all levels of government — not only the federal government — is required. The provinces and Canadian municipalities also need to become involved, so that they can work together to respond to the needs of Aboriginal people.

I believe that a genuine window of opportunity exists to implement the kind of positive change needed to ensure that another generation of Aboriginal youth is not sacrificed. The committee has worked out a realistic plan of action and has detailed concrete steps, which, if implemented in a serious and dedicated fashion, can lead to meaningful reform and long-lasting change. It now falls on the government to respond.

In that regard, let me just state, honourable senators, that when we are were dealing with these recommendations, we were afraid that they would be simply seen as that — recommendations — and not dealt with too seriously by the government. Therefore, all the recommendations are shown as recommended actions. There is real desire on the part of the committee to have the government respond and act on the recommendations.

• (1610)

As I said, there are 19 recommendations and part of the motion is to have various government departments respond to the report. It is so very important not to have the report simply shelved or gather dust, or lost somewhere in the system. It is critical that the government respond to our report in order that the good work of our committee can come to fruition. That is why part of the motion is directed at having government departments respond to us.

The Hon. the Speaker: Honourable senators, I regret to advise that the Honourable Senator Sibbeston's time has expired.

Some Hon. Senators: Question!

Senator Sibbeston: I have finished.

Hon. Charlie Watt: Honourable senators, would the honourable senator accept a question?

The Hon. the Speaker: Before a request can be put, we need unanimous consent for Senator Sibbeston's time to be extended. Is that agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: I hear no dissenting voice, so it is agreed. Would you take a question, Senator Sibbeston?

Senator Sibbeston: Yes.

Senator Watt: Honourable senators, I understand that the report Senator Sibbeston has worked on over the years is important, and I agree that it is an important report. However, I believe we must be very careful that we do not start painting the picture such that we lose all our people and they all go to the cities. I received a document from the Leader of the Government in the Senate, Senator Austin, which is a report that was put together by Statistics Canada. That report mentions the fact that only 31 per cent of our people are now living on reserves; the rest have already left to go to the cities.

However, when we look closer at that, we realize that they have lumped the Indians, the Inuit and the Metis all together. If that is the case, perhaps we are painting a very wrong picture, and we should be very careful on that. The work that is being carried out by Statistics Canada needs to be corrected.

I will give one example that we have managed to put our hands on recently, but only within the Quebec portion of the report. That is, First Nations from Quebec do not seem to be reflected in the work that has been carried out by Statistics Canada. That is to say that 72 per cent of the Aboriginal people are on reserves.

If you ask me about the Inuit, I do not have the complete picture on that question, but I am getting that information. Knowing that the Government of Canada used the work of Statistics Canada on the population, that is the basis on which

they make their decisions when it comes to budgets and housing needs, educational needs, medical needs and whatever. For that reason, I am worried that if that statistic is not corrected soon, we will be misleading our government and we will be misleading ourselves. It is important that we make note of that on our record here.

This is very important, and I do believe that Senator Gill also has that same kind of information. We are already starting to have some problems because there are two sets of information now: one saying that in Quebec alone, the First Nations population is 72 per cent, but in the large picture it is only 31 per cent who are left on the reserve. When it comes down to dealing with housing needs, for example, we will be getting into a problem. In other words, we will have to rectify the misconception immediately before it goes too far.

Honourable senators, I wanted to use this time to make that statement, but I really do not have a question for Senator Sibbeston. However, to me it is an important matter.

Senator Sibbeston: Honourable senators, I will just make a comment. When you talk of Aboriginal people in our country, it is always important to recognize that in the northern parts of our country the situation with Aboriginal peoples is so different from Aboriginal peoples who live in the southern parts of the country.

The questions we talk about, such as the urban problems that native people are having, are not so much the case in the northern parts of our country, in Nunavut, Northwest Territories and Yukon. Without question, Aboriginal peoples in those areas are a big majority. In fact, 85 per cent of the population in Nunavut is Inuit people; in Northwest Territories, 51 per cent are Aboriginal, as is also the case in Yukon. In fact, on page 9 of the report there is information under the heading “Where do Aboriginal peoples live?” and so the information provided there gives the percentage, the number of Aboriginal peoples who live in different parts of our country.

On the whole, however, it does seem that statistics do show that one half — in fact 49 per cent — of self-identified Aboriginal people live in urban centres. This is a statistic that has resulted from the last census that we had in our country.

[*Translation*]

Hon. Aurélien Gill: Honourable senators, it is very important to clarify this information. Some time ago, statistics were based on the number of Status Indians on reserves and the number of Metis and Inuit. You have to realize that Indians are governed by the Indian Act, but the Metis are not. The Metis do not live on reserves. Indians live on reserves and the Inuit live on what are called settlements.

These statistics have always been interpreted differently. Today, everyone is lumped together under the term “Aboriginal”; Statistics Canada does this, too. It determines the number of Indians, Metis and Inuit and then says that, of this group, 31 per cent live on Indian reserves.

The Metis have never lived on Indian reserves. Why change this now and give statistics based on the total group of Aboriginals? It is important to provide accurate figures. People should not be misled. It is already complicated enough.

In Quebec, there have been housing studies concerning the Indians of Quebec. The studies show that 72 per cent of Indians own homes. That does not mean there are no longer any Indians living in the communities. It may be true that 50 per cent of Aboriginals live off-reserve, but we must make the distinction between those who are governed by the Indian Act and those who are not. The Metis have never been governed by the Indian Act. Indians are governed by the Indian Act. We have to find other statistics and differentiate between the groups, not out of a wish for segregation, but to understand the reality in order to find concrete solutions.

I ask Senator Sibbeston, in confirming or providing figures or references, to specify who they concern.

[*English*]

On motion of Senator Stratton, debate adjourned.

• (1620)

BUSINESS OF THE SENATE

COMMITTEES AUTHORIZED TO MEET DURING SITTING AND ADJOURNMENT OF THE SENATE

The Hon. the Speaker: Honourable senators, two of our colleagues have requested the floor to ask for leave.

Hon. Joan Fraser: Honourable senators, I ask for leave to revert to Notices of Motions.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): For what purpose is leave requested?

Senator Fraser: If leave is granted, honourable senators, I would be asking the Senate for leave to allow the Standing Senate Committee on Transport and Communications to sit on Tuesday, March 9, at 3:30 p.m.

As we all know, the Secretary-General of the United Nations will be addressing a joint session of Parliament in the morning of that day, which is when the committee normally meets. The steering committee has considered this matter and approves. I may say that the deputy chair of the committee enthusiastically endorsed this concept.

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

Hon. Senators: Agreed.

Senator Fraser: Honourable senators, I move, with leave of the Senate and notwithstanding rule 58(1)(a):

> That the Standing Senate Committee on Transport and Communications be empowered to sit at 3:30 p.m. on Tuesday, March 9, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators, leave was granted to revert to Notices of Motions and Senator Fraser has put her motion. Is leave granted for me to put the motion?

Hon. Senators: Agreed.

Hon. Lowell Murray: Honourable senators, I would like to say a word or two after the motion has been put.

The Hon. the Speaker: It is moved by the Honourable Senator Fraser, seconded by the Honourable Senator Massicotte, with leave of the Senate and notwithstanding rule 58(1)(a):

> That the Standing Senate Committee on Transport and Communications be empowered to sit at 3:30 p.m. on Tuesday, March 9, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Senator Murray: Honourable senators, I thank Senator Fraser for bringing to my attention the fact that there is a possible conflict between a committee meeting on the morning of March 9, and the speech of the Secretary-General of the United Nations before a joint session at that time.

I had intended to and am, indeed, convening the Standing Senate Committee on National Finance for 9:30 a.m. on that Tuesday morning. We have before us the Main Estimates for the fiscal year 2004-05. Assuming that the officials of Treasury Board, who would be appearing, would be free to appear at some other time during that day, because in my opinion we must hear them that day, I would ask whether the Standing Senate Committee on National Finance could be joined in this motion. I will decide at a later date, after consultation, whether to avail myself of the authority that the motion grants, if that is satisfactory.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: I wonder, Senator LeBreton, if your concern is of a similar nature?

Hon. Marjory LeBreton: Yes, Your Honour.

The Hon. the Speaker: I know this is unusual, honourable senators, but might I give the floor to Senator LeBreton to see what she has to say?

Senator LeBreton: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

> That the Standing Senate Committee on Social Affairs, Science and Technology be empowered, in accordance with rule 95(3), to sit at 9:30 a.m. on Wednesday, March 3, 2004, even though the Senate may then be adjourned for a period exceeding one week.

The Hon. the Speaker: Honourable senators, because it is a different time, we should deal with it as a separate item. Perhaps we could go to the Honourable Senator LeBreton as the third senator requesting leave and deal with them as separate items. It is a little confusing to combine them.

I am returning to Senator Fraser's motion. Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Fraser, seconded by the Honourable Senator Massicotte, with leave the Senate and notwithstanding rule 51(1)(a):

> That the Standing Senate Committee on Transport and Communications be empowered to sit at 3:30 p.m. on Tuesday, March 9, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

The Hon. the Speaker: Senator Rompkey is rising to ask a question.

Hon. Bill Rompkey (Deputy Leader of the Government): I was going to give Senator Murray the floor to put his motion. My understanding is we dealt with that one separately, but Senator Murray's motion was similar. I think we want to give him an opportunity to put it.

The Hon. the Speaker: I had agreed to see and I did see Senator LeBreton next. Senator Murray spoke to Senator Fraser's motion. He did not ask for leave. It would be unusual for me not to respect Senator LeBreton's taking of the floor.

Senator LeBreton: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

> That the Standing Senate Committee on Social Affairs, Science and Technology be empowered, in accordance with rule 95(3), to sit at 9:30 a.m. on Wednesday, March 3, 2004, even though the Senate may then be adjourned for a period exceeding one week.

On that day, the committee intends to hear witnesses on the controversial Bill C-6.

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

Hon. Senators: Agreed.

The Hon. the Speaker: I will put the motion.

It is moved by the Honourable Senator LeBreton, seconded by the Honourable Senator Keon —

Some Hon. Senators: Dispense.

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

Hon. Senators: Agreed.

Motion agreed to.

Senator Murray: Your Honour, if you would retrieve Senator Fraser's motion and substitute the words "Standing Senate Committee on National Finance" for the words "Standing Senate Committee on Transport and Communications" and put the question, that would be fine.

The Hon. the Speaker: Honourable senators, I think that is in order.

Is leave granted for Senator Murray's motion?

Hon. Senators: Agreed.

The Hon. the Speaker: It is moved by the Honourable Senator Murray, seconded by the Honourable Senator Atkins, with leave of the Senate and not withstanding rule 58(1)(a):

> That the Standing Senate Committee on National Finance be empowered to sit at 3:30 p.m. on Tuesday, March 9, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

REASONS FOR SITTING AS PROGRESSIVE CONSERVATIVE

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Atkins calling the attention of the Senate to the reasons for his decision to sit as a Progressive Conservative Senator.—(*Honourable Senator Murray, P.C.*).

Hon. Lowell Murray: Honourable senators, first, let me thank Senator Atkins for the speech with which he opened this debate on February 5, a speech resonant with the values and traditions of the Progressive Conservative Party. I thank him for having recalled what our party had meant to us and to many thousands of Canadians over a long period of time.

I have drawn essentially the same conclusions as my honourable friend has done from the events of the past few months in our former party and have come to the same decision. I will not join the new party of the united right and I shall continue to carry the designation Progressive Conservative as a senator, as I have done for going on to 25 years in this chamber.

• (1630)

I ask for your indulgence so that I may explain myself for the record.

[*Translation*]

First, I will say that the procedure that was used in the winding-up of the Progressive Conservative Party is both dishonourable and contemptuous of the very constitution of the party. In substance and policy, the Alliance and the Progressive Conservative Party disagree and have always disagreed on the most fundamental issues, such as the role of the State in society and the nature of our country. The fact that they went through with such a merger without trying to resolve these differences seems to me absurd.

[*English*]

I shall speak first of process and then of policy. It must be noted that at two properly constituted national conventions, in Toronto in 1999 and Edmonton in 2002, the Progressive Conservative Party had resoundingly rejected merger or any electoral arrangement with another party. The process by which this policy was reversed last fall was sufficient in and of itself to alienate me definitively from the outcome and from the people who perpetrated it.

In June, shortly after the national convention in Toronto, our new leader, who during the leadership campaign had repeatedly declared his opposition to merger with another party, secretly appointed emissaries to conduct a process leading to just that result and to the dissolution of the party he had been elected to lead into the next election. He took that initiative without having consulted either the parliamentary caucus or the elected national executive of the party. We first heard of it when news leaked to the media on September 18.

As Senator Atkins said in his speech, the argument of the proponents from September 18 forward was "the train has left the station" and there could be no turning back. By October 15, a so-called "agreement in principle" had been arrived at with the emissaries of the Reform/Alliance. From that date, it was full speed ahead and damn the torpedoes. The party's constitution was twisted and bent out of shape to achieve the purpose of the proponents. For them, the end justified the means.

A "virtual convention" by telephone link was held on December 6. A form of ratification of the fait accompli was agreed by more than 90 per cent. It was a coup, similar to what we have seen in some countries where the constitution is suspended and a new order ratified in a quick plebiscite. Thus was our former party, the party of Confederation, the party of Macdonald and Cartier, extinguished.

The merger of the Reform/Alliance and the Progressive Conservative parties purports to unify two parties whose core convictions were not only different but also fundamentally opposed and contradictory, one to another. The Reform/Alliance and the Progressive Conservatives were fundamentally opposed in their respective views as to the role of politics and government and fundamentally opposed also with regard to the nature of this country.

To the Reform/Alliance, government is at best a necessary evil. To the extent that government is present in our lives, they believe market-economy criteria and market-economy solutions must be applied to social and political issues. In practice, this has led their party to advocate Darwinist and regressive policies on such national questions as the treatment of linguistic minorities, employment equity, the progressive tax system, employment insurance, human rights, regional development, equalization, multiculturalism and Aboriginal rights. Honourable senators can judge this for themselves by reading the policy resolutions, election platforms and interventions of Reform/Alliance MPs in the House of Commons.

Progressive Conservatives had always rejected this laissez-faire ideology. The market economy is a wonderful instrument in its proper domain. However, politics and government must address ends such as equity and justice, redistribution, social cohesion and national unity. We had demonstrated our commitment to these purposes throughout our history in office or in opposition, federally and provincially.

Whose approach will prevail in the new party of the united right, that of the Progressive Conservatives or that of the Reform/Alliance? Two years ago, Stephen Harper gave us a penetrating glimpse into his party's social policy as well as its federal-provincial policy. "Providing for the poor," he said, "is a provincial, not a federal responsibility."

On the central issues of national unity — language rights, Quebec's place in Canada, the Constitution, equalization, regional development — either the former Progressive Conservatives in the new party will have to renounce their policy or the Reform/Alliance will have to abandon theirs. Whose policy will prevail?

The Reform Party, as we know, was founded with the aim of destroying the Progressive Conservative Party, which they have now achieved. However, one must acknowledge that there was a principled, substantive purpose behind this. That purpose was to reverse those very policies I have just mentioned, core policies that reflected our vision — a mainstream vision, if you like — of the country and to replace them with their own radically different concept of Canada.

I am incredulous that some former Progressive Conservatives would believe that these are matters of mere detail to be negotiated by reasonable people in the spirit of compromise or, as my friend Peter White implies in an article in *The Globe and Mail* recently, that the responsible people in the Reform/Alliance will be so easily separated from their principles.

Mr. Preston Manning, the founder of Reform, summed up their response to the historic mainstream policy in a few words. When you are asked to affirm the linguistic or cultural duality of Canada, he said, "they are asking you to affirm all the wrong things." Elsewhere, he referred to this as "the Plains of Abraham concept of Confederation" and allowed that it may have had some relevance in 1867 but has been overtaken by events.

As for Mr. Harper, he summed up his views on Quebec in his usual dogmatic style. "Quebec nationalism," he said, "can only be victorious or defeated. It cannot be accommodated."

From their inception as a political party, Reformers have advocated repeal of the Official Languages Act, reduction or cancellation of federal subsidies to provinces for second-language education, reductions in what they call "second-language broadcasting" by CBC and Radio-Canada, and other policies the effect of which would be a massive retreat from bilingualism by the federal government — and a total contradiction of the policy of the former Progressive Conservative Party.

The new party has issued a so-called "Areas of Agreement" statement affirming the principle of equality of status of English and French in all institutions of the Parliament and Government of Canada. This is an attempt to fudge the issue — and very thin fudge it is. It leaves untouched all the anti-bilingualism policies I have just mentioned and would also gut the new provisions of the Official Languages Act passed by Parliament in 1988 at the initiative of the Mulroney government.

Several weeks ago, Mr. Scott Reid, MP, was reappointed as the party's shadow cabinet critic and spokesman on official languages. Mr. Reid is an intelligent, articulate young man who represents the constituency of Lanark-Carleton, where I live. As his frequent parliamentary interventions on language matters attest, he completely rejects federal language policy as it has evolved over the past 35 years. Indeed, some years ago, he authored a book, *Lament for a Notion*, on the subject. Whose policy prevails, Progressive Conservative or Reform/Alliance? On language matters, Mr. Reid's appointment as spokesman answers that question.

The new party's "Areas of Agreement" document promises to "uphold the freedom of individuals and families to nurture aspects of culture that are important to them." How generous! It adds, however, that "institutionalized multiculturalism as a taxpayer-funded program has run its course." Say goodbye to the Mulroney government's Canadian Multiculturalism Act, the first such national legislation passed in any Western industrialized country.

On equalization, Reform's very first platform advocated a 10 per cent reduction as a deficit-fighting measure. With such a party in opposition, no wonder the Chrétien government got away with murder in fighting the deficit on the backs of the provinces.

Over the years, they have come to terms somewhat with equalization, although their support is hedged with qualifiers, including the condition that equalization must be the only federal-provincial redistributive mechanism. Say goodbye to such sectoral agreements as the New Brunswick highways initiative that Premier Lord and former Prime Minister Chrétien were celebrating a few months ago.

• (1640)

It is nothing short of astounding to me that the leading people in the Progressive Conservative Party would have abandoned a political tradition that was 150 years old, of which they were the trustees, and surrender to a party 15 years old without having overcome the fundamental contradictions between the two parties.

I invite honourable senators to read the areas of agreement of the new party. Look at their health care policy and wonder where they stand on the Canada Health Act. Reform/Alliance policy or Progressive Conservative?

Look at their policy on employment insurance. Note the tight, careful wording, and wonder what they have in store for fishermen and seasonal workers. Reform/Alliance policy or Progressive Conservative?

Look at their commitment to "an equal Senate" and wonder whether it is provincial equality or regional equality they are talking about. Listen to what some of them are saying.

If you believe it is the instinct of a Conservative in politics to try to preserve and promote respect for our national institutions, listen to them attacking the Governor General instead of the government which is responsible for her. Listen to John Williams, an MP since 1993, and chairman of a Commons committee, referring to a judge of the Quebec superior court as "a Liberal hack." Listen to Tony Clement ventilating about the millions he will save by wielding an axe at CBC and Radio-Canada.

Listen and regret what has become of the Conservative tradition in Canadian politics. Senator Atkins expressed the hope that the new party would reflect the values and beliefs Progressive Conservatives hold so strongly. One shares his hope, but those values and beliefs are nowhere to be found in the policies of the new party to date. The truth is that the new party seems neither progressive nor conservative in the Canadian tradition.

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

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO UNDERTAKE STUDY ON VETERANS' SERVICES AND BENEFITS, COMMEMORATIVE ACTIVITIES AND CHARTER

Hon. Joseph A. Day, for Senator Meighen, pursuant to notice of February 24, 2004, moved:

That the Standing Senate Committee on National Security and Defence be authorized to undertake a study on:

(a) the services and benefits provided to veterans of war and peacekeeping missions in recognition of their services to Canada, in particular examining:

- access to priority beds for veterans in community hospitals;
- availability of alternative housing and enhanced home care;
- standardization of services throughout Canada;
- monitoring and accreditation of long term care facilities;

(b) the commemorative activities undertaken by the Department of Veterans Affairs to keep alive for all Canadians the memory of the veterans' achievements and sacrifices; and

(c) the need for an updated Veterans Charter to outline the right to preventative care, family support, treatment and re-establishment benefits;

That the papers and evidence received and taken on the subject during the Second Session of the Thirty-seventh Parliament be referred to the Committee;

That the Committee report no later than June 30, 2004.

Motion agreed to.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO STUDY CHARITABLE GIVING

Hon. Richard H. Kroft, pursuant to notice of February 25, 2004, moved:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine and report on issues dealing with charitable giving in Canada. In particular, the Committee shall be authorized to examine:

- the needs and opportunities of Canadians in relation to various aspects of Canadian life (such as health care, education, social and cultural programs and institutions, senior care, heritage preservation, scientific research and more) and the ability of Canadians to assist in these areas through charitable giving;
- current federal policy measures on charitable giving;

- new or enhanced federal policy measures, with an emphasis on tax policy, which may make charitable giving more affordable for Canadians at all income levels;
- the impact of current and proposed federal policy measures on charitable giving at the local, regional and national levels and across charities;
- the impact of current and proposed federal policy measures on the federal treasuries;
- any other related issues; and

That the Committee submit its final report no later than December 31, 2004.

Hon. John Lynch-Staunton (Leader of the Opposition): I would like to ask a question of Senator Kroft as chairman. Senator Plamondon had a motion, agreed to here unanimously, for your committee to look into the question of usurious interest rates. There was no deadline attached to it. I was wondering if the Banking Committee would be looking into that question and, if so, when?

Senator Kroft: I thank the honourable senator for the question. I cannot provide the answer as to the time. Certainly we have placed Senator Plamondon's motion on the committee agenda. We have discussed it in committee along with a number of priorities. We are moving through studies that have been for some time on the committee's agenda. I have written to Senator Plamondon, acknowledging her motion and asking her for whatever further information she would like us to have.

The Hon. the Speaker: Are honourable senators ready for the question?

An Hon. Senator: Question!

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

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I wonder if I might have leave to revert to Orders of the Day, Government Business, in order to call Bill C-4.

The Hon. the Speaker: I will ask that question of the honourable senators. It has a bearing on an order made earlier in the day. With knowledge of that, and looking to Senator Rompkey's request for leave to revert to Government Business, is leave granted to revert to Government Business?

Some Hon. Senators: Agreed.

Hon. Marcel Prud'homme: Since we are on a day of clarification, honourable senators, I would like to make sure. We were supposed to sit at 5:30 p.m. to accommodate Senator Oliver, but it seems that there has been all kinds of wheeling and dealing going on. It is that kind of a day that happens once in a while. I want to know if that means that Senator Rompkey is the only and last speaker, or if the debate will continue. I may want to participate later on, after the 6 p.m. adjournment, probably, and come back tonight, or who knows. I would just like to be very clear.

Does the fact that we have given permission to delay this matter in order to hear from Senator Oliver — and I was happy to do that — mean that there is an agreement that he is to be the only speaker? I would like to be very clear on this. Who can clarify that situation?

Senator Rompkey: Honourable senators, we laid down the motion earlier because Senator Oliver was travelling. We anticipated that he would be later than he actually was. He is now here in the chamber, and his presence obviates the need for our sitting at 5:30 p.m. in order to begin debate on Bill C-4.

In view of that, we can now begin debate on Bill C-4. It would be our intention to hear first from Senator Oliver, since he took the adjournment, and then I believe Senator Cools wishes to speak. I have heard from no other members on our side who wish to speak on the bill, but we would hope to conclude debate on the bill today and move it to committee.

Senator Prud'homme: We will see about that.

The Hon. the Speaker: I will then confirm just where we are at, honourable senators.

Senator Rompkey has requested leave to revert now to Government Business for purposes of calling the order on which, I gather, Senator Oliver wishes to speak. Is leave granted to so proceed?

Hon. Senators: Agreed.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING

Leave having been given to revert to Order No. 1:

> Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill C-4, to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence.

Hon. Donald H. Oliver: Honourable senators, I am pleased to rise to join in the debate on this important topic. I apologize to honourable senators for not being here on time, but I was otherwise engaged. I hope that I have not inconvenienced anyone as a result of my own schedule.

As you will know, I have spoken in the Senate on more than six occasions on the need for an acceptable ethics code for senators. Today I do not intend to repeat any of the comments that I made on those previous occasions.

• (1650)

I am pleased to join in on this important debate once again, but it is certainly never easy to follow Senator Joyal and Senator Beaudoin on issues of the Constitution. My remarks today will not deal with the Constitution, per se, although they will deal with section 20.1. Instead, I will deal with what I call the 121 words — the 121 words in the speech given by the Leader of the Government in the Senate, the Honourable Senator Austin, in relation to the so-called double majority in relation to section 20.1.

Before getting to that, I wish to repeat, honourable senators, that I am a strong advocate for a code, but it should not unduly tie the hands of honourable senators. I agree that the time has come to have an official code of conduct. Part of the need for implementing such a code is to recognize that service in Parliament is a public trust; as such, we should have a code in order to maintain public confidence and trust in the integrity of parliamentarians individually. A code would also help to maintain the respect and confidence that society places in Parliament as an institution.

However, this does not mean that we must be tied up in knots. As was done in the Milliken-Oliver report, we set out to reassure the public that all parliamentarians are held to standards that place the public interest ahead of our own private interest. That report also stated that the code would provide a transparent system by which the public may judge this to be the case. We are not speaking of setting up criminal or quasi-criminal legal regimes but simply a code of conduct, even a code of ethics.

Honourable senators, I was not here for most of Senator Austin's speech, but when I had an opportunity to read it, I was struck by the concept of a double majority — the 121 words. If I can have leave to revert today, I will comment on Bill C-3, in respect of an elected Speaker. My remarks on that item and on Senator Austin's commitment are very similar. Senator Austin, when I raised the matter of an elected Speaker last year, suggested that I would have an option of hitting either a ball to first base or a home run. He went on, as I will discuss later today, in dealing with the other bill, to outline what he meant by doing it "outside the Constitution." His commitment to members of the opposition is very much in the same light. I should like to read the 121 words, and then outline why I have serious misgivings about them.

Senator Austin cited proposed section 20.1 of the Parliament of Canada Act — which I do not intend to repeat — and then he said, on page 372 of the *Debates of the Senate*, the following:

> Nothing in that section says whether the Governor in Council must initiate the name or whether the Senate would initiate the name. As this is a critical issue in the appearance of the Senate's independence, on behalf of the government I now make a commitment that prior to sending the Senate the name of any person to be proposed to the Senate to be a Senate ethics officer, the Leader of the Government in the Senate shall be authorized to consult informally —

The word is "informally"; he said, "consult informally."

> — with the leaders of every recognized party in the Senate and with other senators and shall be authorized to submit to the Governor in Council the names of such persons who shall, in the opinion of the Leader of the Government in the Senate —

That is an absolute discretion given to the Leader of the Government in the Senate.

> — have the favour of the leaders of every recognized party, as well as the support of the majority of the senators on the government side and the majority of the senators on the opposition side.

What will happen once all that takes place? This is the clever, key language:

> The Governor in Council will, in turn, make every effort to accommodate the interests of the Senate in ensuring that the Senate ethics officer is both seen to be independent and is in fact independent...

Honourable senators, what we have here is only an undertaking or a commitment. There is nothing in writing. It is my opinion that anything that will bind the government should be, by way of a regulation, in the rules or it should be an amendment to proposed section 20.1, so that we can clearly know just what is being undertaken. It is my opinion that an amendment to proposed section 20.1 is the safest and surest way to go, because too much is left to the discretion of the Leader of the Government in the Senate.

I have a number of questions on my mind. How do we know that that commitment is binding? Can the commitment that was made in this Senate commit and bind all other people who sit in that chair of power on the other side? Maybe. There is no security for the Senate in knowing whether that commitment can be withdrawn at will. It is not tied to a statute; it is not tied to a rule; it is not tied to anything. It is *in vacuo* — in air, in a vacuum. What assurance does the opposition party have that that will be carried out?

In the course of his discussions, the learned Leader of the Government in the Senate said that he only referred to remarks made on the debate from senators from the government side. One of the traditional definitions of the word "contempt" is "to think unworthy of notice" — to be unimportant, to be not relevant. The comments of the Leader of the Government in the Senate about the contribution that opposition senators have made over the many months to the ethics debate means that he holds those views in contempt. Why should an opposition that has been told by the Leader of the Government that he holds their comments and views in contempt have any reason to believe, first, that the government leader would consult informally and, second, that this informal process would ever be carried out to ensure that the ethics officer would be independent?

What proof and assurance is there for an opposition held in contempt by the Leader of the Government in the Senate that the Governor-in-Council would, in turn, "make every effort"? What assurance and what proof would an opposition have that this informal consultation would be any more than just that, informal, perhaps taking place by way of a pass in the hallway?

Honourable senators, for something as important, as profound and as meaningful as having a proper code and a proper officer to administer that code in the Senate, I think we need more than a mere commitment that is not binding. We must have some particulars as to how this double majority will actually work. The unfettered discretion of the Leader of the Government in the Senate to make the decisions is not enough assurance for any opposition party and, accordingly, for honourable senators in this chamber.

We need some particulars of how this double majority will work. Is there to be a standing vote on that side and then a standing vote on this side? Will it be a secret ballot? How do we know what the terms of the two majorities will be? Honourable senators, it is not clear. The Leader of the Government in the Senate said, in part — and I repeat:

> ...who shall, in the opinion of the Leader of the Government in the Senate, have the favour of the leaders of every recognized party, as well as the support of the majority of the senators on the government side and the majority of the senators on the opposition side.

Honourable senators, does that mean that the two leaders, the Leader of the Government and the Leader of the Opposition, will meet to determine whether they have a majority for the particular candidate? It is such an important matter that there should be a significant amount of clarity provided.

What is the machinery for setting up this important double majority? Is it a standing vote or a secret ballot? Will there be an opportunity for honourable senators to interview any of the prospective appointees? Will there be an opportunity to question any of the potential appointees?

In one of the democratic deficit documents, we read that there would be a greater opportunity for members of both Houses to interview, question and talk to people who will receive Governor-in-Council appointments. Why is that not here, and why are we left in a vacuum as to just how this double majority will work?

• (1700)

If the opposition is 20 members out of 105, and 11 of the 20 are not in favour, does that means that the double majority does not work and that candidate does not get it? It is not clear.

What would be the opinion of the Leader of the Government if there were two votes or if there were two results? I do not understand what the language "will make every effort" means. On my way back from Toronto, I was thinking that if I used language like "I have a commitment, I will consult informally and will make every best effort," and I went to my banker and asked for a line to be established for $5 million based on language like that, what would be the chances of my being successful in getting it? Would I be giving my banker the assurance he would want before he advanced the funds? I probably would not be successful in getting a dollar.

Honourable senators, section 20.1 should be amended. It should be clarified and, before it passes, there should be some amplification from the government as to how the double majority would work, particularly in view of the Senate where the majority is not much more than 20 out of 105, so that we can know that there will be some fairness attached to the process.

Honourable senators, I have not had an opportunity to prepare as much as I would like to say on this matter, but I did want to have those comments on the record before the matter goes to committee. If I have an opportunity in my schedule to get to that committee, I intend to go and move some amendments, not just in relation to the double majority but on other matters that concern me. This is an extremely serious bill, and it is not something that should be given only cursory review by honourable senators.

With that, I conclude my remarks.

Hon. Anne C. Cools: Honourable senators, I rise to join this second reading debate, and my comments shall be, essentially, on the existence of this bill.

Honourable senators, the introduction and prosecution of this bill is deficient. As a proposition, it fails to meet the parliamentary, lawful standards required to seek the advice and consent of the Senate. These deficiencies are its failure to fulfil and comply with the *lex parliamenti*, the law of Parliament, and the *lex prerogativa*, the law of the prerogative of the Queen of Canada. These are the two branches of the law, honourable senators, that come into force when Parliament considers a bill.

Honourable senators, a bill is an instrument of the two Houses acting together. Each House has a respective, equal and co-ordinate share of the parliamentary process of passing bills. A bill is a request from the Senate and the House of Commons, acting together and asking Her Majesty to enact a statute per the terms of that request. The Constitution Act, 1867, section 17 tells us that Parliament is composed of the Queen, the Senate and the House of Commons. The Queen is the head of Parliament. She is the *caput principium et finis*; that means the head, the beginning and the end. As the head of Parliament, her agreement, her Royal Assent, is the enacting power that gives a bill the force of law and makes it a statute. Her additional constitutional royal powers include those of proroguing and dissolving Parliament. These royal powers are the *lex prerogativa*.

In Canada, these royal powers are exercised by the Queen's representative, the Governor General. Whereas the BNA Act, 1867, section 9, constitutes the Queen the executive authority and section 17 constitutes her as the head of Parliament, in Canada the office of the Governor General, with its royal powers of prorogation and dissolution of Parliament, is not constituted by

the BNA Act. They are constituted by the same royal prerogative, by King George VI himself, in 1947. The Letters Patent Constituting the Office of the Governor General of Canada, section VI states:

> And We do further authorize and empower Our Governor General to exercise all powers lawfully belonging to Us in respect of summoning, proroguing or dissolving the Parliament of Canada.

Honourable senators, these prerogative powers of the Queen Sovereign are sovereign powers. These commands take the form of royal writs and royal proclamations. The sole authority to prorogue Parliament rests with the sovereign, the Queen. Orders, commands of the Queen, are not subordinate to any other order. The writ of prorogation is sovereign; all other orders are subordinate to it.

Honourable senators, prorogation is a binding act of the sovereign which puts an end to a session of Parliament. It terminates the sittings, the proceedings and bills in both Houses of Parliament. A writ of prorogation is a termination order, issued by the Governor General on the advice of Her Majesty's Cabinet, particularly the Prime Minister. In his *Parliamentary Procedure and Practice in the Dominion of Canada*, fourth edition, George Bourinot tells of this finality, saying:

> The legal effect of a prorogation is to conclude a session; by which all bills and other proceedings of a legislative character depending in either branch, in whatever state they are at the time, are entirely terminated, and must be commenced anew, in the next session, precisely as if they had never been begun.

Honourable senators, Blackstone, Hatsell, Redlich and other parliamentary references confirm this finality, this conclusion.

Honourable senators, having explained the prerogative law of Her Majesty, I move now to the law of parliament, the *lex*, the law that governs the practices, powers, privileges, rules, votes, and proceedings of the two Houses of Parliament and the Houses' relations with the Queen. In 1628, Sir Edward Coke, in his *Fourth Part of the Institutes of the Laws of England* explained this law, that:

> As every court of justice hath laws and customs for its direction, some by the common law, some by the civil and canon law, some by peculiar laws and customs, so the High Court of Parliament hath also its own peculiar law, called the *lex et consuetodo Parliamenti.*

This law includes the power of adjourning the Houses, the Senate and the Commons. By this law, an adjournment of the House is within the power of that House. It is never to be confused with prorogation, by the prerogative. Each House has authority for its own adjournment, but an adjournment of one is not an adjournment of the other. John Hatsell tells us this. In the 1818 edition of his *Precedents of Proceedings in the House of Commons* Volume II, John Hatsell said:

> The different effects of a prorogation and an adjournment are, that, the first concluding the session, all Bills, or other proceedings, depending in either House of Parliament, in whatever state they are, are entirely put an end to, and must, in the next session be instituted again, as if they had never been begun. Whereas upon an adjournment, every proceeding remains entire, and may at the meeting after the recess, be taken up in the state, and at the period, where it was left.

Further, a writ of prorogation terminates both Houses simultaneously.

Honourable senators, an important part of the law of parliament is the central requirement that bills must have three readings in both Houses to qualify for Royal Assent. No one can deny this well-established law whose existence was already well documented by 1340. William Stubbs wrote this. In his 1890 *Constitutional History of England,* fourth edition, he said:

> The three readings of the bills are traceable as soon as the form of bill is adopted; the committees for framing laws find a precedent as early as 1340 ...

Sir Thomas Smith, a famous member of Parliament around 1576, wrote of Parliament's proceedings, in his 1583 book, *De Republica Anglorum.* Of the law and three readings, Sir Thomas Smith said:

> All bills be thrice, in three divers days, read and disputed upon, before they come to the question.

Three readings of a bill, with debate and vote in each house is the undisputed, well-established law of Parliament.

Honourable senators, I come now to the relations between the two Houses, the Senate and the Commons, and their respective shares of the law of Parliament. I quote Josef Redlich on this relationship and its need for agreement.

• (1710)

In his 1908 *Procedure of The House of Commons,* Volume II, he said:

> Inasmuch as Lords and Commons in combination with the Crown form the 'King in Parliament,' the legislative Sovereign, agreement between the decisions of the two Houses is required for the expression of the will of the state in all parliamentary action. This agreement must, in the first place, be perfect...

In short, for a bill to obtain the Governor General's Royal Assent, it must have perfect agreement between the Senate and the Commons. That perfect agreement includes agreement on the law of Parliament that bills receive three readings in each House, and agreement that in the law of the prerogative, that a writ of prorogation is a termination of all proceedings on bills.

Honourable senators, the law of parliament, the *lex,* which includes all the customs, principles, and practices of Parliament, is jointly held and owned by Parliament, jointly held and jointly owned by the Senate, the Commons and the Queen. It is binding on them all. In short, Parliament is conceived as a whole and as the supreme forum, whose usages are the unique source of law for all those powers and privileges that belong to the separate parts of Parliament. The whole Parliament is the sole custodian of the whole joint law of Parliament, which law evolved through centuries of joint, mutual, reciprocal dealings. The goal of the *lex* is the perfect agreement, the concurrence, necessary to bring forth bills agreeable to Her Majesty for her Royal Assent. This perfect agreement is grounded in the autonomy that each House is master of its own affairs. Josef Redlich tells us of this peculiar independence for mutuality, saying:

> Each House is, in theory, therefore, the sole judge of its own action in the interpretation and application of the joint rules which have been evolved through centuries of mutual dealing.

The autonomy of each House, Senate or Commons, is directed and regulated by the joint law of Parliament in their proceedings to bring forth bills for Her Majesty's assent. Erskine May, in his *Parliamentary Practice,* eleventh edition, also tells that these powers, privileges and independence are actually constitutionally granted by the same joint law of parliament, saying:

> They are enjoyed, however, not by any separate right peculiar to each, but solely by virtue of the law and custom of Parliament. There are rights or powers peculiar to each...but all privileges...appertain equally to both houses. ... but still it is the law of Parliament that is thus administered.

Honourable senators, independence means the independence of both Houses subject to this joint and mutually held law. In this way, the two Houses mutually keep each other from exceeding their proper constitutional limits and from encroaching on each other's independence. In short, independence of each House bars the one from foisting a corrupt proceeding upon the other.

Honourable senators, the law of Parliament, the *lex parliamenti*, is the joint law of the Senate and the Commons. It is jointly held and mutually owned. Therefore, an amendment to the law of Parliament is a joint matter requiring mutuality, reciprocity and agreement between the joint operators of the law, the joint proprietors of the law, the Senate, the Commons and the Queen on the amendment. No one House can amend or defeat that law of Parliament unilaterally.

Honourable senators, the Commons unilaterally cannot amend, abrogate or defeat the law of Parliament that every bill requires three readings in each House. No Commons order can unilaterally abolish the duty of a House to do three readings. This law can only be amended by the mutual action of the Senate, the Commons and the Queen because, as I said before, this law is a joint law.

In fact, the bill before us, Bill C-4, has not had three readings in the House of Commons and consequently does not qualify for the Senate's consideration and concurrence. The Senate has no privileges or power to countenance such a claim from the Commons.

Honourable senators, finally, again, no House of Commons order or resolution can amend, overrule or annul the Royal Writ of Prorogation and the Royal Proclamation issued under the royal prerogative power on November 12, 2003, by Her Excellency Governor General Adrienne Clarkson. Neither House of Parliament has any privileges or power to defeat such a proclamation issued under those Letters Patent and the Great Seal of Canada.

Further, if the Commons, for reasons known only to itself, adopted some order pretending to do so, such order can have no legal force for the Senate and cannot compel the Senate's agreement because the Senate has no privileges or power to agree with such an order. The Senate is the master of its own affairs. It is the master of its own internal proceedings. The Senate's affairs are not subservient or subordinate to any order, either a true order or pretender order of the Commons. The Senate cannot consider a Commons claim that a Commons unilateral order can nullify Her Majesty's order for prorogation of November 12, 2003.

In fact, I would argue that the Senate cannot countenance such a claim because such a claim is contrary to Parliament's law, and the Senate, being the master of its own proceedings, has a constitutional obligation to deny and condemn such claim because the Senate has a duty to uphold its own independence and its own integrity. The Senate cannot countenance a dishonourable claim, a claim that breaches the privileges of Parliament, dishonours the Queen and subverts the Constitution.

Honourable senators, I have searched hard and long to find a quotation that is able to grasp and to articulate the nature of our Constitution and the nature of the relations between the Houses and the nature of the balance of our constitutional system. I found it in Sir William Blackstone. As honourable senators know, he wrote in the 1700s and is probably one of the most clear-minded writers ever. In 1765, in his *Commentaries on the Laws of England*, Book I, he wrote about the mutual and independent relations of the Houses of Parliament and the balance of the Constitution, saying —

The Hon. the Speaker: I am sorry to interrupt, but the honourable senator's 15 minutes have expired.

Senator Cools: Could I have leave to continue?

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

Hon. Senators: Agreed.

Senator Cools: Sir William Blackstone wrote:

> Thus every branch of our civil polity supports and is supported, regulates and is regulated, by the rest: for the two houses naturally drawing in two directions of opposite interest, and the prerogative in another still different from them both, they mutually keep each other from exceeding their proper limits; while the whole is prevented from separation, and artificially connected together by the mixed nature of the Crown, which is a part of the legislative, and the sole executive magistrate. Like three distinct powers in mechanics they jointly impel the machine of government in a direction different from what either, acting by themselves, would have done; but at the same time in a direction partaking of each, and formed out of all; a direction which constitutes the true line of the liberty and happiness of the community.

In closing, honourable senators, I submit that the House of Commons orders of February 10 and 11, 2004, for the reinstatement and prosecution of Bill C-34 from the last session, now as Bill C-4 today, despite a prorogation, and deficient of three readings, debate and votes, is a mischief upon the Senate. It is a mischief that subverts the law of Parliament and the constitution of both the Senate and the House of Commons.

• (1720)

I thank honourable senators for their attention.

Hon. Jack Austin (Leader of the Government): Honourable senators, as I am the mover of the bill, may I proceed? It is not a question. I would like to exercise the right of reply.

The Hon. the Speaker: I must caution honourable senators that if I see Senator Austin and he speaks, his speech will have the effect of closing the debate.

Senator Andreychuk: I wish to speak.

Hon. David P. Smith: Honourable senators, I have a question of the previous speaker.

The Hon. the Speaker: Will you take a question, Senator Cools?

Senator Cools: Happily, honourable senators.

Senator Smith: I take it that rather than raising a point of order on which she was seeking a ruling from the Chair as to whether this matter is properly before us, the honourable senator is giving a speech to persuade us —

Senator Cools: Obviously I was speaking to second reading of the bill. I did not raise a point of order. If Senator Smith feels inclined to do so, he can raise it. However, I was not raising a point of order.

Senator Smith: I do not wish to raise a point of order.

I am curious, Senator Cools, in that when the House of Commons adopts a procedure — designed to make it operate more efficiently — so that its members can, by motion, put bills to the stage that they were at when one session ended and another session of the same Parliament is entered into, why do you find it desirable to put Parliament in a straitjacket and redo everything it has already done? How do you find that a desirable modus operandi?

Senator Cools: Senator Smith, I believe that the observance of the law is always a desirable modus operandi. That is the first thing that I would like to say on this matter.

Honourable senators, we have a curious situation whereby the writ of prorogation, as issued, terminated all proceedings in this chamber. However, by some miracle, it did not seem to have terminated their proceedings in the other place. I would submit to honourable senators for their consideration that the powers of adjournment and the powers of prorogation are exactly the same for both Houses of Parliament.

I submit to honourable senators that the House of Commons has no greater power and no greater privilege than the Senate. All the authorities and all the laws as I have read them have said that the House of Commons and the Senate share equal and coordinate powers at all times.

Any attempts to alter what we call the law of Parliament, which Senator Austin referred to yesterday as the high court of Parliament, have to be done by mutual action. The peculiar thing about the balance of our Constitution and our system as it exists is that the two chambers, even though they have independence, in point of fact are running in accordance with the same law.

I would also like to say to honourable senators, if perchance the House of Commons assumes unto itself a power that it does not have, that that power imposes no obligation on this chamber, on this particular house, to agree to that or to accept that. The duty of senators, as members of Parliament, is to keep each other in a phenomenal sense of balance.

I am very sorry that Senator Smith thinks some of these matters are just an inconvenience. The fact is that, in my view, votes and decisions from proceedings are so important in Parliament that we should treat them in a very treasured way.

Senator Smith: Honourable senators, I will ask a question to which I would invite the honourable senator to reply. Given that the House of Commons has by due process adopted a procedure to allow it to function more efficiently when considering a bill, a procedure by which no one is adversely prejudiced, rather than putting members of the other place in a straitjacket by asking them to go back to "Go" on the Monopoly board and go all the way around the board again, does the honourable senator not think it is a bit much for us to interfere with that? If she is in fact right and this is illegal, there are procedures to address it. I am curious as to whether the honourable senator has thought of that.

Senator Cools: I will find another authority for the Honourable Senator Smith on the effect of a prorogation. I will quote Erskine May, who said in the twenty-second edition of *Parliamentary Practice*:

> The effect of a prorogation is at once to suspend all business, including committee proceedings, until Parliament shall be summoned again... Not only are the sittings of Parliament at an end, but all proceedings pending at the time are quashed, except impeachments...and judicial proceedings before the House of Lords.

Senator Smith is a lawyer. Quashed means quashed, end means end and over means over.

If members of the House of Commons purport to create an order to reinstate bills, they have not just created an order; they have created a new constitutional power that was never given to them by the BNA Act. That is what I am saying.

I am very impressed by your interest, Senator Smith, because I thought as I was giving this speech that many would yawn.

I want to tell honourable senators the law of Parliament, as is the law of the prerogative, are the two most understudied areas of law in the existence of all the different branches of law. What is crystal clear is that the intention of section 18 of the BNA Act as it was received into Canada — what we call the immunities, powers and privileges section — was to convey the ancient law of Parliament, the law and custom of Parliament, to this particular Parliament, meaning the Senate and the House of Commons.

I am only saying that there are ways, honourable senators, that a House can fast-track measures, especially where there is agreement. For example, any authority will tell you that measures have been speeded up in either House by agreement to move motions that are unopposed and that pass with a minimum of opposition and a minimum of resistance.

In the instance of the reinstatement of private bills, a standing order was created. In the instance of government bills, an omnibus order was created, which gave them the power to overcome a writ of prorogation.

Honourable senators, I was very distressed a year ago when John Manley, then the Deputy Prime Minister, said whatever he had to say about Her Majesty the Queen. The truth is that so many people in this country, particularly on our side, have been saying for so long that the Queen is irrelevant or the Queen is only a ceremony that they have actually forgotten or ignored the fundamental law of our system.

Senator Smith, I am not speaking of any antiquarian curiosity. I am speaking about the constitutional system that vests these authorities in Her Majesty. If you doubt me, I have a copy of the proclamation that states very clearly what we, the Senate and the Commons, were ordered to do.

Honourable senators, I find this to be a very good and interesting debate. I am pleased that you are happy and that you want to consider my words. I am saying that, as members of Parliament, we are quite often a little slipshod. What I am describing to honourable senators is the state of the law as it is, not what I would prefer or what you should prefer. This is the state of the law.

I did not go into a whole set of other areas, which I could have done. If you look at the prorogation, at the writ itself, it says very clearly that the Governor General issued this writ on the advice of the Prime Minister. I did not even go down the road of that particular constitutional involvement.

• (1730)

All I am saying to the Honourable Senator Smith is that the Constitution of this country gave no more power to the House of Commons than it did to the Senate. The powers given to the Senate and to the House of Commons do not include the power to overrule a writ of prorogation or the power to overrule the requirement for three readings of a bill, even though there are two different branches of law.

My point here is that any amendments and changes to those laws will involve and include the Senate. I am not suggesting that everything is totally unchangeable. I am saying that any change involves this Senate chamber. The concept that we are the masters of our own chamber exists precisely to buttress and to protect us from being subordinated and subjugated at any time to the House of Commons. I do not believe for a moment that this house should be subordinate to the other House.

These are not matters of antique interest — and as honourable senators know, I have a bit of the antiquarian in me. I sincerely love this stuff and I believe in it. Nevertheless, I am aware that we are now in a community where most people do not even toast the Queen any more. However, the fact of the matter is that this is our constitutional system, and this is the state of the law. That is the system by which these chambers are supposed to be operating.

The Hon. the Speaker: Let me clarify why people are rising. Does anyone wish to ask a question of Senator Cools?

Hon. Marcel Prud'homme: Does the Honourable Senator Smith have another of his fine questions?

Senator Kinsella: If he does, he is not allowed to ask.

Some Hon. Senators: Oh, oh!

The Hon. the Speaker: Order, please, honourable senators. We are in an important debate, and I am having trouble hearing what is happening.

Did you ask a question, Senator Prud'homme?

Senator Prud'homme: No, no. I just wanted to know if Senator Smith, my friend, had another question of Senator Cools.

Senator Smith: Not at this time.

Hon. A. Raynell Andreychuk: Honourable senators, I did not have an opportunity to put questions to Senator Austin, but I do want my concerns to be registered.

First, I support Senator Oliver in his questioning of the operation of the bill and the interpretation as given to us by the honourable senator representing the government. I am in favour, as I was last time, of an independent ethics officer. I am also in favour of democratic reform, something that has been mentioned over and over again.

We have talked here about what the minority may do if this bill passes. However, I want the record of this house to show that it was a majority in this place that returned the predecessor of Bill C-4 — Bill C-34 — to the House of Commons in the last session with an amendment. The Senate returned the bill, indicating that an amendment was in order.

If the Senate is to receive the respect of this government, democratic reform cannot just mean free votes in the House of Commons. The government must undertake to listen to and to act on the will of this chamber.

We clearly stated that an independent ethics officer, as described in this bill, is not independent but exists at the sole and exclusive prerogative of the Prime Minister. Senator Austin, in his speech, gave an undertaking of how his government would operate — that it would consult and submit names that have the support of the majority on the government side as well as a majority on the opposition side — before the Governor-in-Council would act. At best, that is an undertaking, an indication; perhaps it might even be a convention. However, it is not an enforceable promise in legal terms.

Despite whatever undertakings are given, that is not how a democracy operates. A democracy does not operate on personal undertakings, people to people. A democracy works from institution to institution, law to law. If we wish the Senate to continue as an independent institution, as so many of us have stated, we must be at arm's length from the Prime Minister.

Senator Austin stated that this approach is no different than our approach to the officers of Parliament, such as the Auditor General. I have already stated that the system, when first put in place, may have served us well; however, our systems must evolve. The Privacy Commissioner situation showed that evolution is necessary.

After Mr. Radwanski left and before Ms. Stoddart was appointed, Mr. Marleau attended here and gave us an excellent critique. He told us that he had gone to the government and put in place a solution, perhaps not the best solution — perhaps a temporary one to suit that situation — but one that attempted to instil some professionalism into these positions. It was an attempt to give every Canadian a full opportunity to serve in those positions. Mr. Marleau said that there was full consultation.

I would ask the Honourable Leader of the Government in the Senate and all honourable senators to reflect on Mr. Marleau's testimony here. It is time to give independence not only to the ethics officer but to all other parliamentary officers. We in this place must take our duties seriously. This is not a political issue. This is not something that should be left to undertakings; this is not a matter that should be left to a Prime Minister, nor to the will of the majority.

If democratic reform is here, I suggest the government come forward with more appropriate criteria, a selection process that is unique to this government, a process that does not copy past history but one that will, in fact, lead to independence.

I know that people have tried to characterize this process as independent of us. This is not about independence from us. This is about a responsibility that we are undertaking for the Senate, as well as about transparency and accountability for the Senate. This is equally about accountability for the government and accountability for a Prime Minister. This process should place the levers of power elsewhere than in the hands of the Privy Council, the Prime Minister's office or in his own hands.

The hallmark of this new government should be to reflect what the will and the majority here said — that is, this bill does not go far enough.

What is the problem with changing the bill today? How would entrenching criteria of selection be problematic? Perhaps, as Senator Joyal said, the bill should include a time limit, as well as a dispute-resolving mechanism. We can, using our imaginations, come to a truly independent, transparent process.

I believe the principle of this bill is fair and that many of the clauses of this bill are necessary, but make no mistake, honourable senators: If we leave the bill as is, and do not allow the committee to properly address these concerns, we will have failed as an institution, and the government will have failed in its democratic reform.

I wish to underscore what Senator Oliver has said, in a practical way, that if we wish to continue to say that we are independent, this is the time to do so.

• (1740)

Senator Oliver: I should like to ask Senator Andreychuk a question.

The honourable senator was speaking about the new policy for the appointment of the ethics commissioner that was brought forward by the Leader of the Government in the Senate. This is really a change in policy in how our Senate ethics officer will be appointed without any corresponding change in how the ethics commissioner will be appointed in the House of Commons.

If we accept Senator Austin's proposal without an amendment to the bill, are we not denying the elected members of the other House the opportunity to review and debate this very substantive change in policy?

Senator Andreychuk: Honourable senators, the House of Commons can do what it chooses to do. I know that they have, by a motion, resurrected this bill at this point. Perhaps they have already had their say. I am not sure.

What I will say is that I do not believe the House spent the time it should have spent reflecting the consequences of how this system would operate. The House of Commons and the Senate had the right to participate in the process of appointment of our officers of parliament and we accepted, in most cases rather quickly, recommendations from the Prime Minister. It was only when we ran into difficulties that we took note. The Radwanski matter was evolving as they were dealing with the ethics package.

I agree with the honourable senator that if the bill went back to the House of Commons amended and with some good democratic signals, this would perhaps give the other place an opportunity to take note, reflect on, and perhaps agree with our amendments, or perhaps put in some other rules for themselves.

Mr. Marleau said that his rules were interim, but that there was an appetite for putting in a more extensive selection criteria. I believe he got those signals from the House as well as here.

The Hon. the Speaker: I caution that if Senator Austin speaks now, his speech will have the effect of closing the debate.

[*Translation*]

Senator Prud'homme: Honourable senators, after the events of this afternoon, I think some people have broken more than their word; they may have shattered some friendships. Some things in life cannot be repaired. What happened this afternoon, in connection with a motion for clarification, was, in my opinion, completely despicable and out of order.

For this reason, I will not go through with my original plan to keep you here until 6 p.m., to ask for adjournment at 6 p.m., and to return at 8 p.m. to give my speech on this subject. You will remember that I voted against, in the company of other senators; I could name them all for you, the 101 who were here or absent.

Instead, I will listen to Senator Austin's speech and hope that it will finish before 6 p.m.

[*English*]

The Hon. the Speaker: Senator Austin, I have already cautioned that your speech will have the effect of closing the debate.

Senator Austin: Honourable senators, I have listened most carefully to the debate on second reading today. I want to express my appreciation to those who spoke preceding me. There were some very interesting questions raised and some interesting suggestions with respect to the way in which we might further the development of our proceedings.

I do want to express my concern to Senator Oliver for his use of the word "contempt." It is not a word I used in speaking, and I do not believe it is a word that deserves to be levelled at me.

I would like to quote myself. On page 376 of the *Debates of the Senate* on February 24, 2004, I said, at the top of the page on the left-hand column:

> Honourable senators, please believe that I have carefully considered all of the presentations made by honourable senators who participated in the debates on this bill in the second session of this Parliament. I respect the high quality of the argument made by each senator. The result is the proposal that I have made today, which I submit will act to protect the cherished independence of the Senate that is so much the concern of all honourable senators, and so effectively put forth by Senators Oliver, Joyal, Kroft, Bryden, Milne, Fraser and Carstairs from their respective viewpoints.

Honourable senators, I will always respect every submission made by senators in this chamber. I value the contribution that every one of us makes. I believe that I expressed that value in opening the debate on second reading.

Honourable senators, I do not believe that much more needs to be said at this stage. I believe it is the will of the chamber to move this bill to committee and to hear witnesses so that the many issues that have been debated here by Senators Joyal, Oliver, Cools and Andreychuk can be explored in committee.

I would ask honourable senators if they would permit the question to be put.

The Hon. the Speaker: Senator Austin, having concluded his remarks, has exercised his right of reply, and I am now obliged to put the question. I will do so.

It was moved by Honourable Senator Austin, seconded by Honourable Senator Rompkey, that this bill be read the second time.

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

Hon. Senators: Agreed.

Senator Kinsella: On division.

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

REFERRED TO COMMITTEE

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

On motion of Senator Austin, bill referred to the Standing Committee on Rules, Procedures and the Rights of Parliament, on division.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO RECEIVE PAPERS AND EVIDENCE

The Hon. the Speaker: Honourable senators, Senator Milne has requested the opportunity to ask for leave from honourable senators.

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

> That the papers and evidence received and taken by the Standing Committee on Rules, Procedures and the Rights of Parliament during the Second Session of the Thirty-seventh Parliament on Bill C-34 be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament.

The Hon. the Speaker: Honourable senators, is leave granted for Honourable Senator Milne to put that motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Leave is not granted.

Senator Milne: Honourable senators, I then ask leave to revert to Notices of Motions.

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

Hon. Senators: Agreed.

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

> That the papers and evidence received and taken by the Standing Committee on Rules, Procedures and the Rights of Parliament during the Second Session of the Thirty-seventh Parliament on Bill C-34 be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, March 9, 2004, at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, March 9, 2004, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(3rd Session, 37th Parliament)
Thursday, February 26, 2004

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-4	An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence	04/02/11	04/02/26	Rules, Procedures and the Rights of Parliament					
C-5	An Act respecting the effective date of the representation order of 2003	04/02/11	04/02/20	Legal and Constitutional Affairs	04/02/26	0			
C-6	An Act respecting assisted human reproduction and related research	04/02/11	04/02/13	Social Affairs, Science and Technology					
C-7	An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety	04/02/11							
C-8	An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence	04/02/11	04/02/18	Social Affairs, Science and Technology					
C-13	An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)	04/02/12	04/02/24	Banking, Trade and Commerce					
C-14	An Act to amend the Criminal Code and other Acts	04/02/12	04/02/25	Legal and Constitutional Affairs					
C-16	An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts	04/02/12	04/02/19	Legal and Constitutional Affairs					
C-17	An Act to amend certain Acts	04/02/12							
C-20	An Act to change the names of certain electoral districts	04/02/23							

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-212	An Act respecting user fees	04/02/03	04/02/11	National Finance	04/02/26	10			
C-249	An Act to amend the Competition Act	04/02/03							
C-250	An Act to amend the Criminal Code (hate propaganda)	04/02/03	04/02/20	Legal and Constitutional Affairs					
C-260	An Act to amend the Hazardous Products Act (fire-safe cigarettes)	04/02/03	04/02/23	Energy, the Environment and Natural Resources					
C-300	An Act to change the names of certain electoral districts	04/02/03							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/02/03							
S-3	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/02/03							
S-4	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/02/03	04/02/26	Official Languages					
S-5	An Act to protect heritage lighthouses (Sen. Forrestall)	04/02/03	04/02/05	–	–	–	04/02/05		
S-6	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/02/04	04/02/11	Legal and Constitutional Affairs					
S-7	An Act respecting the effective date of the representation order of 2003 (Sen. Kinsella)	04/02/04							
S-8	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/02/05	04/02/12	Energy, the Environment and Natural Resources					
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	04/02/05							
S-10	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/02/10							
S-11	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	04/02/11							
S-12	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	04/02/12							
S-13	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/02/19							

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No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.

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