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(HANSARD)

Tuesday, March 30, 2004



THE HONOURABLE DAN HAYS
SPEAKER

CONTENTS

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THE SENATE

Tuesday, March 30, 2004

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers

[*Translation*]

SENATORS' STATEMENTS

THE HONOURABLE GÉRALD-A. BEAUDOIN, O.C., Q.C.
THE HONOURABLE DOUGLAS ROCHE, O.C.

TRIBUTES ON RETIREMENT

Hon. Madeleine Plamondon: Honourable senators, I rise to pay tribute to two senators who will soon be leaving the Senate of Canada, Senator Beaudoin and Senator Roche.

Senator Beaudoin, I will not go over your extraordinary career so eloquently described in the tributes yesterday by my colleagues, who have known you longer than I. Nevertheless, even though I have only been in the Senate for six months, I would be remiss not to express my admiration for you. Whenever you speak, everyone pays attention, especially when the topic is constitutional affairs. Your explanations are clear, impartial and worthy of respect.

I would have liked to have known you longer and to have had discussions on the fragile balance between collective rights and individual rights.

I will remember you as a welcoming, cheerful and conscientious man. Let us hope that the Senate calls upon your expertise and your credibility when it comes time to draft a code of ethics for senators.

[*English*]

Senator Roche was not only my next-door neighbour when I came to the Senate but also my neighbour here in the Senate. Senator Roche, the first thing that struck me about you was your profound engagement for peace. For you, the prayer "so that we may serve ever better the cause of peace," which honourable senators recite before each sitting, is more than a formality. It reflects a faith that nourishes your everyday life. You think about peace, you write about peace, and your speeches in and out of the Senate are about peace. You reach everyone. Even a taxi driver on my way to the train station referred to you as the best spokesman for peace. He had read your books, including the last, *Bread Not Bombs*. You are a man of integrity, whose vote is always the result of reflection, tolerance and justice. I will miss you, Senator Roche.

UNIVERSITY HOCKEY CHAMPIONS

CONGRATULATIONS TO ST. FRANCIS XAVIER X-MEN

Hon. B. Alasdair Graham: Honourable senators will remember that last week I paid tribute to the Carleton University Ravens for their exciting victory over the St. Francis Xavier University

X-Men in the Canadian National University Basketball Championship. I am sure I will be forgiven if I return to the intercollegiate athletic scene today to congratulate the St. FX hockey team's thrilling 3-2 second overtime sudden-death triumph over the tough New Brunswick Varsity Reds last Sunday night. The win gave the X-Men their first ever Canadian university hockey championship. For anyone lucky enough to watch, it was a heart-stopper all the way and another tremendous triumph for the university athletic organizers, most especially to volunteers in Fredericton, and most particularly to the representatives of the host committee at the University of New Brunswick.

Once again, our congratulations go out to St. FX Head Coach Danny Flynn and all of his players, to the silver-winning University of New Brunswick Varsity Reds and to the bronze medallist Dalhousie Tigers. Credit is also due to all participating teams, from the number-one ranked University of Alberta Golden Bears, the University of Ottawa Gee-Gees and the York University Lions.

As a life-long devotee of university athletics, I have often thought about the spirit of excellence that drives all the wonderful people who dedicate themselves to teaching and coaching our young people to fly higher; to set their sights on a dream; to skate faster and stronger; to reject mediocrity; to understand that the real contest is always between what you have done and what you are capable of doing; to always do a little more than one thinks is possible; to do that little bit more to reach beyond your finger tips; and to sacrifice, train and love the sport for the sake of the sport. Those wonderful people are dedicated to the simplest but most beautiful words in the language: swifter, higher, stronger — *citius, altius, fortius* — the motto of the Olympic Games and of fine athletes everywhere.

FOREIGN AFFAIRS

MIDDLE EAST—ESCALATION OF VIOLENCE— GOVERNMENT POSITION

Hon. David Tkachuk: Honourable senators, my remarks are in response to the recent escalation of violence in the State of Israel. My comments concern the death of Sheik Ahmed Yassin from the Hamas terrorist organization whose mandate is to "reclaim Arab land from river to sea." Geographically, this means capturing the land between the Jordan River in northeast Israel, all the way across the State of Israel to the Mediterranean Sea, which borders the west side of Israel.

In response to the news of Mr. Yassin's death, Canadian Foreign Affairs Minister Bill Graham said that he deplored the assassination. In the March 24 edition of the *Calgary Herald*, he called it, "contrary to Israel's legal obligations." At the same time, Prime Minister Paul Martin was quoted as saying:

The Israelis have every right and responsibility to defend themselves and that is what happened —

— referring to the death of Sheik Ahmed Yassin —

— but at the same time, one has to ask whether this is conducive to the peace process and I think this is where the judgment is going to have to be made.

Who does the Prime Minister believe will make a judgment on this situation?

What is of great concern to me is that we are starting to see a pattern of equivocation emerge. I fail to see how an equivocating position is good for Canadians as we witness the escalation of violence and the mounting death toll on both sides of the war. When one of Canada's ministers suggests that Israel behaved contrary to its obligations, I suggest this government is getting closer to condoning terrorist actions. When our media repeatedly defines Sheik Yassin as a spiritual leader, I disagree. I suggest that this bolsters terrorism itself. The "spiritualism" of Yassin would be considered a blasphemy by the Christian standards that I uphold, and I would suggest that the faith and values of Canada's other religions would not condone acts of extermination, something that Yassin's organization, the Hamas, holds as its mandate.

• (1410)

In the news on Sunday, the new Hamas leader, Dr. Abdel Aziz Rantisi, called President Bush an enemy of all Muslims and said that God has declared war on the United States. To borrow Minister Graham's sentiment, I deplore this kind of hate-mongering, not only in our press but also in our world. I would be interested to hear our Prime Minister's comments on that.

Honourable senators, I know how many have asked these questions, but I want to add my voice to the chorus: Who started these forms of terrorist violence? How long until we declare terrorism unacceptable? This war between Israelis and Palestinians is not merely a battle over land; it is a war between the future of civil society and a future without one.

On Thursday, March 25, the United States vetoed a Security Council resolution that condemned Israel for killing the Hamas leader, Sheikh Yassin. While the UN clearly condemned the actions of Israel with regard to Yassin, it also clearly condones the continued terrorist actions and past actions by the Hamas since these actions were not addressed in the resolution. Some countries in favour of the resolution included China, France, Russia and Pakistan, while Britain, Germany and Romania abstained.

Honourable senators, in closing, I agree with Prime Minister Martin that, on one hand, Israel does have a right to defend its sovereignty. It is unfortunate that Mr. Martin is not sure whether he believes it himself.

[Senator Tkachuk]

THE HONOURABLE B. ALASDAIR GRAHAM

TRIBUTE ON RETIREMENT

Hon. Norman K. Atkins: Honourable senators, I, too, would like to congratulate St. Francis Xavier on a victory over the University of New Brunswick last weekend.

Last week, I was unable to participate in the tributes to my friend, Senator Alasdair Graham, as I was travelling with the Standing Senate Committee on National Security and Defence. However, I would like to take this opportunity to add to those tributes.

There are certain qualities about a person who serves his community, province and country that apply to Senator Graham. They are friendship, principle, loyalty and commitment. These are characteristics that I highly value.

Senator Graham has been in public life most of his life. He epitomizes, indeed sets a standard of what a caring Canadian does. He is a sensitive, compassionate and dedicated person of high principle. He is committed to serving his country, community and party, while preserving personal relationships that extend to his friends, understanding that their commitment is important as well. I cannot think of a time when Senator Graham has been asked to serve that he has not accepted the challenge, regardless of how difficult that task might be.

Senator Graham's retirement from the Senate is the end of a spectacular political career but certainly not the end of his work. His level of energy will serve him well in his other endeavours, be it charitable work for St. Francis Xavier University or challenges in his community, the country or even internationally. He certainly will be able to continue his hockey career in earnest and will hopefully find time to continue his legendary long skates on the Rideau Canal.

Alasdair is a proud and dedicated family man whose children and grandchildren have had the benefit of his guidance and understanding. They will now have the advantage of more of his time.

To Alasdair and his family, I wish you all the best — the best of health and continued happiness for many years.

ROUTINE PROCEEDINGS

SENATE DELEGATION TO UNITED KINGDOM

REPORT TABLED

Hon. Dan Hays: Honourable senators, I request leave to table a report reflecting the work of a delegation led by me, with Senators Graham and Atkins as members, to the United Kingdom, in particular, to the House of Lords.

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

Hon. Senators: Agreed.

SENATE DELEGATION TO SLOVENIA

REPORT TABLED

Hon. Dan Hays: Honourable senators, I request leave to table the report prepared following a visit to Slovenia led by me, with Senators Kenny and Robertson as members, that reflects the work of the delegation in Slovenia.

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

Hon. Senators: Agreed.

SENATE DELEGATION TO GERMANY

REPORT TABLED

Hon. Dan Hays: Honourable senators, I request leave to table a report relating to the work done by a delegation led by me, with Senators Kenny and Robertson as members, on a visit to Germany, in particular to the Bundesrat of that country.

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

Hon. Senators: Agreed.

AUDITOR GENERAL

REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the report of the Auditor General of Canada to the House of Commons dated March 2004.

APPROPRIATION BILL NO. 1, 2004-05

REPORT OF COMMITTEE

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

Tuesday, March 30, 2004

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

SEVENTH REPORT

Your Committee, to which was referred Bill C-27, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005, has, in obedience to the Order of Reference of Thursday, March 25, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY
Chairman

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

On motion of Senator Day, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for consideration later this day.

STUDY ON NEED FOR NATIONAL SECURITY POLICYREPORT OF NATIONAL SECURITY
AND DEFENCE COMMITTEE TABLED

Hon. Colin Kenny: Honourable senators, I have the honour to table the third report of the Standing Senate Committee on National Security and Defence, which deals with national security policy in Canada.

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

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

BUSINESS OF THE SENATE

ADJOURNMENT MOTION ADOPTED

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

That, notwithstanding the Order adopted by the Senate on February 23, 2004, when the Senate sits tomorrow, Wednesday, March 31, 2004, it do adjourn after the proceedings on Royal Assent are completed;

That should a vote be deferred later today until 5:30 p.m. tomorrow, the vote will take place immediately after Royal Assent, following a fifteen minute bell, after which the Senate will adjourn.

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

Hon. Senators: Agreed.

Motion agreed to.

• (1420)

**ADVANCEMENT OF VISIBLE MINORITIES
IN PUBLIC SERVICE**

NOTICE OF INQUIRY

Hon. Donald H. Oliver: Honourable senators, I give notice that, pursuant to rule 57(2), on Thursday, April 1, 2004, I will call the attention of the Senate to the barriers facing the advancement of visible minorities in the Public Service of Canada.

QUESTION PERIOD

TRANSPORT

UNITED STATES—AIRLINES PASSENGER PRE-SCREENING SYSTEM

Hon. A. Raynell Andreychuk: Honourable senators, Canadians who board flights in the United States may soon have to provide their personal information to a new computer-based screening program, including their home address and travel itinerary, and perhaps date of birth and address. The information will be fed into databases that will verify a person's identity against public records and commercial computer banks such as shopping lists.

The U.S. government has said that this new system — known as Computer Assisted Passenger Pre-screening System, or CAPPS II — will then assign each passenger a number and colour code based on his or her level of potential security risk.

The European Union has announced that it objects to its citizens having to provide their personal data on the grounds of privacy concerns.

My question is for the Leader of the Government in the Senate. Does the federal government have any concerns over the issues of privacy and discrimination that are raised by the use of such a system? If so, have we communicated our concerns to the United States and, if so, how have we done that?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will take the question as notice.

Senator Andreychuk: As the honourable senator is taking notice, I should also like to know whether the Canadian government will provide this information while it would appear that commercial airlines and American citizens, voicing their concerns through Congress, have yet to allow the CAPPS II system to go ahead. In other words, will we provide the information when Americans are not providing the information?

Senator Austin: I will look into the matter and, hopefully, report soon.

SOLICITOR GENERAL

AUDITOR GENERAL'S REPORT— CANADIAN SECURITY INTELLIGENCE SERVICE—INTEGRATED NATIONAL SECURITY ASSESSMENT CENTRE—INVOLVEMENT OF AGENCIES

Hon. Michael A. Meighen: Honourable senators, in her latest report, the Auditor General stated that, in the critical and ongoing fight against terrorism, coordinating the efforts of the agencies involved is absolutely vital to their overall effectiveness. She also noted that, in this effort, last year CSIS created the Integrated National Security Assessment Centre, or INSAC. Yet, of the 10 agencies invited to send a representative to that centre, four declined to do so. These included the Department of Foreign Affairs, Citizenship and Immigration, the Solicitor General and the Privy Council Office. The Auditor General herself concluded that the centre will be less effective if these organizations do not participate.

Can the Leader of the Government in the Senate tell us what, if anything, is being done to ensure that these government agencies and departments participate in the centre? If, perish the thought, nothing is being done, why not?

Hon. Jack Austin (Leader of the Government): Honourable senators, the tabling of the Auditor General's report took place at 2 p.m. today. I congratulate Senator Meighen for the information he has with respect to the contents of that report. Unfortunately, I have not had a chance to be briefed and cannot respond at this time.

Senator Meighen: Honourable senators, since INSAC was created early in 2003, surely that might have given the Leader of the Government in the Senate enough time to ascertain why four agencies declined to participate.

I reiterate that the Auditor General's comment today was one of surprise, and perhaps dismay, that four lead agencies or departments declined to participate in INSAC.

Further, when the Minister is informing himself of the facts, could he also look into why, at the time of the Auditor General's audit, INSAC still does not have a mandate? Why is it taking so long to give this organization a formal mandate?

Perhaps the answer is that, if the organization does not have a mandate, it is difficult for some agencies to understand why they should participate.

Senator Austin: Honourable senators, Senator Meighen's questions were predicated on the Auditor General's report and her views. I have not had a chance to acquaint myself with those views as yet.

Hon. Terry Stratton: Honourable senators, when can we anticipate answers to those questions?

Senator Austin: As soon as possible.

Senator Stratton: If the leader reads the report today, can we expect answers tomorrow?

Senator Austin: I cannot provide a specific answer.

Senator Stratton: Why would that be?

Senator Austin: I cannot advise when that information will be made available to me.

AUDITOR GENERAL'S REPORT— SEPTEMBER 11, 2001—INTER-DEPARTMENTAL MEETING ON SECURITY AND INTELLIGENCE— ATTENDANCE OF AGENCIES INVOLVED

Hon. J. Michael Forrestall: Honourable senators, Senator Meighen could come up with some information that the Auditor General felt was important enough to bring to our attention, I find it passing strange that the Leader of the Government in the Senate did not at least have a briefing from his staff. I certainly was able to find certain information and, in fact, I have a couple of questions based on the report that was just tabled.

Briefings, which were open to all members of Parliament, both senators and members of the other House, were held this morning. We know where we are going on Thursday, and so does Senator Austin. We will be heading home to prepare for a general election, so he will not have to answer these questions.

Honourable senators, in her most recent report, the Auditor General noted that the government as a whole failed to adequately assess intelligence lessons learned from the September 11, 2001 terrorist attacks in the United States. Most of us find this somewhat startling, to say the least.

More shocking, however, is her finding that, when the Interdepartmental Committee on Security and Intelligence proposed a meeting of the heads of agencies to discuss the response to September 11, the heads of the RCMP, CSIS and Finance Canada did not attend.

Will the Leader of the Government in the Senate explain why the heads of these agencies, including the man who was the head of Finance Canada at the time, currently the Prime Minister of our country, did not ensure that their agencies were adequately represented at such a critical meeting?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have already answered that question by advising Senator Meighen that I have not yet been briefed. There may have been a pre-briefing this morning, but I was occupied with other government duties and could not avail myself of the time to be debriefed.

• (1430)

Hon. Terry Stratton: Honourable senators, when we asked questions of former Senate leader Senator Carstairs immediately after the Auditor General's report, why was she so well prepared to answer our questions and my honourable friend is not?

Senator Austin: Honourable senators, in a succinct way, because the honourable senator likes succinct answers, I have no idea.

Senator Forrestall: Honourable senators, I wonder what the point of this is.

For the meeting I have just described, the Auditor General reported that a four-page discussion paper was provided, and that that was the only government-wide, post-mortem analysis conducted of the attacks on September 11. No record was kept of the meeting and no action plan or follow-up plan resulted.

Can the Leader of the Government explain why, in response to an event that changed the entire perspective of the world in the area of national security, the Liberal government bothered to produce a four-page discussion paper that resulted in no formal lessons learned and no follow-up plan?

While he is at it, perhaps he might indicate to this chamber whether a former member of the Royal Canadian Mounted Police VIP protection squad, Mr. Richard Flynn, of Mississauga, a retired RCMP officer, was in fact an employee or contractual employee of the Government of Canada?

Senator Austin: Honourable senators, I will seek information and provide it to Senator Forrestall when I receive it.

HEALTH

AUDITOR GENERAL'S REPORT— MEDICAL DEVICES PROGRAM

Hon. Marjory LeBreton: Honourable senators, I regret to tell the Leader of the Government in the Senate that I also have a question on the Auditor General's report. With the Auditor General being so current in the news, one would think that, when she reports, someone would make it their business to inform the government leader about what the Auditor General has said, even if he is busy.

My question is in regard to a health matter. The Auditor General's report outlines serious problems found with Health Canada's Medical Devices Program, which regulates everything from MRI and ultrasound equipment to pacemakers and defibrillators. The Auditor General found that, in its current form, this program is not sustainable and is in need of adequate human financial resources or a complete redesign.

The audit stated that in 1992 a medical devices review committee found Health Canada did not have enough resources at that time and recommended an increase. Since then, budget cuts and problems in setting fees have meant that the funds going to the program today are actually less than in 1992.

Why did the government not follow through with the committee's recommendations made 12 years ago, and why has it allowed this program to become so seriously understaffed and underfunded?

Hon. Jack Austin (Leader of the Government): Honourable senators, questions based on the Auditor General's report that was tabled at two o'clock this afternoon cannot be answered by me today because I have not had the opportunity to brief myself on these questions. However, I will take all such questions as notice and seek to provide answers. Alternatively, perhaps we could arrange a debate on the Auditor General's report, if the opposition would like to put the question down as an inquiry.

Senator LeBreton: Honourable senators, I have a supplementary question for the minister to determine while he is apprising himself of the report.

In the budget earlier this month, there was very little in the way of new funding for health care. The Prime Minister said last week that more health care dollars could be available to the provinces after this summer's meeting, on the condition that it would be tied to improving the system's overall processes. As the Auditor General has pointed out, the Medical Devices Program is clearly an example of a program in need of greater investment or a redesign to allow it to function better with fewer resources. Will the sustainability of this particular program be discussed at this summer's first ministers' meeting on health care funding?

Senator Austin: With respect to the question addressed to the agenda of the first ministers' meeting to be held in July of this summer, I will certainly carry the question to the Minister of Health.

With respect to the premise of the question, the government has transferred or is in the process of transferring \$2 billion as a one-time assistance payment to the provinces. The government has provided \$665 million to a new public health agency system. I think those are substantial transfers of funds into the health sector.

As honourable senators know, the Prime Minister has said that, subject to his discussions with the premiers, the federal government is prepared to provide additional funding to health care based on certain criteria that will be discussed with the premiers.

[Translation]

JUSTICE

RENEWAL OF COURT CHALLENGES PROGRAM

Hon. Jean-Robert Gauthier: Honourable senators, my question is for the Leader of the Government in the Senate and concerns the Court Challenges Program.

Launched in 1978, the program aimed to provide financial support for court challenges of national significance for individuals and groups seeking to assert and defend the constitutional provisions on equality rights — section 15 — and language rights — sections 16 to 23 — of the Canadian Charter of Rights and Freedoms.

The Court Challenges Program was in place for five years, till March 31, 2003. In order to assess the program and determine its relevance, the government extended the program by one year, to March 31, 2004. In assessing the relevance of this program, has the government consulted the official language communities? If so, will the government be ending this program or renewing it for another five years?

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, the Court Challenges Program has been one of the best programs run by the Government of Canada. It provides funding for test cases of national significance in order to clarify the rights of the official language minority communities and the equality rights of historically disadvantaged groups.

The Department of Canadian Heritage has decided to extend the current agreement by three months, from March 31, 2004, in order to finalize technical details in the documents necessary for program review. It is the intention of the government to renew the Court Challenges Program for an additional five years until March 2009.

AUDITOR GENERAL

POSSIBLE LEAK OF REPORT TO MEDIA— COMMENTS ON AIRPORT SECURITY

Hon. Pierrette Ringuette: Honourable senators, my question is for the house leader in the Senate. I will understand if he takes the question as notice. It is in regard to the Auditor General's report that we received about 15 minutes ago.

The Hon. the Speaker: Honourable senators, questions can be put to ministers, the Leader of the Government and to committee chairs. However, our rules do not include the Deputy Leader of the Government.

Senator Ringuette: My mistake. This question is for the Leader of the Government.

This morning, there was a lockup at nine o'clock for parliamentarians in regard to this report. We received this report 15 minutes ago. I would like to table in the Senate an article from the *Toronto Star* written by Mr. James Travers, who is a very professional journalist.

• (1440)

He writes:

...Fraser will not only question the efficiency of Canada's intelligence-sharing apparatus, she will reveal today that this country's airports aren't secure and its passport controls are dangerously weak.

For an article to appear in this morning's *Toronto Star*, it would have to have been filed by midnight last night. How did the media get hold of what was in the report before any lockup and before the report was tabled in the Senate? Was there a leak? If so, where does it come from? Finding the leak and its source is important because we might be looking at a situation of contempt of Parliament — which, as a parliamentarian, I consider to be a serious matter. We need to look into this matter.

My second question relates to the same report and to the article from which I have just quoted. It goes on to say:

...she will reveal today that this country's airports aren't secure and its passport controls are dangerously weak.

I should like to know what expertise the Auditor General has used to arrive at that assessment.

Hon. Jack Austin (Leader of the Government): Honourable senators, who knows how leaks to the media happen. It would be easier to speculate as to why they happen. I cannot answer a question that relates to how the information was put into the hands of the *Toronto Star*.

Verifying the accuracy of the story and the report of the Auditor General is an exercise that we should do to see how close the Auditor General's report is to the story. As Senator Ringuette knows, it is not possible to table any documents during Question Period.

With respect to the question of airport security, our own Senate committee has done excellent work in looking at the security of airports. I think we can claim to have made a significant contribution to the profile, which the issue now has in government as well as with the public as a whole.

It is always difficult to operate in an open, transparent society with our democratic traditions and, at the same time, to try to withhold information that may be of use to people who would like to breach the security of our airports, our ports and our other institutions. It is a difficult balance. We are always seeking to find that balance in every policy step that we take.

QUESTIONS ON THE ORDER PAPER

REQUEST FOR ANSWER

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, yesterday, Senator Lynch-Staunton drew my attention to questions he has had on the Order Paper for some time. I undertook to expedite the answers if I could. I should like to report that I may not have them tomorrow, but I shall certainly have them on Friday.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I ask that Government Business be called in the following order: first, Bill C-4, the ethics bill; followed by Bill C-27, the Main Estimates; and then Bill C-16, the sex offender registry.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING

On the Order:

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

And on the motion in amendment of the Honourable Senator Bryden, seconded by the Honourable Senator Sparrow, that the Bill be not now read a third time but that it be amended,

(a) on page 1, in the English version, by replacing the long title with the following:

“An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Counsellor) and other Acts in consequence”;

(b) in clause 2,

(i) on page 1, by replacing lines 8 to 27 with the following:

“**20.1** (1) Subject to subsection (2), the Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

(2) If the position of Senate Ethics Counsellor is vacant for 30 sitting days, the Senate shall, by resolution and after consultation with the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

20.2 The Senate Ethics Counsellor shall be a member in good standing of the bar of a province or the Chambre des notaires du Québec.

20.3 (1) The Senate Ethics Counsellor holds office during good behaviour for a term of seven years and may be removed for cause, with the consent of the leaders of all recognized parties in the Senate, by resolution of the Senate.

(2) The Senate Ethics Counsellor, on the expiration of a first or subsequent term of office, is eligible to be re-appointed for a further term not exceeding seven years.”

(ii) on page 2, by deleting lines 1 to 49,

(iii) on page 3,

(A) by deleting lines 1 to 12,

(B) by replacing lines 13 to 18, with the following:

“**20.4** (1) The Senate Ethics Counsellor shall assist members of the Senate by providing confidential advice with respect to any code of conduct adopted by the Senate for its members and shall perform the duties and functions assigned to the Senate Ethics Counsellor by the Senate.”, and

(C) by replacing line 43, with the following:

“**20.5** (1) The Senate Ethics Counsellor, or any”,

(iv) on page 4, by deleting lines 16 to 24, and

(v) in the English version, by replacing the expression “Senate Ethics Officer” with the expression “Senate Ethics Counsellor” wherever it occurs;

(c) in clause 4, on page 7, by replacing line 8, with the following:

“**72.06** For the purposes of sections 20.4,”;

(d) in clause 6, on page 11, by replacing lines 37 and 38, with the following:

“(d) the Ethics Commissioner”;

(e) in clause 7, on page 12, by replacing lines 7 and 8, with the following:

“any committee or member of either House or the Ethics Commis-”;

(f) in clause 8, on page 12,

(i) by replacing lines 14 and 15, with the following:

“(e) with respect to the Senate, the”, and

(ii) by replacing lines 28 and 29, with the following:

“Commons, Library of Parliament and office of”;

(g) in clause 9, on page 13, by replacing the heading before line 1, with the following:

“SENATE, HOUSE OF COMMONS, LIBRARY OF PARLIAMENT AND OFFICE OF THE ETHICS COMMISSIONER”;

(h) in clause 10, on page 13,

(i) by replacing line 7, with the following:

“ment”, and

(ii) by replacing lines 14 and 15, with the following:

“Parliament or office of the Ethics Commis-”;

(i) in clause 11, on page 13, by replacing lines 21 and 22 with the following:

“brary of Parliament and office of the Ethics Com-”;

(j) in clause 12,

(i) on page 13,

(A) by replacing line 30, with the following:

“Parliament”, and

(B) by replacing line 36, with the following:

“Parliament”, and

(ii) on page 14,

(A) by replacing line 3, with the following:

“ment or”,

(B) by replacing lines 6 and 7, with the following:

“of Commons, Library of Parliament or office of the”,

(C) by replacing line 12, with the following:

“ment or”,

(D) by replacing lines 16 and 17, with the following:

“House of Commons, Library of Parliament or office of”,

(E) by replacing lines 25 and 26, with the following:

“mons, Library of Parliament or office of the Ethics”,

(F) by replacing line 33, with the following:

“ment or”, and

(G) by replacing line 38, with the following:

“Parliament”;

(k) in clause 13,

(i) on page 14, by replacing lines 47 and 48, with the following:

“Commons, Library of Parliament or office of”, and

(ii) on page 15,

(A) by replacing lines 13 and 14, with the following:

“of Parliament or office of the Ethics Commis-”,

(B) by replacing lines 22 and 23, with the following:

“of Parliament or office of the Ethics”, and

(C) by replacing lines 35 and 36, with the following:

“ment or office of the Ethics Com-”;

(l) in clause 14,

(i) on page 15, by replacing lines 43 and 44, with the following:

“brary of Parliament or office of the Ethics Commis-”, and

(ii) on page 16, by replacing lines 6 and 7, with the following:

“Parliament or office of the Ethics Commission-”;

(m) in clause 15,

(i) on page 16,

(A) by replacing lines 14 and 15, with the following:

“House of Commons, Library of Parliament or office of “,

- (B) by replacing lines 20 and 21, with the following:
 “Library of Parliament or office of the Ethics Commis-”;
- (C) by replacing line 29, with the following:
 “ment or”;
- (D) by replacing lines 34 and 35, with the following:
 “House of Commons, Library of Parliament or office of”, and
- (E) by replacing lines 41 and 42, with the following:
 “brary of Parliament or office of the Ethics Commis-”, and
- (ii) on page 17, by replacing line 1 with the following:
 “ment or”;
- (n) in clause 16, on page 17, by replacing lines 11 and 12, with the following:
 “mons, Library of Parliament or office of the Ethics”;
- (o) in clause 17, on page 17, by replacing lines 20 and 21, with the following:
 “Library of Parliament or office of the Ethics Commis-”;
- (p) in clause 18, on page 17, by replacing line 30, with the following:
 “ment”;
- (q) in clause 25, on page 20, by replacing lines 26 and 27, with the following:
 “Library of Parliament or office of the”;
- (r) in clause 26, on page 20, by replacing lines 36 and 37, with the following:
 “(c.1) the office of the Ethics”;
- (s) in clause 27, on page 21, by replacing line 9, with the following:
 “Parliament”;
- (t) in clause 28, on page 21,
 (i) by replacing lines 20 and 21, with the following:
 “Library of Parliament or office of the Ethics Commis-”, and
 (ii) by replacing lines 28 and 29, with the following:
 “Commons, Library of Parliament or office of the”;
- (u) in clause 29, on page 22, by replacing lines 14 and 15, with the following:
 “Commons, Library of Parliament and office of the Ethics”;
- (v) in clause 30, on page 22, by replacing lines 24 and 25, with the following:
 “Library of Parliament or office of the Ethics Com-”;
- (w) in clause 31, on page 22, by replacing line 33, with the following:
 “ment”;
- (x) in clause 32, on page 22, by replacing lines 38 and 39, with the following:
 “of Parliament or office of the Ethics Commissioner,”;
- (y) in clause 33, on page 23,
 (i) by replacing line 3, with the following:
 “word “or” at the end of paragraph (b), by adding the word “or” at the end of paragraph (c) and”, and
 (ii) by replacing lines 6 to 8, with the following:
 “(d) the office of the Ethics Commissioner”;
- (z) in clause 34, on page 23, by replacing lines 15 to 17, with the following:
 “(c.1) the office of the Ethics Commissioner”;
- (z.1) in clause 36, on page 24, by replacing lines 11 and 12, with the following:
 “Commons, Library of Parliament and office of the”;
- (z.2) in clause 37, on page 24,
 (i) by replacing line 22, with the following:
 “Parliament”, and
 (ii) by replacing line 31, with the following:
 “ment or”;
- (z.3) in clause 38, on page 25, by replacing lines 12 and 13, with the following:
 “any committee or member of either House or the Ethics Commis-”;
- (z.4) in clause 40,
 (i) on page 28,

- (A) by replacing lines 4 and 5, with the following:
“communes, à la bibliothèque du Parlement ou”,
- (B) by replacing lines 17 and 18, with the following:
“ment ou au commissariat à l'éthique par”,
- (C) by replacing lines 28 and 29, with the following:
“House of Commons, Library of Parliament or office of”,
- (D) by replacing lines 34 and 35, with the following:
“Library of Parliament or office of the Ethics Commis-”, and
- (E) by replacing line 43, with the following:
“ment or”, and
- (ii) on page 29,
- (A) by replacing lines 2 and 3, with the following:
“House of Commons, Library of Parliament or office of”,
- (B) by replacing line 13, with the following:
“ment or”,
- (C) by replacing lines 19 and 20, with the following:
“brary of Parliament or office of the Ethics Commis-”,
- (D) by replacing line 26, with the following:
“ment or”, and
- (E) by replacing lines 38 and 39, with the following:
“Commons, Library of Parliament or office of the Ethics”, and
- (iii) on page 30,
- (A) by replacing lines 5 and 6, with the following:
“Library of Parliament or office of the Ethics Commis-”,
- (B) by replacing lines 20 and 21, with the following:
“Library of Parliament or the office of the”,
- (C) by replacing lines 25 and 26, with the following:
“Commons, the Library of Parliament or the”,
- (D) by replacing lines 36 and 37, with the following:
“Commons, the Library of Parliament or the”, and

(E) by replacing lines 42 and 43, with the following:
“Parliament or the office of the Ethics Commis-”; and

(z.5) in clause 41, on page 31,

(i) by replacing lines 23 and 24, with the following:

“Commons, Library of Parliament and office of the”, and

(ii) by replacing lines 43 and 44, with the following:

“Commons, Library of Parliament and office of the”.

(Pursuant to the Order adopted on March 26, 2004, all questions will be put to dispose of third reading of Bill C-4 at 5 p.m. on March 30, 2004.)

Hon. Jack Austin (Leader of the Government): Honourable senators, I rise to speak to Senator Bryden's motion in amendment to Bill C-4. It will not surprise you that I have a number of difficulties with the proposed amendments. Those difficulties range from questions about particular sections, to major constitutional objections, to profound disagreements of principle.

It is appropriate that I restate the key elements of Bill C-4 as its supporters have presented them. The principle of Bill C-4 as it applies to the Senate is to create an officer of Parliament responsible to the Senate and reporting to the Senate under a code of conduct solely established by the Senate. The essential integrity of that office of the Senate ethics officer is based on independence, not just half independence as, for example, from the Governor in Council, but full independence, which means from the Senate itself.

To achieve that independence on which the credibility of the Senate entirely relies, it is vital that neither the Governor in Council nor the Senate controls the appointment of the Senate ethics officer. Clause 20.1 of Bill C-4 puts the Governor in Council and the Senate in equal positions of power. Each has a veto over the power of the other. The Governor in Council can only effect the appointment on the basis of a resolution of the Senate. The Senate can only effect the appointment if the Governor in Council concurs.

In achieving this balance of power, it is important also that the government of the day not be allowed to make the word “consultation” in clause 20.1 meaningless by using its majority in the Senate to have its way. It is for that reason that I gave an undertaking on behalf of this government on February 24, 2004, that it would respect the independence of the Senate in the appointments process.

The undertaking is as follows:

...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 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, 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.

The Governor in Council, in turn, will 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 in the discharge of those duties that will be assigned to the Senate ethics officer under the code of conduct the Senate decides to adopt.

Honourable senators, following this consultation, the Senate could then forward its proposed name to the Governor in Council by the formal method of the resolution under clause 20.1. As I pointed out in my address in opening third reading, should a future government fail to observe this undertaking, the Senate has a powerful sanction by withholding its action on the resolution.

I have said in earlier debates on Bill C-4 that I would welcome an extension of the proposed convention by having the resolution described in clause 20.1 moved by the Leader of the Government in the Senate and seconded by the Leader of the Opposition.

Senator Bryden has proposed a radical change to the regime put forward in Bill C-4. He introduced his amendment to this chamber as “an alternative approach” to that which is put forward in the bill. His proposal stands in stark contrast to that proposed by the government and, indeed, to those that have been proposed by parliamentary committees for over 10 years.

• (1450)

I will tell you, honourable senators, the proposal is so fundamentally different that I believe the amendments actually contradict the principle of the bill as adopted here on second reading. Let me quote to you the description from a unanimous joint Senate and House of Commons committee report of June 1992, almost 12 years ago. The first recommendation of that committee, highlighted in their summary of principal recommendations, was that “an independent office of Jurisconsult be created.” They elaborated on this as follows:

Our Committee heard extensive testimony about jurisdictions that have introduced a single individual to advise and guide Members as to the application of these [ethical] principles. We have seen this to be the trend throughout Canada — Quebec has a Jurisconsult; New Brunswick and Nova Scotia each have a designated judge; Ontario, British Columbia and now Alberta each have a Commissioner. In all cases, the appointment of an individual of impeccable integrity, stature in the community, and basic common sense has provided enormous assistance to the members and to the public alike. We were impressed by the unanimous support for

these individuals, and the offices they each fill, from the members who have turned to these people for advice and guidance, and from the members of the press corps that have monitored the legislatures these individuals advise.

One of our key recommendations in this report is that a similar office be created for the federal Parliament including Cabinet Ministers and Parliamentary Secretaries as well. Fundamental to the success of this project is finding the right person for the job; with someone of integrity and good judgment, who commands the respect of the community, we have confidence this will enable parliamentarians to not only try to be always ethical but to succeed.

I am quoting, honourable senators, from the “Report to the Senate and the House of Commons: Subject Matter of Bill C-43 (Conflict of Interests for Parliamentarians)” dated June 1992, which was referred to as the Blenkarn-Stanbury committee. Of course, the reference is to Senator Dick Stanbury, who served in the Senate for many years and brought much wisdom to our deliberations.

Today, honourable senators, there are independent ethics advisers in most provincial and territorial jurisdictions. We are in the very small minority of jurisdictions in this country without an independent ethics person.

Bill C-4 would finally see the Senate get an independent Senate ethics officer. However, the amendments proposed by Senator Bryden would effectively remove his or her independence. We would have, in essence, another law clerk by a different name.

Honourable senators, let me be clear. I have always felt that we are well served by our law clerk, but he is the lawyer for the chamber. He clearly is not independent of us or of this chamber.

As proposed by Senator Bryden, the person — whom he would rename “Senate ethics counsellor,” and I will come back to that shortly — would be appointed by the Senate alone, by resolution. I will also return shortly to the manner of the appointment, which I believe would be unconstitutional. Let us remain for now with the broad principles of that approach.

The key to Senator Bryden’s proposal is that the Senate ethics counsellor would be appointed by the Senate, on its own, with no external check or balance to the power of appointment. He or she could also be dismissed, for cause, by the Senate acting alone. The balance provided in the current bill or involvement by the Governor in Council in the appointment and dismissal provisions would be gone. All the provisions governing how this individual would be compensated, reimbursed for expenses, hire assistants and set up an office would be deleted from the bill. There would be no longer any requirement by statute for the individual to prepare an estimate of the expenses of running the office, and no longer any requirement for those estimates to be considered by the Speaker of the Senate, transmitted to the President of the Treasury Board and laid before Parliament with the estimates of government.

Honourable senators, there would be no external review or check on this person's conduct or office, only internally by us — the people he or she would be overseeing. We alone would decide his or her pay; we alone would decide whether or not to reappoint; and we alone would decide whether to dismiss him or her for cause. That is not an independent ethics adviser.

There is more. Proposed section 20.7 of Bill C-4 would require the Senate ethics officer to table an annual report in this chamber on his or her activities during that year. That section would be deleted by Senator Bryden's amendment. In other words, this person would be answerable to us and only to us; we would control his or her salary, terms of office, reappointment and possible firing. There would no longer be any public tabling of his or her expenses and not even an annual report on what he or she has done for the year. That is not what we could call increased transparency and openness.

Senator Bryden would change the name of the Senate ethics officer to Senate ethics counsellor. He explained this change as follows:

The purpose of using the word "counsellor" is to indicate that what we are looking for in this approach is to have this chamber be able to preserve within its framework the ability to have an ethics counsellor who can assist senators in following the codes, in doing all of the things that will be demanded of us as senators and to determine what type of rules we will have. It will be an assisting role, a counselling role. It will not be a separate, independent body that is apart from the Senate.

I am referring to the *Debates* of the *Senate* of March 25 of this year, page 624. In these words, there is not even a pretence that the proposed Senate ethics counsellor would have any measure of independence whatsoever.

Senator Bryden's proposed amendment to section 20.5 of the bill would reflect this new, much more limited status. Currently, the wording of the section would provide simply that:

The Senate Ethics Officer shall perform the duties and functions assigned by the Senate for governing the conduct of members of the Senate when carrying out the duties and functions of their office as members of the Senate.

In other words, everything about his or her role would be for us to determine.

Senator Bryden's proposed amendment would change this. The amendment proposes:

20.4(1) The Senate Ethics Counsellor shall assist members of the Senate by providing confidential advice with respect to any code of conduct adopted by the Senate for its members and shall perform the duties and functions assigned to the Senate Ethics Counsellor by the Senate.

I believe that it has always been anticipated that one of the roles of the Senate ethics officer would be to provide confidential advice with respect to the expected code of conduct. I have asked myself: Why should this be taken out from among the duties and functions that can be assigned by the Senate and instead placed in the statute? I have been trained in the school of statutory interpretation that says Parliament does not insert words or phrases without significance. My only conclusion is that, by putting it into the statute itself, it is intended for this role to trump any other role that this chamber may see fit to assign to the person. For example, it is no longer clear whether we could choose to have this person investigate allegations or impropriety and recommend appropriate action to us.

I appreciate that Senator Bryden, like many in this chamber, may have views on how this chamber should choose to structure the code of conduct and its implementation. However, that is a debate for another day. I do not believe it is appropriate to prejudge this chamber's decision by seeking to amend this provision in this way in order to characterize one particular role that our ethics person would play in order to define and limit the scope of the terms of reference.

I was also struck to see the changes proposed by Senator Bryden to the "consequential amendments" of the bill. They clarified for me beyond any doubt that, indeed, the proposal put forward by Senator Bryden is radically different from that in Bill C-4. I assumed, when I first looked at the proposed amendment, that he was simply replacing "Senate Ethics Officer" wherever it would be found with "Senate Ethics Counsellor." Not so, honourable senators. Instead, he would remove all proposed references to the Senate ethics officer from all federal statutes.

For example, clause 7 of the bill, on page 12, would amend the Federal Court Act. Subsection 2(2) of that act clarifies that the expression "federal board, commission or other tribunal" — a critical expression in terms of establishing certain jurisdiction of the Federal Court under the act — does not include the Senate, the House of Commons or any committee or member of either House. Bill C-4 would add the Senate ethics officer and the ethics commissioner to that list. Senator Bryden would keep the ethics commissioner on the list, but delete any proposed reference to the Senate ethics officer or his counsellor.

His amendments to the Financial Administration Act, the Garnishment, Attachment and Pension Diversion Act, the Government Employees Compensation Act, the Non-smokers' Health Act, the Official Languages Act, the Parliamentary Employment and Staff Relations Act, the Public Service Superannuation Act, the Radiocommunication Act — even the amendments to the Canada Post Corporation Act — would all follow this same pattern.

The only conclusion I can draw about why this would be done would be to lower the status of the Senate ethics person from that of an independent officer equal in stature to the proposed ethics commissioner in the other place to something less — a regular Senate employee whose exemption from such statutes is subsumed within our own.

• (1500)

Honourable senators, the status quo is no longer good enough. Canadians expect more. They expect more rigorous oversight of our activities. They expect it from someone who is independent and of a stature to command our — and their — respect. We are here to serve the Canadian public. We are all always very conscious of that responsibility and of the honour of the service. Indeed, few in this excellent chamber who serve have served their country as diligently and honourably as Senator Bryden. We cannot now, on this issue, lose sight of Canadians' expectations of us and of this chamber. The status quo is not good enough. Canadians expect more, and they deserve more from us as parliamentarians.

Senator Bryden made a number of references in his speech to the Auditor General, holding that office up, as I read his speech, as an example to be avoided. However, honourable senators, does the Canadian public approve of the Auditor General? I think the answer is a clear yes. Does the Auditor General enhance the credibility of government, even as she may make things uncomfortable for the government? Again, I believe the answer is yes. Does the Canadian public believe we need an Auditor General? Again, I believe the answer is yes. Why would we want a Senate ethics officer to fall well below these same standards?

Honourable senators, there has been much discussion about the qualities that our new ethics officer should have. Senator Bryden's amendment requires that the new Senate ethics adviser — to use a neutral term — be a member in good standing of the bar of a province or the *Chambre des notaires du Québec*.

On a point of principle, as a lawyer myself, I disagree that the position necessarily should be filled by a lawyer. There are a number of highly skilled, capable, knowledgeable individuals who are not lawyers in whom I would confidently place my trust. I also want to point out that I have a number of lawyer friends in the Northwest Territories, Yukon and Nunavut who are rather miffed at being summarily rejected for this important position. I am sure that this was no more than an oversight, though obviously an unfortunate one.

Honourable senators, I believe that the amendments put forward should be rejected on principle, as this chamber needs and deserves a Senate ethics officer who is and who is seen to be independent, and who would be of a stature higher than that of our employees, impressive as our many employees are. We already have an excellent Law Clerk, honourable senators. The idea is to do something more than simply hire another legal adviser for the Senate.

I cannot leave this debate without pointing out the serious constitutional flaws in Senator Bryden's proposed amendment. Subsection 20.1(1) of his proposed amendment would provide:

Subject to subsection (2), the Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

Honourable senators, section 36 of the Constitution Act, 1867, states:

Questions arising in the Senate shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative.

This is reiterated in our own *Rules of the Senate of Canada*. Rule 65(5) provides:

Questions arising in the Senate shall be decided by a majority of voices. The Speaker shall in all cases have a vote. When the voices are equal the decision shall be deemed to be in the negative.

Senator Bryden's proposed amendment would require more than a majority. It would require a majority of voices on the resolution as well as the concurrence of a few select senators — the party leaders — who would, in effect, have individual vetoes.

I appreciate that the proposed subsection 20.1(2) would allow the Senate, by resolution — that is, a simple majority — to appoint someone if the consent of all Senate party leaders is not obtained, but that would not save the unconstitutional provision. It seems to me that, under the proposed subsection 20.1(1) a question arises in the Senate that would be decided by more than a majority of voices, and that, on its face, is unconstitutional. However, the same "super-voting" status for party leaders would be required under Senator Bryden's proposed subsection 20.3(1) before the Senate could dismiss the person for cause. There is no fallback position there. Therefore, I believe there are serious constitutional problems with these proposals.

In my view, when our Constitution specifies that questions in the Senate must be decided by a majority of voices, one cannot provide a requirement or a rule that that majority must contain certain individual senators, be they party leaders, the Speaker, or all senators from a particular province, for instance. When it comes time to vote in this chamber, we are all equal. Under Senator Bryden's proposal, we would not all be equal when it came time to vote on the resolution to appoint a Senate ethics counsellor.

As I told the Honourable Leader of the Opposition when he asked about possible constitutional problems with the so-called double majority required by my undertaking to this chamber, my proposal would not require a vote. Under my undertaking, the consent of the leaders of the recognized parties in the Senate would go to the informal consultation required by Bill C-4 and not to the vote on the formal Senate resolution itself.

There is a further problem with Senator Bryden's proposal, honourable senators. Senator Bryden has carefully drafted his amendment to require the Senate to appoint a Senate ethics counsellor.

The proposed subsection 20.1(1) reads:

...the Senate shall, by resolution and with the consent of the leaders of all recognized parties in the Senate, appoint a Senate Ethics Counsellor.

Honourable senators, what is the remedy should the Senate fail or refuse to appoint a Senate ethics counsellor? I realize that, under subsection (2), the Senate could pass a resolution to appoint someone without the consent of the leaders of the registered parties; but what if the Senate simply does not do so? Under Bill C-4, should the Governor in Council fail to appoint someone pursuant to the provisions, one could sue to compel it to act. That is basic Canadian administrative law. However, one cannot sue the Senate because it declined to pass a bill or a resolution. There is no remedy of which I am aware, honourable senators. The amendment reads “shall,” but it is not a meaningful requirement because there is no recourse for anyone to force the Senate to act if it fails to do so, for whatever reason.

Before I close, I wish to address some concerns that Senator Bryden and also Senator Oliver raised about the undertaking I have given in this chamber. They challenge my use of a quote from one of the academic witnesses who appeared on this bill, Professor Fabien Gélinas. I had pointed out that Professor Gélinas agreed that the bill clearly gives the Senate the last word on the appointment. Senator Bryden acknowledged the professor had said that, but pointed out that he subsequently said the last word is actually with the government and not really the Senate. He said:

What the Senate can do is stop it. This is a negative power, not a positive power.

I do not propose to debate this issue at any length. To me, the power to stop something from going forward at all is a pretty powerful last word. Whether you call it a negative or a positive power, it is, nevertheless, very effective.

Senator Bryden also quoted Professor Gélinas' statements questioning whether future governments will follow this undertaking. Once again, honourable senators, all that is within our power to do is to try to put in place the best system we can at this time. I have full confidence that this will indeed prove to be very workable and, indeed, a good approach. I have full confidence in Canadians, that they will elect future governments with the wisdom to see the merit in this system, notwithstanding that it was designed by a government other than their own.

• (1510)

Let me quote again for the record the answer I gave last week in this chamber to a question posed by Senator Comeau:

Given that we will be going into an election and that the odds are that we will not have the opportunity to appoint a new ethics officer, would the Leader of the Government in the Senate — who may not be the leader at that time; I hope it will be our leader — agree and confirm to this house that he will, if the bill passes, agree to the convention that he is proposing to establish if he continues to be the Leader of the Government in the Senate?

I replied:

Honourable senators, that is a hypothetical question. Normally I would not answer it, but I will in this case.

[Senator Austin]

If I should continue in a new Parliament to be the Leader of the Government in the Senate, I will ask the government of that day to permit me to give the same undertaking as I gave on February 24. I would be delighted to add to the precedent that I started by taking the same step twice.

This is in the *Debates of the Senate* of March 25, 2004, at page 617.

Honourable senators, Senator Bryden concluded his speech with a quote from a well-known saying. The quote he repeated was:

If not us, then who? If not now, then when?

The person who originally said those words was the eminent sage Rabbi Hillel. However, Senator Bryden only quoted two of Hillel's famous three questions. The third question, which he omitted, was this:

If I am only for myself, what am I?

Honourable senators, we are here to serve the Canadian public. We cannot — we must not — ignore their expectations of this chamber and of ourselves. We must be seen as having their interests foremost in our minds.

In his remarks last Thursday, Senator Bryden quoted at length from an editorial that appeared last November in the *Ottawa Citizen* to indicate that members of the press would understand and support his changes to the bill. Last Friday, the very day after Senator Bryden made his speech here, *The Edmonton Journal* took a decidedly different view of what has been occurring of late in our chamber. It concluded its editorial by saying:

The Senators who have vocally opposed the Bill don't seem to recognize, or care about, the terrible optics of their position. Canadians might well wonder why senators who have nothing to hide would oppose the establishment of an ethics watchdog that will help preserve the Senate's reputation for honest public service. Surely that is reason enough to support the Bill.

Honourable senators, our ability to carry out our constitutional responsibilities depends, in large part, on the public's perception of us, particularly since we cannot point to any direct electoral mandate that they have given us. The public's perception of its political institutions has been sorely tested of late. As I described in my speech at second reading, we cannot ignore the reality that we are a key part of the political system that Canadians are viewing with an increasingly jaundiced eye.

I know the great contribution that members of this chamber make to Canada and for Canadians. I know how critically important our independence is for us to fulfil our constitutional role in the Canadian democratic system. I believe I can say with justification that I am second to none in my defence of the rights, independence and autonomy of this institution.

While my title and role is Leader of the Government in the Senate, I see my role equally as being the leader of the Senate in the government, representing our interests and upholding our rights and role in the Canadian political and parliamentary system.

Honourable senators, let me remind you again of the great body of work that has gone before to establish a code of conduct for parliamentarians and an independent office to administer that code. This bill has had the endorsement of the House of Commons on two separate occasions and was supported overwhelmingly there.

I believe this bill enhances the credibility and reputation of the Senate. I believe it is necessary for the Canadian public to be able to see that all its parliamentarians, in this chamber as well as in the other place, act in the public interest first, foremost and always. This bill is about putting in place independent officers of Parliament who will be able to help us to meet our ethical responsibilities and who will be able to assure the Canadian public that their parliamentarians are meeting their ethical responsibilities.

Bill C-4 has been crafted to assure Canadians that, in our work here in Parliament, their interest always comes first. Let us not contemplate changes that would lead them to think otherwise.

Hon. John G. Bryden: Would the honourable senator accept a question?

Senator Austin: No. I wish to hear other senators in the debate.

Senator Stratton: It is just like Question Period.

Hon. Anne C. Cools: I also suggest to senators that Senator Bryden have ample opportunity to respond.

Senator Bryden: I do not want to start a fight. Believe me, I am a peace-loving person. I just wanted to say that it was a nicely crafted speech.

Senator Austin: It is not appropriate for Senator Bryden to comment on my speech.

Senator Kinsella: He is allowed to make comments.

Senator Bryden: As it was said to me the other day, nobody kicks a dead duck.

The Hon. the Speaker: Honourable senators, a senator is entitled to make a comment or put a question only if the senator whose time is being used is prepared to accept a question or a comment. Senator Austin has clearly indicated that he will not accept questions. I have no option but to go down my list and call on the next speaker. We would normally alternate between sides.

If Senator Corbin wishes to rise on a point of order, I will hear him, but I was about to go to Senator Andreychuk so as to respect the alternation between the of government and the opposition.

POINT OF ORDER

Hon. Eymard G. Corbin: Honourable senators, on a point of order, when a senator sits, his speaking time is up. That is his decision. He wishes to speak no more. The provision in our rules is that another senator can only ask a question if the senator to whom it is addressed agrees to hear the question.

A comment, it seems to me, does not require a senator's assent. A comment is a comment. It is a free and democratic expression of a view. I do not think the senator who has finished speaking can prevent another senator from making a comment. That is quite open to interpretation.

A question is different. A comment is in a class by itself. It seems to me that those who crafted that particular rule had just that in mind. This is not an imposition on the senator who has just sat down. The comment is a reflection on his speech. He need not respond to the comment, but he would if he accepted a question.

We should have clarification of that matter; otherwise, the rule makes no sense whatsoever and should be revisited.

Hon. Jack Austin (Leader of the Government): Honourable senators, on the point of order, no provision in our rules allows a comment to be made.

Senator Bryden has spoken in this debate. If we allowed a comment to come forward, every one of us could get up and make a comment, which would be the end of the proper and organized business of this chamber.

The purpose of Senator Bryden rising is, of course, to try to contradict something that I have said. He has participated in the debate. I have now participated in the debate. I believe that other senators are entitled to participate in this debate. Senator Bryden is free to ask other senators if he might ask them questions. What Senator Corbin has said, I think, has no basis in our rules.

Hon. John G. Bryden: Your Honour, I will withdraw my request to make a comment or ask a question, and perhaps we could get over this hurdle. If someone does not want to play, he does not want to play. There are other senators who wish to speak. We have a vote at 5:30 p.m. I do not want to get in the way. There are good statements yet to be made by other senators.

The Hon. the Speaker: The point of order has been put in play. I will try to hear it and deal with it as briefly as I can.

Hon. Anne C. Cools: I agree with Senator Bryden.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, rule 37(4) is in play on the point of order, I believe. It reads as follows:

Except as provided in sections (2) and (3) —

Those sections deal with the Leader of the Government in the Senate and the Deputy Leader of the Opposition being permitted unlimited time for debate, and the sponsor of the bill and the first senators speaking after being permitted 45 minutes. Rule 37(4) continues:

— no Senator shall speak more than fifteen minutes, inclusive of any question or comments from other Senators which the Senator may permit in the course of his or her remarks.

The green light or the red light for the comments and questions is in the hands of the senator who has spoken. That is my reading of rule 37(4).

• (1520)

The Hon. the Speaker: Before I go to Senator Corbin for a final comment, if he wishes to make one, do any other senators wish to comment?

Seeing none, I would call on Senator Corbin.

Senator Corbin: Honourable senators, I think we should strike the provision for comment out of that rule, if it means nothing. What we are doing is preventing a truly democratic exchange of views in this place for the instruction and illumination of all honourable senators. Everything is not necessarily said once a senator has spoken for 15 minutes. In my time, rules like this were always interpreted in the sense of encouraging full debate, and not restricting it, because this place is called Parliament. Parliament means to talk and to express one's views.

The final determination comes only at the time of the vote. I have always been in favour of extending free speech. Otherwise, this place means nothing. Put the padlock on it.

Senator Austin: Honourable senators, as Honourable Senator Kinsella says, the rule means nothing unless it means that the last phrase controls the behaviour of other senators, which the senator may permit in the course of his or her remarks. Otherwise, as I have said, we will get endless political comment on a senator's presentation — not in the context of organized presentations, but in the course of ad hoc debating. The rule is clear. Consent from the speaker, in this case myself, would be required to permit a comment.

The Hon. the Speaker: Honourable senators, I said I would close with the person who made the point of order, and I shall. Do you wish to comment further, Senator Corbin?

Senator Corbin: No, Your Honour, thank you kindly.

The Hon. the Speaker: I thank Senator Corbin for raising the point of order and those senators who have participated in the comments in terms of what the Chair should rule on the point of order. The comments have been helpful; as such, I can dispose of this matter now.

The rule is fairly straightforward. It has been quoted in full by Senator Kinsella. I shall not do that again; rather, I shall focus on the words of rule 37(4), which reads:

...no Senator shall speak from more than fifteen minutes, inclusive of any question or comments from other Senators which the Senator may permit in the course of his or her remarks.

I read it that the word "question" — "which the Senator may permit in the course of his or her remarks" — and the word "comments" — "which the Senator may permit in the course of his or her remarks" — have equal weight. Accordingly, if the senator who has the floor does not permit further comment or questions, then that is the end of the matter.

I shall now return to my list, and on my list is Senator Andreychuk.

Hon. A. Raynell Andreychuk: Honourable senators, the atmosphere here is not quite the one in which I thought I would stand and be able to speak. This chamber is a place for debate and dialogue, not a place for us to give speeches but, rather, to attempt to influence and hear each other and to take into account what other honourable senators say. That hardly speaks well of the word "consultation," if we do not have proper debate here.

I put that on the record because I think we should reflect on that in our future work. Perhaps the Rules Committee should take that up, as it relates to our behaviour and attitude toward each other here.

Honourable senators, I do not intend to speak on the legalities of this bill in any great detail. I have spoken in committee, on the floor and in questioning Senator Austin and others.

Honourable senators, Bill C-4 is the same bill — numbered differently — as that introduced by Prime Minister Chrétien in the last session. Nothing has changed. Prime Minister Martin has reintroduced Bill C-4 in exactly the same form as Bill C-34. It is, therefore, not unusual to refer to this legislation as the Chrétien-Martin response to how the question of ethics and an ethics officer, for ministers, members of the House of Commons and the Senate, will be handled.

A Red Book promise of an independent ethics officer for Parliament is still outstanding whether or not we pass Bill C-4. There is abundant evidence that the appointment of Mr. Wilson — particularly the method and the operation of Mr. Wilson's office — was not viewed by the public as independent. Nor is it independent in law or, as we have witnessed time and again, in practice.

What does Bill C-4 do? Some honourable senators have correctly pointed out that the proposed legislation merely appoints an ethics officer for the Senate and, in law, the appointment will be by Governor in Council. That, as anyone who studies Parliament will understand, is the Prime Minister's ultimate right and responsibility. Make no mistake: No matter what system is put in place for consultation, the ultimate right to appoint is by the Prime Minister.

[Senator Kinsella]

Why do honourable senators, or a majority of them opposite, it would appear, indicate that we need to give this right to the Prime Minister when, after all these years, we have not? They say there is a perception that needs to be addressed, a perception of wrongdoing, I presume, a perception of inappropriate behaviour, a perception of unethical behaviour. Yet, all those senators have rushed to state that, of course, there is no reality of wrongdoing or unethical behaviour, that it is simply that we must respond to the public's perception.

I do not think, honourable senators, this is the case. The public is not so ill-informed. They want a real, improved democracy. They want a Parliament that functions independently of the fine, but fierce, hand of the Prime Minister.

Honourable senators, our system of justice has been built on reality, on the rule of law and on the adherence of those rules. When a person perceives that he has not been treated justly, the underpinnings of the criminal law, for example, point to the fact that the rule of law was followed, and what we are trying to do is to bridge the perception to the reality.

If I follow the government's line of thinking here, if perception is the issue, then we will pretend to give it to them, an independent ethics officer. Since it is a perception, we will respond with perception. To go further would mean that the officer would be independent of Senate and independent of the Prime Minister. This is what I have stated in this chamber for some 11 years. This could be done by passing legislation, by setting up an arm's length search and appointment process or by any number of worthwhile suggestions that the mind can create.

There is nothing in Bill C-4 to assure the public that there is independence or an ethical standard. Rather, if we pass Bill C-4, we will have taken away the independence of the Senate to appoint its own and, hence, be accountable to the public. We will have given this power to the Prime Minister, thereby increasing the consolidation of the power of the Prime Minister and the Prime Minister's office over even more action over Parliament.

We will be creating a further democratic deficit in Parliament at a time when the public wants a real return to parliamentary process. The real actions in the government now are to thwart democratic action in Parliament. Why do I say this? Let us examine what happened in the political manoeuvring of this bill.

In the last session, the Senate overwhelmingly, after debate, voted to amend Bill C-34 to ensure a measure of independence from the government and to restore the responsibility for ethics in the Senate, thereby separating the executive from the legislative arm of Parliament.

• (1530)

What has Prime Minister Martin done? He has reintroduced the entire bill in the same form at a time when he has promised to deal with the democratic deficit in Parliament and to give free votes for

parliamentarians on questions of conscience. Surely, issues of ethics, accountability, conduct, transparency and democracy are questions of conscience.

How we act, how we behave, how we answer to the public are the most fundamental moral and legal questions senators have to face.

Minister Cotler, in addressing the committee, talked about the democratic ethos that is necessary in a democratic state. Little has been said in the committee and on the floor of this chamber about how it marks a democracy from other forms of government. What marks a democracy from other forms of government? It is the rule of law and the respect for the legislative arm being separated from the executive arm and the judicial arm.

As any good lawyer knows, it is often said in criminal law, "Give me a bad case and I will try to put the best face on it." To his credit, Senator Austin attempted to put a good face on a bad piece of proposed legislation by indicating an undertaking, knowing full well that it falls short of being binding.

Honourable senators, in a democracy, one does not depend on promises from the Prime Minister. One relies on the rule of law. It is not the largesse of the Prime Minister on which the people of Canada rely, but on the rule of law being followed. We should not be beholden to the Prime Minister nor should we be requesting that the Prime Minister consult with us. Rather, we should rely on and follow the law. The law, honourable senators, in Bill C-4 clearly diminishes any real function for the Senate. As I have stated, Bill C-4 gives us only a pious invocation to seek influence with the Prime Minister and not real decision-making power.

I believe the people of Canada want a code of conduct for parliamentarians to follow. Honourable senators, there is not one word about creating a code by legislation. Rather, there are inferential indications that the senators would be responsible for their own code, as is the House of Commons. There is nothing in the proposed act about a code or what kind of code. How it will be done is simply not in the bill.

What is real about Bill C-4 is that there is less for the public and not more. On the day this bill passes we will have taken away section 14 of the Parliament of Canada Act and replaced it with nothing. More particularly, for the public, the Consequential Amendments Act will lessen access to information. Commissioner Reid stated it would lapse the scrutiny of some 2,500 people who are now subject to the access to information laws. That, honourable senators, is a lessening of public scrutiny.

Senator Austin has said that the matter that Commissioner Reid raised was not substantial. However, honourable senators, reductions from access are substantial. These are rights that citizens slowly claimed, inch by inch. Now, with the passage of this bill, we will be tearing away access to information that responds to the "need to know," which is the hallmark of a democracy. Bill C-4 will diminish the ability for scrutiny by citizens. We end up with what? The real need to answer to the people will be diminished. Real control will be consolidated further in the hands of the Prime Minister.

What is frightening is that real changes that need to be made are not being made. Democratic deficit is being enlarged because of a Prime Minister who is using the whip on this issue and not allowing senators a free choice. Senator Smith said that it provided for a majority to vote against the government. Well, we will see.

As well, real parliamentary oversight and change is not occurring. In fact, today we have officers of Parliament appointed by the Prime Minister after consultation. I was shocked and saddened to hear of a vitriolic attack against the Auditor General in this chamber last Thursday. No one stood up to object to the fact that the Auditor General, in her capacity, carried out her duties. I believe that Canadians expected nothing less of her. Yet, parliamentarians appear to be very comfortable in attacking the very person for whom they should be accountable.

Where did the cracks start? They started with Mr. Radwanski. Over the years, consultations had become so superficial and routine that the Prime Minister himself did, in fact, appoint Mr. Radwanski. We know what we got. Mr. Marleau, in appointing Mr. Radwanski's successor, followed at least a temporary, somewhat-arm's-length process for appointment.

Commissioner John Reid came forward with a compelling "re-look" at how we should appoint our officers of Parliament and how we should continue access to information and privacy. That, Senator Austin said, was not an object of Bill C-4, but that we should be discussing a new and different way.

Honourable senators, I believe it is not a perception; it is a belief based on fact that people do want more and better accountability. It would have been more appropriate if Prime Minister Martin had said that he believed in democratic reform and that he would attack democratic deficits by introducing a new Bill C-4 that would take a new, modern, imaginative approach. Instead, we have this bill before us — Prime Minister Chrétien's bill. We have it again. It does not augur well to see Prime Minister Martin continuing in the same mould and manner as his predecessor.

Senator Kroft says that those of us who think that a new, revamped bill could have made it through the House of Commons are wrong; that the House would not have allowed the bill to pass. Honourable senators, I do not believe that any party in the opposition could have or would have defeated a new, real bill with a democratic process, with accountability and with transparency. Such a bill would have marked Mr. Martin's leadership and his respect for the independence of Parliament.

We have an illusion of change in Bill C-4 but, in reality, we have more of the same for the public. We have perceptions instead of real, fundamental changes. For the Senate we have an admission that the perception of independence will still exist, but the reality will be different.

[Senator Andreychuk]

Honourable senators, Bill C-4 represents the first time in over 100 years that our independence from the government will be tested by law. This comes at the very time when the public is questioning our legitimacy due to the fact that we are appointed. Surely, our critics will be right if we do not at least pass Senator Bryden's amendment. Otherwise, the Prime Minister's will and power over this house will be complete and our irrelevance underscored. As Senator Oliver said, from watchdog to lapdog.

I have fought to legitimize our actions in this place as being relevant for citizens. This bill in no way serves the citizens of Canada. It creates a rope around our necks, tied to the Prime Minister. Do we want to do what is popular or what is right, irrespective of any personal loss of status in this chamber?

Senator Bryden is by no means setting up a truly independent and modern regime. He is ensuring that the Senate continues. If we do not pass Senator Bryden's amendment, we will regress. We will have less power and the people will have less scrutiny, for, without Senator Bryden's amendment, Bill C-4 is less than what the public has today.

• (1540)

Hon. David P. Smith: Will the honourable senator take a question?

Senator Andreychuk: Yes.

The Hon. the Speaker *pro tempore*: Honourable senators, I am sorry, but the time for Senator Andreychuk to speak has expired.

Senator Smith: I was rising to ask a question. Could we have an extension of time for a question?

Senator Andreychuk: I will answer with the understanding that the question is extremely short.

Senator Cools: Your Honour, regarding the point of order made a few minutes ago, Senator Bryden made the point that many senators wanted to speak, and perhaps we should bear that in mind.

Hon. Herbert O. Sparrow: Did the Honourable Senator Andreychuk say that she did not have time to answer questions?

Senator Andreychuk: I would ask for leave, bearing in mind the time is short. I hope Senator Smith's question will be short.

Senator Smith: It will be, if I have consent.

The Hon. the Speaker *pro tempore*: Is leave granted for Senator Smith to ask a question?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Hon. Jim Munson: Honourable senators, as the new kid on the block, I am not here to engage in legal and constitutional debate dealing with Bill C-4, but I understand something about the mood outside this chamber. My message will be short, simple and to the point. All of us have heard calls for change. The words “transparency” and “accountability” are at the tip of everyone’s tongue in the context of governance.

Today, I should like to speak in support of Bill C-4. This bill is the result of a long-standing commitment made by the previous Liberal government under the leadership of the Right Honourable Jean Chrétien to strengthen Canada’s democratic institutions and make them more accountable and transparent. Long before today’s top media stories calling for greater transparency in ethics and government, the Liberal government was putting in place changes and legislation to improve our democratic institutions.

As honourable senators know, Bill C-34 — the forerunner to Bill C-4 — was part of proposed eight-point ethics package that included several measures to strengthen Canada’s democracy, including limits to political financing and changes to the Lobbyists Registration Act.

When we consider the bill that has become Bill C-4, we must recognize its many merits. In regard to the Senate ethics officer, we must acknowledge that Bill C-4 respects the traditions of Parliament and the role of the Senate. With Bill C-4, it will be the Senate that determines the role and functions of the ethics officer. With Bill C-4, the Senate retains full control over the discipline of its members. The creation of a Senate ethics officer would, in no way, in my opinion, limit the powers, privileges, rights and immunities of the Senate or its members. In short, the creation of a Senate ethics officer in no way changes what we do and why we do it.

Therefore, what does Bill C-4 do? What does the creation of a Senate ethics officer do? Honourable senators, Bill C-4 gives us an opportunity to show Canadians that the Senate is not some closed or secret society. It shows Canadians that we take our work seriously and are proud to be accountable to the citizens we serve. This bill allows us to act on a moral obligation to be open and transparent to Canadians. There have been concerns expressed that personal information provided to the Senate ethics officer would be public. We know that the Senate ethics officer will be tabling an annual report in the Senate, but it will be up to the Senate Rules Committee to decide what information is reported and what information is made public.

As many of you know, including my colleague in front of me, in politics, perception is everything. Let us pass Bill C-4 and show Canadians that we are a dynamic institution that embraces change. Let us show Canadians that we recognize the evolving nature of democracy and the need for our institutions to step up and meet the challenge of change.

We must not fear change, honourable senators. We must recognize the opportunity that it represents. With the passage of Bill C-4, we will contribute to greater openness in government, we

will help to change the public perception of the Senate, we will reaffirm our role and responsibilities as senators and we will show Canadians that the Senate is a modern, relevant institution and an essential part of an evolving democracy. With the passage of Bill C-4, honourable senators, we are taking steps to strengthen this institution and ensure its relevance into the future.

The Hon. the Speaker: I had Senator Beaudoin on my list as the next speaker.

Senator Beaudoin, did you wish to speak?

Hon. Gérald-A. Beaudoin: If I may, I will, but I do not want to jump in front of another senator.

The Hon. the Speaker: Honourable senators, we would normally alternate between a government side speaker and an opposition side speaker. It is now the opposition side turn, and it had been indicated to me, Senator Beaudoin, that you wished to speak, and I had you next. I will put Senator Comeau my list.

Senator Beaudoin: Honourable senators, the selection system of an ethics officer that I prefer is one that starts in the Senate, more particularly, in a special committee of the Senate, and thereafter goes to the Prime Minister’s Office. The process should begin in the Senate, then move to the Prime Minister.

The Senate committee would ask for applications from those who are desirous of becoming the ethics officer. Thereafter, that committee would do a screening of the applications, develop a short list, and then the Prime Minister, who, of course, is very important in our system, would select the commissioner of ethics from that short list.

In my opinion, there is nothing unconstitutional in that mechanism. I think that we may legislate. We are a legislative branch of the Canadian system, and we have to do something. We have a chance.

We have before us the system as explained by the Leader of the Government in the Senate, Senator Austin. Some call that system the “convention system,” and there are elements of convention in the proposal of Senator Austin. That system, obviously, may be adapted to an evolution as we are used to seeing in the British parliamentary system.

We also have before us Senator Bryden’s amendment. It is legislative in nature, and we are used to the proposition that one of the most important duties of the Senate is to amend legislation to render it more appropriate.

Senator Oliver and many on this side are interested in that amendment and, therefore, it is important to consider that legislative amendment.

Senator Bryden’s amendment favours the Senate. The amendment is in favour of a stronger legislative branch of the state in the constitutional system that we have. I repeat, and I think it is very important, that what should be in force in our system, and what we should attain in our system, is stronger powers for senators and members of Parliament. I have always said that the legislative system is not strong enough.

• (1550)

We are legislating for a better Senate. If we follow that amendment, we are legislating for a commissioner of ethics. It is very important. If our system is not strong enough in our Parliament, it is up to us to become stronger and, if possible, to be at par with the judiciary. The judiciary is very strong in our country. I do not object to that. The executive is also very strong, but the legislative branch is not. This is why I would put the first priority, if I may say that, in the Senate. It is only thereafter that the Prime Minister would enter the scene. Of course, it is important, but, more than that, it is essential that the Prime Minister select the commissioner from the short list. The short list would come from the Senate.

Some people have said, “Yes, but with the legislative amendment perhaps the commissioner is not strong enough.” Obviously, it is important that the commissioner of ethics be strong. However, what is mandatory is that we do something to promote our legislative institutions.

I would like to hear a little more on the system. I know that Senator Joyal will speak about what we should do in the Senate to start with and how we should first choose a commissioner.

This debate, in my opinion, is necessary. It comes at a difficult time, but such is life. We have to do it. We have to consider an amendment and vote, whether we are for or against. However, that will not be the end because we may select a route, a road. We may select “une voie,” as we say in French, but I attach the greatest importance to the fact that it should come from the Senate.

Honourable senators, there is no doubt in my mind that we have that power. This is what we call “law in the making.” Sometimes we are lacking in imagination. Creative imagination is very important in the field of constitutional law and the Canadian Charter of Rights and Freedoms. We have to take some risk, because I do not believe that this new officer will be established in one day. It may be that after a while we will have to study more deeply the powers of that commissioner or counsellor.

If I may summarize, we must have a proper balance. Everything is there. The two systems are interesting, but I am inclined to favour the legislative route because I know that route more adequately. Again, we in the Senate should have the courage to also accept a commissioner who has power.

Hon. Serge Joyal: Honourable senators, today I rise to speak on the third reading of Bill C-4, after so many other interventions on Bill C-34, the previous bill, numerous meetings of the Rules Committee, and so many speeches on the appropriateness of an ethics counsellor for the Senate.

I have already written, in a book that we published last year — Senator Murray, I, and seven other distinguished Canadian professors — that we should have a Senate ethics counsellor. I do not question that, nor do I question that we should be assisted in

the organization of our affairs to ensure that conflicts of interest are taken care of. This house could then perform its legislative duties in all quietness to ensure that our decisions are wise and for the benefit of all Canadians.

I have stood previously in this chamber to debate other bills where I had the personal conviction that the status and the powers of this chamber were questioned by legislation. Senators will remember the clarity bill, where our chamber lost its decision-making power in relation to the key issue of the future of our country or, to put it in negative terms, in dismembering our country.

I have stood up on many occasions to debate legislation coming from the other place that omitted the Senate. In regard to those bills, the House of Commons took it upon itself to make decisions and ignored the status and the constitutional role of our chamber. I rose to speak to the salaries bill and drew the attention of honourable senators to the danger that paying the chairs and the deputy chairs of our committees might bring to the independence of the exercise of our duties. Each time I look at a bill and come to the conclusion that our capacity to assume our duties might be questioned, I feel it is my duty to draw the attention of senators to this.

Today, we are wrestling with the final hours of a long journey. I have heard some senators in the last days state that the political environment is different from what it was last fall. In the other place, there have been many debates following the tabling of the report of the Auditor General. There are many comments in the press each time there is alleged administrative or political wrongdoing in the other place; and, as Senator Munson has just said, perception is the reality.

In the context of action, we should move forward and give the public what they want. I am not sure that the change in the political environment that has been described by some of us is the real change since November. To me, the real change is direction that the new Prime Minister wants to bring to the role of Parliament.

• (1600)

I will quote the Prime Minister of Canada. Two weeks ago, on March 17, Mr. Martin went to the Chamber of Commerce of Quebec City and he gave a written speech. I understand that a written speech is a firm direction of government. Mr. Martin stated in that speech on March 17:

As I said 18 months ago, the change in culture, in the way things are done, will be the yardstick against which our success will be measured.

Let's be frank: In recent decades, the Prime Minister's Office had become too powerful, to the detriment of our Parliamentary process.

He continued:

In the same spirit of progressive reform, we want to give Parliamentarians the right to review the vast majority of appointments to senior government positions, including appointments to the Supreme Court of Canada.

Honourable senators, there has been a major change in the political environment since November because of the questions on the way in which the Parliament of Canada has functioned over the decades. If we are to adapt to the change of political culture and be measured against that yardstick, how does Bill C-4 fare? In my view, the starting point is what our founders left us as a political will. What did Sir John A. Macdonald say about the powers of the Senate? I will quote Sir John A. Macdonald, when he was drafting the Senate, as cited in Professor Rémillard's book:

There would be no use of an Upper House, if it did not exercise... the right of opposing or amending or postponing the legislation of the Lower House. It must be an independent House... for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill-considered legislation...

This is our role, and that is why we must be independent. What does it mean to be independent? We must be independent from the Crown, the executive, the cabinet, the Prime Minister and the courts. Those are the two poles of attraction whereby our independent status can be questioned.

Honourable senators, no one better understands the implication of Bill C-4 than Senator Austin. I had the pleasure to sit with Senator Austin in this chamber and to work with him in various incarnations. Senator Austin has acute judgment to perceive what is at stake in Bill C-4 and, in its previous incarnation, Bill C-34.

Senator Austin gave an interview that was published last fall. He said that the bill raised major questions about the independence of the Senate and its ability to govern its own affairs. He said he objected to the appointment procedure contained in the bill. Senator Austin said that a number of us feel that the PMO should not be drawing lists, interviewing people and sending lists of names to us to choose from.

Honourable senators, I have wrestled with that area of the bill. I know that I am not disclosing private conversations with Senator Austin. I have too much respect for the long years that Senator Austin has served this institution and the Government of Canada in previous governments. Honourable senators, the fundamental question relates to the appointment process proposed in this bill.

I must recognize and pay respect to Senator Austin for trying to wrestle with this issue when he made his statements on behalf of the government in trying to find a proper way to do this. He tried to take the conventional route but, as we lawyers know, this is not a convention. Senator Austin tried to propose a direction for our deliberations, and we all agree with that. The problem is that it does not give us a guarantee that the good intentions of Senator

Austin will be implemented. I have tried to wrestle with that issue and I have wondered just what options are available that are more than simply a statement of intention.

In those reflections, honourable senators, I came across an avenue that I will not propose to you. That avenue was taken by the Alberta legislature. It is quite a surprise that, in issues dealing with the Parliament of Canada, we will look to the Alberta Legislature.

I would like to appeal to Senator Austin. In response to Senator Comeau on Wednesday, March 24, Senator Austin said:

I would also say that I could not speak to the future. I do not know who will be Leader of the Government in the Senate in another Parliament. However, I believe the undertaking is important and should be followed from time to time.

I would also say that what does not change from one Parliament to another is the existence of the rules.

Honourable senators, this is one way for us to take back control of the appointment process in the proposal in Bill C-4. Remember, two weeks ago the Prime Minister of Canada spoke to re-empowering Parliament over the appointments of officers and of public servants at the highest level, whereby Parliament should be the one to conduct the selection and the appointment process.

How should we proceed, honourable senators? It is my opinion that we should amend rule 86 of the *Rules of the Senate*, which deals with committees of the Senate. The Senate should have a rule stating that, when a vacancy occurs in the position of Senate ethics commissioner or officer, the Senate shall form a select committee. That select committee should be composed to form the various committees of this chamber. It should also develop the criteria which candidates must meet in order to seek the position of ethics commissioner. Postings should be published all across Canada. There should be a mechanism to screen the various people who would offer their professional services. That screening process should, as in the Alberta legislature, be handled by members of the Public Service Commission.

Once the screening process is complete, there should be a short list of five to six names. Members of the select committee would then interview potential candidates and that should result in one name being put forward to the Governor in Council. The Governor in Council would thus be satisfied that the process had been public.

What do we want? We want a transparent selection process. I have reservations about the top-down mechanisms Senator Austin mentioned. What is the top-down mechanism? It is enshrined in Bill C-4. The Prime Minister, cabinet, the PCO and the PMO come forward with a name from the top. Government leaders search around the table, hoping to reach a consensus. That is not what we want. That is not what I want. Rather, I believe we should have a select committee of this chamber handle the process so that there will be transparency outside this chamber.

• (1610)

For the process to be transparent outside this chamber, it must be posted in the newspaper. There must be screening, and there must be a short list so that, in the end, we have a candidate who is vetted by an autonomous, reliable and credible process.

I appeal to Senator Austin, as the Leader of the Government in the Senate, to consider that approach so that we remove from the government leader the odious responsibility of being in the hands of the government of the day. I appeal for the contrary of what the leader intends to do with this.

Honourable senators, in using the creativity of our minds, of the rules and of precedent, we could come forward with a solution that would satisfy the preoccupations that we have to maintain the independence of this chamber from the executive government.

The Hon. the Speaker: Senator Joyal, I regret to inform you that your time has expired.

Some Hon. Senators: Ask for permission.

Senator Joyal: Honourable senators, I would ask for leave to conclude. I need three more minutes.

The Hon. the Speaker: Honourable senators, is leave granted for Senator Joyal to complete his speech?

Hon. Senators: Agreed.

Senator Joyal: Honourable senators, I shall conclude quickly.

The other preoccupation, as stated by Senator Austin previously, is independence from the court. We do not want the process to be transferred from this chamber into the courtroom. We all agree with that, in principle.

The problem that I have with this bill is that there are elements of it that raise questions. Let us put it down to the common denominator. Senator Munson referred to privileges in his speech. The House of Commons Standing Committee on Procedure and House Affairs, in its eighth report, stated that the issue of privileges that are at stake with the appointment and the role of the ethics commissioner are a very, very difficult legal issue.

The eighth report, which was released on March 8, 2004, stated, in part:

One of the biggest hurdles is the lack of awareness and appreciation of the nature of parliamentary privilege among most judges and lawyers.

Senator Cools: That's right!

Senator Joyal: Honourable senators, the House of Commons came to the conclusion that this is a very difficult issue. The British House of Commons and the Lords came to

exactly the same conclusion in relation to the ethics rules. Recommendation 123 in their 1999 report states: "We recommend that legislation should make clear that keeping the register, i.e. the ethics rule, and hence the registers themselves are proceedings in Parliament."

There is a doubt, honourable senators. Even Joseph Maingot, the government expert on this subject, stated last week: "I do not see the need for clause 25.5 because he or she is already covered."

There is a significant amount of preoccupation amongst experts on this subject. There is a doubt there.

Honourable senators, I again appeal to the Leader of the Government in the Senate and to his long experience and conviction that the maintenance of the independence of our institution is key to the performance and credibility of our institution. I am quite sure that, with all the men and women of good will in this chamber, we can address the issues and come forward with a system that will answer our needs, provide the transparent system the public deserves and give us the intimate conviction that we have stood for in the institution.

The Hon. the Speaker: Will Senator Joyal take a question or comment?

Senator Joyal: I would be discourteous if I were to refuse to answer a question from the Leader of the Government in the Senate, Your Honour.

Senator Austin: Senator Joyal has addressed me directly. May I respond by saying, first, that I greatly value the speech he has just given. It is an outstanding contribution to this debate.

Second, I would ask Senator Joyal the following question: Would he not agree with me that we, and we alone, are the master of our rules?

Senator Joyal: Absolutely.

Senator Austin: If you do agree, then there can be no question that the Senate, should it wish to do so, could move forward in its rules a reciprocal system to accommodate Bill C-4.

Senator Joyal: Honourable senators, I should like to stress, and share with the Honourable Leader of the Government in the Senate, the importance to put as much in the rules as possible to achieve the two objectives that we want. First, we want to keep the issue in this chamber and not in the courtroom. The more we put in the rules of this chamber, the easier the court will recognize the fence that exists around the rules of the Senate.

There are numerous precedents that I could quote to the Leader of the Government in the Senate showing that when the court realizes that there is a rule they stay away from it. The judgment that the Leader of the Government in the Senate has quoted from 1995 in the judicial privy council recognized that.

[Senator Joyal]

Second, the more we put into the rules, the more we protect this chamber from political intervention by the Crown. That is what we want to achieve. Again, the most important element that we must protect is transparency. Use the rules, the rules, the rules.

Senator Bryden: Would Senator Joyal accept another question?

Senator Joyal: I would accept a question from the honourable senator.

Senator Bryden: Could the scheme that Senator Joyal outlines under the rules be done under the amendment that I have proposed?

Senator Joyal: Totally. In all fairness, it could be done in the context of Bill C-4. It could also be done in the context of the honourable senator's amendment. It would be more difficult under Bill C-4.

Senator Oliver: Hear, hear!

Senator Joyal: If one were to do a biased reading of Bill C-4, it would show that the process is top-down. We want the reverse system. Reading Bill C-4 as it stands could make it more difficult for someone who would like essentially to apply the law, the law, the law.

Senator Bryden: Honourable senators, I wish to be categorically clear as to whether Senator Joyal is supporting my amendment.

Senator Joyal: In response to the honourable senator, unless we get from the Leader of the Government in the Senate today a commitment that the government is ready to come forward with a draft rule that would be added to rule 86, it would be better to ensure it. In other words, the system would be tighter under the proposal of Senator Bryden.

Senator Bryden: Honourable senators, we have had a number of commitments from the Leader of the Government in the Senate. Is that a commitment that needs to be in writing by someone? If so, by whom? We will vote in a little over an hour.

Senator Comeau: We have been denied —

Senator Bryden: I do not know where we move with a commitment. Does that now say to the people here that, depending on the type of commitment that Senator Austin makes, all honourable senators should support the amendment?

• (1620)

Senator Joyal: Honourable senators, I have expressed an approach that would answer some of the major concerns that many honourable senators have with the appointment process. Many of us who have spoken in this chamber have expressed those kinds of concerns. Senator Bryden had those concerns and came forward with an amendment to answer them.

I have listened and watched the debate closely. As much as I can relate Senator Austin to any form of commitment, I found it in his answer to Senator Comeau last week. I will repeat what appears in Hansard:

However, I believe the undertaking is important and should be followed from time to time.

I would also say that what does not change from one Parliament to another is the existence of the rules.

That is not a commitment to bring forward a draft rule enshrining the transparent election process I have just described. As a lawyer and a common sense person, I cannot draw that conclusion.

I appeal to Senator Austin to consider that process. I think this is one way of alleviating our concern, which is within the capacity of this house to do, as much as it can fit with Bill C-4. We cannot contradict by our rules what is already plainly stated in the bill. There are limits to what we can do in the rules. A rule of the Senate cannot contradict the bill. The bill is the bill. The bill is the law. We have some limits to what we can do in the rules. There is no question in my mind that, with Senator Bryden's proposal, we can write rules that would fit perfectly, tailor-cut for his proposal.

In the context of Senator Austin's sponsorship of Bill C-4, there are limits to what we can do to maintain the letter and the law of the bill as it relates to the appointment of the ethics officer.

Senator Austin: Honourable senators, again, Senator Joyal's has directly addressed me and I would like to respond in this fashion. First, as is well known in this chamber, I see no independence for the ethics person if that person is solely the creature of this chamber. I wish to make that point to Senator Joyal again.

Second, Senator Joyal refers to whether the government would bring in a draft rule. I would be most reluctant, as a member of this chamber, to see the government, whether I am the leader or not, bring in anything that carved any place in our rules.

Senator Smith: Absolutely.

Senator Austin: That is the responsibility of every one of us.

By way of a counterpart to Senator Joyal's comments — which is only as good as anything else a government says in this chamber, meaning that one can accept it or not accept it — is that the government would not interfere in any way, shape or form with the creation of whatever rule this chamber wanted to craft to deal with the recruitment or appointment of an officer. If the Senate had a procedure that it wished to follow, then it would take the place of the undertaking.

Senator Joyal well knows. I worked with him to put in place rules with respect to the clarity bill after the provisions that we sought in the statute were not there. He took the lead and the initiative and showed his creativity.

I believe that our rule book is open and it is the business of every one of us to decide, but not the government, what should be in our rules.

The Hon. the Speaker: I will see Senator Joyal, but I just wish to draw to the attention of honourable senators that, by order, we will vote at 5 p.m. I have three more speakers on my list: Senators Comeau, Trenholme Counsell and Di Nino. If they take their full 15 minutes, we will not see them all. I just wanted to inform honourable senators of that fact.

Senator Joyal: In a nutshell, honourable senators know that when we received this bill, it came with a draft code of conduct, which was to be included in the rules. This is a draft rule. It is a potential description of what would be in the rules. We referred that draft code of conduct to the Rules Committee. We have been labouring for the last two years on those draft rules.

There are limits to what the government may wish to bring forward, but when the objective is clear, there is a possibility for us to do the work.

Hon. Gerald J. Comeau: Honourable senators, my remarks will focus mainly of the impact of the bill on the Senate and not on what might happen, even though most of the provisions that we state would apply to the House of Commons as well.

First, I wish to put on the record that I fully support the nomination of an independent ethics person. I do not like the word “officer”; I always get the impression that I have to pull out my licence and registration and salute. However, I will call him the officer because that is what the bill says.

We must assure Canadians that we are acting in their best interests. If the appointment of an ethics officer addresses that concern, then we should be heading in that direction.

I wish to remind honourable senators, and we tend to forget, that the Prime Minister will appoint the Senate officer. The Prime Minister will fire or renew the contract of the Senate officer. The Prime Minister sets the salary and determines increases or decreases, as the case may be.

The appointee has full control over his or her budget and can hire agents to carry out the work of the office as the officer sees fit. The appointee is empowered to set up his own police force — the way I read it is that the Prime Minister is in the process of setting up his own police force to control members of Parliament, both in this chamber and in the other chamber. In addition to his own members of Parliament, which he now controls quite well, he will now extend that control over opposition members. The executive, in effect, will control Parliament, rather than the other way around, as was envisaged under our British parliamentary system.

The officer will submit a budget to the Speaker of the Senate, another appointee of the Prime Minister who deals directly with the Treasury Board. This is a major departure from the practice whereby the Internal Economy Committee deals with Senate budgets, rather than the Speaker.

[Senator Austin]

On the question of the Speaker, I have every confidence in the Speaker that we have today. As a matter of fact, if we were to hold an election today, I think I would vote for the current Speaker. However, we must make a distinction between the position and the incumbent. The present Speaker may not always be there. We may not always have the confidence that we now have in the present incumbent.

The officer is given the privileges and immunities of the Senate. This is the interesting point: All senators should be aware that the Leader of the Government in the Senate is the only senator in this chamber with real, actual power who will be exempted from this bill. He is not addressed in this bill.

Senator Austin: That is not true. If the bill passes, I would be subject to the Senate ethics officer in my role as a senator and also to the Ethics Counsellor in my role as a minister.

Senator Comeau: I will reread proposed section 20.5(4).

The officers and staff of the ethics officer will have immunity from criminal or civil proceedings in the course of their work.

Remember Ken Starr in the U.S.— the professional prosecutor and his team of investigators who went after the then President of the United States and spent untold dollars and years to go after one President. Could that happen in Canada? Think about it. If you have the power, would you not use it?

The ethics officer submits his report to the Speaker of the Senate — not to the Senate, to the Speaker. Again, a prime-ministerial appointee will get the reports of the ethics officer.

The Leader of the Government in the Senate, in a previous session of Parliament, admitted that there was no incidence, in her knowledge, of the need for an ethics officer.

• (1630)

The current leader, in his speech, referred to “perception” no fewer than four times in his opening comments on his speech. Senator Andreychuk referred to this, that we are in fact responding to a public perception of a problem rather than to a real problem. It would appear that the Leader of the Government in the Senate does admit to this. We are telling Canadians on the one hand, that there is no problem, but, on the other, that, since they believe there is a problem, we will fix that perceived problem.

In fact, the very people who have engaged in recent months and years in acts of corruption and money laundering are not subject to the provisions of this proposed legislation. I would ask honourable senators to find out where the real power is in Ottawa. Is it the backbench member of Parliament or the backbench senator? No. If honourable senators want to follow the corruption where it has been happening, follow the ministers, the senior bureaucrats and the heads of Crown corporations. In fact, there is a nice little trail to follow. Follow the lobbyists and they will lead directly to where the real power lies in Ottawa.

Imagine yourselves on the opposition side of this house — our number are becoming depleted; we are now down to less than two dozen versus roughly 80 on the other side. Imagine yourselves facing a massive majority of docile and adoring cheerleaders to the sitting Prime Minister, all waiting for their trips abroad on parliamentary associations, a nicer office, maybe, for behaving well and voting accordingly, or possibly the chair of a committee. The opposition is right not to trust the good intentions of the Prime Minister. The opposition is here to be vigilant and to question the actions that could reduce the value of this chamber. I think members on the government side should be doing the same, but they seem to be lax in this.

Again, picture yourself in opposition and being presented with a bill that authorizes the Prime Minister to appoint whomever he or she wants. It could be a Sheila Fraser, one in which we all have confidence; however, it could be a lapdog, a toady, who caters to the Prime Minister. With this bill, continue to imagine what a prime ministerial crony, beholden to his master, could do with access to your personal files, the files of your spouse, possibly, depending on the rules, the files of your family. Continue to picture the scenario of a prime ministerial crony with complete immunity — say, a Jean Carle or an Allan Rock — let loose on some lowly opposition senator.

Any honourable senator here could eventually find himself on the opposition side and may criticize the Prime Minister of the day or his government. Will opposition members dare question the Prime Minister's appointee — an appointee whose job, salary and reappointment is in the hands of the Prime Minister? This is the potential of the bill. Some would scoff that this could not happen.

Honourable senators, did we imagine that the Department of Justice, under the direction of Allan Rock, would send a letter to a Swiss authority alleging that a former Prime Minister had engaged in criminal activities and would enlist the help of the RCMP to pursue the matter for years — on the hearsay of a confidential informer, Stevie Cameron, who had a hate on for Brian Mulroney like you would not believe?

Honourable senators, did we imagine that our national police force would raid the home of journalist Juliet O'Neill, invading her most private and personal domain, her home, rummaging through her underwear drawers, among other things?

Did we imagine that we would see the day that a Canadian, Maher Arar —

Some Hon. Senators: Oh, oh.

Senator Comeau: I hear the groans of the cheering crowd across the way, those waiting for a nicer office, those waiting for those nice little trips, the cheerleaders, the adoring fans of the sitting Prime Minister.

Did we imagine that these adoring fans would be a witness to Maher Arar winding up in the Syrian torture chamber based on information provided by Canadian security authorities?

Did we imagine that the national police force would join with the Prime Minister's appointee to try to crush François Beaudoin, the president of the Federal Business Development Bank, would attempt to ruin his fine reputation because he would not bend to the Prime Minister of the day?

Remember the actions in this very chamber last fall, when the chair of the Rules Committee would not wait for opposition members — who had other duties — to attend the committee meeting.

This bill is designed to declaw and neuter the opposition at a time in history when Canadians' personal freedoms are under increasing attack and our nation's finances need increasing scrutiny. There has been the squander of billions of dollars in the HRDC fiasco, billions on the gun registry, hundreds of millions handed over to Liberal-friendly firms in the sponsorship scandal. The list goes on.

As we celebrate the two hundredth anniversary of the birth of Joseph Howe, the father of responsible government in Canada, I wonder how he would react.

Honourable Senator Cordy, a fine Nova Scotian, how would Joseph Howe react to the intrusion of the executive in the affairs of the assembly of parliamentarians?

We are going from a culture of corruption to a culture of intimidation; the bullying of the opposition. The government is playing with brinkmanship. There is no moral compass any more. Absolute power, as we are noting now under this bill, corrupts absolutely. Is it any wonder the electorate is giving up on us?

What do we call a prime ministerial appointee who has immunity from prosecution and access to our personal files? We call that officer "sir." What do we call a Prime Minister who holds this kind of power? We call him "Your Royal Highness."

The sound of jackboots becomes louder whenever the opposition is silent. Others have stood up to the intimidation: François Beaudoin, Brian Mulroney and Maher Arar.

Some honourable senators across the way are laughing at an individual who spent a year in a Syrian jail.

Some Hon. Senators: No, no.

Senator Comeau: Laughing! This is the kind of backbenchers we now have in this chamber. The kind of backbenchers who saw —

The Hon. the Speaker: Order, honourable senators! Senator Comeau has the floor.

Senator Comeau: These are the kind of people who cheered when Allan Rock used all the powers of the state to go after Brian Mulroney. These individuals in the background cannot wait for the nice little offices, the trips or the chairmanships of committee. Good luck, if this is what you are all about.

Would a backbencher MP or senator dare to stand up to a Senate ethics officer belonging to the Prime Minister with access to our private files and immunity? I would think not. Not the group I am seeing in back of me now.

History has taught us that such private police forces can be dangerous. The true measure of a democracy is not whether it votes; the true measure of a democracy is the respect and courtesy accorded to minorities in opposing views. This side of the chamber has been trying to get across to that great big government majority that what it needs to do is consent, not consult with the leader of our side, an amendment that would say that we will consent in the law, not through some vague undertaking that may or may not be respected in the future. Consent.

I have spent 18 years on Parliament Hill. I have respect. I have sat on the government side and I have sat on the opposition side. The government side, with your vast majority, and showing muscle and clout in beating up on the minority, in not providing to the minority the kind of consent that would be needed in a bill such as the one before us today, is evidence that this chamber is going down the tube.

We are not doing Parliament any favours by responding in this negative fashion to the perception of a problem. Let us deal with the reality of the problem. One way of doing that is by seeking the consent of the leader on this side — not consultation, but consent. Honourable senators opposite would see this side of the chamber approach this bill in a different fashion. We do not want an undertaking; we want it in the bill. Put it in writing.

• (1640)

Hon. Marilyn Trenholme Counsell: Honourable senators, I fear I will be very dull as compared with Senator Comeau. His was a very colourful act.

I am proud to offer a few very personal remarks in support of Bill C-4, without amendment, and without fear of any negative consequences for myself or for the Senate.

I believe this bill is an important tool, hopefully an evolving one, in the challenge we face to reassure, often even to convince, Canadians that the women and men in the Senate of Canada serve their country with devotion and with the highest ideals.

I sit here each day with fellow senators for whom I have great respect. I have great respect for the dedication of so many of my colleagues to the great challenges facing Canadian society. These

are challenges that touch the entire spectrum of human existence within our great country and around the globe. I have found here a vastness of talent, experience, wisdom and vision unparalleled in my own journey.

Yet, too many of our fellow Canadians think otherwise about Canada's Senate and Canada's senators. The failure of Bill C-4 to pass in 2003 added to their cynicism about an institution of fundamental value to our Canadian system of democracy, a system that must always be a model for the world.

Bill C-4 strengthens this system. It will strengthen the public perception of the Senate. It will strengthen our own resolve to serve the Senate of Canada with the highest ethical standards.

By voting today in favour of Bill C-4, without amendment, we will be saying to our fellow Canadians that their senators want nothing less than full transparency and full accountability in all that they do for Canada and its citizens.

Hon. Consiglio Di Nino: Honourable senators, I rise in support of Senator Bryden's amendment to Bill C-4 and to add a few words in support of Senator Joyal's exceptional speech on this issue.

For me, real political leadership means governance that is totally transparent, above suspicion and for the benefit of the nation and its citizens. It is exemplary leadership in the most positive manner. Each time a scandal occurs, big or small, all of us in both Houses suffer the consequences. All our reputations are tarnished and the institutions of Parliament suffer. The consequences to our democratic system are enormous. The trust of Canadians in Parliament and parliamentarians is soiled. A black cloud hangs over Parliament and its members. This cloud of suspicion, distrust and contempt casts doubts on all our reputations.

I also believe that if Canadians perceive us as less than honest or see us, rightly or wrongly, to be favouring our personal interests or the interests of our friends and families, some will interpret this as a message that it is okay to bend or even break the rules for their own personal benefit at the expense of others.

We who have been given the mandate to govern the affairs of a country and to protect the interest of Canadians are subject to high standards, and rightly so. I therefore agree that the proper conduct of parliamentarians needs to be under independent and appropriate scrutiny. The creation of an ethics commissioner for the other place and an ethics officer for the Senate is a good first step, even though most parliamentarians in both Houses have neither the authority nor the opportunity to influence situations like "Adscam" or similar misuses and abuses of power.

As has been stated already, however, perception is reality, particularly in politics. I am sure all honourable senators agree with my sentiments.

What this debate is about, though, is the independence of the Senate. The Fathers of Confederation created the Senate with all its powers and authorities as an independent body to act as a check and balance to the other place, the elected chamber. It did so to provide an opportunity for analysis, review and, where necessary, amendments to laws or rules that govern our nation.

Over the decades, in particular in the last 20 or so years, the independence of the Senate has been subjected to attacks by the other place, by the media and, indeed, by Canadians. We have, on occasion, put political interests ahead of our role as a chamber of sober second thought and our role as representatives of the regions and minority interests.

This debate on Bill C-4 is not about ethics or the behaviour of senators. We all agree that transparent, effective and appropriate rules governing our conduct need to be established, and we have some already.

This debate is about the even further erosion of our independence. We are constitutionally an independent and effective House of Parliament responsible to the Constitution and to the citizens of Canada. In my opinion, if enacted without amendment, Bill C-4 would further erode the Senate's independence.

The ethics officer will be appointed by the Governor-in-Council, which office will also set his or her compensation. The officer will be removable by the Governor-in-Council. The Governor-in-Council will appoint an interim ethics officer. In short, the ethics officer will owe his or her allegiance primarily to the Governor-in-Council.

By all means, let us establish an ethics officer with the strongest possible mandate, with appropriate resources and the necessary independence, who reports to this chamber. Let us do it ourselves. The Senate should create and establish the office without further erosion of our power and authority. If we are to discharge effectively our responsibilities under the Constitution, we must cease to be influenced by the PMO, the other place or any outside body. Our responsibility is to the people of Canada and not to the PMO.

Therefore, in my opinion, this bill is fundamentally flawed at a constitutional level.

Separate from this core issue, I must raise a serious technical problem with the bill that demands immediate attention. As pointed out publicly by Senator Lynch-Staunton, clause 5 of the bill would remove the office of the ethics commissioner from institutions subject to the provisions of the Access to Information Act. In effect, this would mean that information relating to the ethics commissioner's office itself would not be subject to the provisions of the Access to Information Act, as well as the non-personal information in the purview of the ethics commissioner of approximately 2,500 public office-holders.

The Prime Minister has promised greater government openness and transparency. He has even asked the Treasury Board to examine an extension of the Access to Information Act to all Crown corporations. In reality, the government is now removing the ethics commissioner's office from the act.

The Prime Minister can demonstrate his commitment to the principles of access to information by bringing in an amendment that would delete this offending clause from Bill C-4.

At the Rules Committee on March 23, 2004, Senator Austin characterized this problem with clause 5 as not material to the bill. In contrast, I believe that allowing the public access to information on how the ethics commissioner runs his office is at the heart of an open and democratic government. I believe I speak for all senators on this side, and likely for many opposite as well, when I urge the government to uphold the principles of greater transparency and openness by considering amendments to this bill to ensure that the ethics commissioner is subject to the Access to Information Act.

Honourable senators, I will vote against this bill because it is fundamentally flawed both constitutionally and technically.

Hon. Terry Stratton: Honourable senators, I would like to finish what I started. Hopefully, I have 10 minutes remaining.

The other day, I started my comments by complimenting Senator Bryden on the work he has done. However, he was not in the chamber at the time. I would like to extend those compliments to him today because he has done what I think is a superb job.

Based on his amendment, what we do not want to have is the creation of a situation that is already in existence whereby we have an Ethics Counsellor who is appointed by the Prime Minister. This is not a knock against the individual, but there is a public perception that the present Ethics Counsellor, Howard Wilson, is not held in high esteem. My fear or worry, and I think that of everyone here, would be that, in effect, that is what we will be creating here today.

• (1650)

As opposed to that, you have the government's position that, if they allow the Senate to appoint that individual, then they will be creating a position whereby it will be a creature of the Senate. In other words, it raises the same problem, that of perception being everything and that the public will not accept that because the appointee would be a creature of this chamber. Those are the two positions.

It was interesting to hear Senator Joyal put forward the proposition that the positions should be posted publicly so that people could apply for them. That is wonderful concept, but to whom will those applications be sent? Who will vet those applications, and who will make the decision? The answers to those questions are the crux of the matter. The process of vetting those applications must be transparent. It is important that the public be aware that the Prime Minister or the Senate are not making the selection from any list. It must be a partially public

system, as it is in the appointment of judges. The system that we put in when we were in power specifies that the chief justice and two lay people in each province must be involved. Lawyers could apply and be vetted by the committee in his or her province. The application of such a system is desperately needed in this instance. I do not think it should be in the control of the government, particularly if we have a Prime Minister who wants to overcome the democratic deficit, as he calls it. I could see another Howard Wilson situation arising.

Mr. Joseph Maingot, a witness who appeared before our Standing Committee on Rules, Procedures and the Rights of Parliament on Tuesday, March 16, commenced his testimony by saying:

From that, I will just start off by saying that dealing with privilege as a whole, Blackstone's commentaries, and going back 300 or 400 years, he said: "The whole of the law and custom of Parliament has its origin from this one maxim: 'that whatever matter arises concerning either House of Parliament ought to be examined, discussed and abridged in that House to which it relates, and not elsewhere.'"

In other words, this chamber makes its own decisions with respect to its governance and so does the House of Commons.

I then went on to ask him a question which I prefaced as follows:

The question really boils down to the appointment. Clause 20.1 of the bill, reads, in part: "The Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer." The Governor in Council is, in fact, the Prime Minister of the House of Commons. He is then appointing the ethics officer of this chamber.

If you go by Great Britain's history, the two chambers are supposed to be independent. I should like you to comment on the importance of the independence of the two chambers and whether or not you feel there is a conflict in the Prime Minister appointing an ethics officer to this chamber rather than this chamber itself selecting and appointing an ethics officer.

I would point out to Senator Austin that Mr. Maingot was very succinct. He said, "Obviously, yes."

The next day, four witnesses appeared before our committee: Professor Fabien Gélinas from McGill University; Professor Denis Saint-Martin from the University of Montreal; Professor Sharon Sutherland; and Professor Ian Greene. Now, I would like to, in effect, go to the question I asked along this line of examination and go back to my question to the previous witness, Mr. Maingot. I said:

This is the first small step in an evolution. If this is an evolutionary process, would it not be better for the Senate to appoint its own ethics officer, so that if it wanted to change

and improve the transparency of that position, for example, it would be far easier with that approach, rather than having to go to the Prime Minister and say, "By the way, we want to change this."?

Mr. Saint-Martin responded by saying:

That is a reasonable opinion with which I would agree. You are absolutely right to say that this is an evolving issue. It is an evolutionary process. Again, from the cases I have studied, we learn by doing. It is always evolving.

In summary, what I have been trying to get at, pointing out in the evidence given by those witnesses, is that they agree that the two chambers should be separate and that the decisions as to the selection of that ethics officer should be with this chamber.

As to the transparency, I firmly believe that we have not gone far enough. I agree with Senator Joyal that people should apply and it should be posted, but the vetting must, as well, be seen to be transparent so that the public have a clear understanding and a clear knowledge that it is indeed transparent and acceptable to them. Otherwise, we are again into that realm of dealing with ourselves if we appoint, or the government appoints, a Howard Wilson. We have had enough Howard Wilsons. We have had enough of the Radwanskis of this world and we need to move on from that. We are, after all, in a new century.

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, I believe the time has come to vote on this bill. First, we can certainly say that we have reviewed the bill thoroughly. All the senators had an opportunity to express their point of view.

Second, as though we did not have enough time to review this bill, we have reviewed it again. All the senators, both those who supported the bill and those who wanted to see changes, took just as much care the second time around.

I believe it is a good bill. Of course, we can but aspire to perfection. However, if senators notice later on that changes should be made, they could certainly propose them.

Honourable senators, I do not have enough time to say everything I would like to say in the minute remaining, but we can say that the debate was healthy. The honourable senators, both those who spoke and those who listened, had an opportunity to express their views. We respected everyone's opinions. I will conclude by saying that it is time to vote on this bill.

• (1700)

[*English*]

The Hon. the Speaker: Honourable senators, it is five o'clock. Pursuant to the order adopted by the Senate on March 26, 2004, I must interrupt the proceedings for the purpose of putting all questions necessary to dispose of the third reading of Bill C-4.

The question is as follows: It was moved by the Honourable Senator Bryden, seconded by Honourable Senator Cools, that the bill be not now read the third time, but that it be amended —

An Hon. Senator: Dispense.

The Hon. the Speaker: I will dispense.

Those in favour of the motion in amendment will please say “yea.”

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Pursuant to the order of the house, the vote will take place at 5:30 p.m. Call in the senators.

• (1730)

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Adams	Keon
Andreychuk	Kinsella
Angus	LeBreton
Atkins	Lynch-Staunton
Beaudoin	Meighen
Biron	Merchant
Bryden	Moore
Cochrane	Nolin
Comeau	Oliver
Cools	Rivest
Corbin	Robertson
Di Nino	Sparrow
Eyton	St. Germain
Forrestall	Stratton
Gustafson	Tkachuk—31
Joyal	

NAYS
THE HONOURABLE SENATORS

Austin	LaPierre
Bacon	Lapointe
Callbeck	Lawson
Carstairs	Léger
Chaput	Losier-Cool
Christensen	Maheu
Cook	Mahovich
Cordy	Massicotte
Day	Mercer
De Bané	Morin
Downe	Munson
Fairbairn	Pearson
Ferretti Barth	Pépin
Finnerty	Phalen

Fitzpatrick
Fraser
Furey
Gauthier
Gill
Graham
Harb
Hays
Hubley
Jaffer
Kirby
Kroft

Poulin
Poy
Prud’homme
Ringuette
Robichaud
Roche
Rompkey
Sibbeston
Smith
Trenholme Counsell
Watt—51

ABSTENTIONS
THE HONOURABLE SENATORS

Banks

Lavigne—2

The Hon. the Speaker: Honourable senators, the question is now on the main motion. It was moved by the Honourable Senator Austin, seconded by the Honourable Senator Rompkey, that this bill be read the third time.

Those honourable senators in favour of the motion will please say “yea.”

Some Hon. Senators: Yea.

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

The Hon. the Speaker: On division.

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the “yeas” have it.

An Hon. Senator: On division.

The Hon. the Speaker: On division.

Hon. Lowell Murray: Honourable senators, I did not vote because I was paired.

Motion agreed to and bill read third time and passed on division.

APPROPRIATION BILL NO. 1, 2004-05

THIRD READING—DEBATE SUSPENDED

Hon. Joseph A. Day moved third reading of Bill C-27, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005.

He said: Honourable senators, Bill C-27, which is before you at this time, is the interim supply bill based on the estimates that were made available to us some time ago for this fiscal year, April 1, 2004 to March 31, 2005. Full supply will take place later in the year. In all likelihood, we will receive the documentation in relation to the final portion of the supply in November-December of this year.

Honourable senators will have seen the report, given that these estimates were studied some time ago by the Standing Senate Committee on National Finance. The report was filed. Honourable senators will recall the debate we had on that report before it was adopted.

The normal process is that when the supply bill, Appropriation Bill No. 1, which is now before you, arrives in this chamber, we typically would rely on the study that we had previously done and the filed report. Honourable senators will recall that the Senate chamber felt it prudent to refer this bill to the committee, which committee studied the bill this morning. Bill C-27 was reported back earlier this day without amendment and without comment.

Honourable senators, I do not propose to go through each page of the Estimates.

Senator Forrestall: Let us hope not.

• (1740)

Senator Day: I did think that it might be of interest to honourable senators to know that, in the Main Estimates, under the heading "Parliament," Item No. 21, there is, for the Senate, \$73 million, and for the House of Commons —

The Hon. the Speaker: Senator Day, I am sorry to interrupt. I am interrupting to draw to the attention of honourable senators that the chamber is very noisy. If those of you having conversations could carry them on outside of the chamber, it would be much easier to hear Senator Day.

Senator Day: Honourable senators, I was referring to the heading under "Parliament." I thought some honourable senators would be interested in knowing the totals in the Main Estimates for the Senate versus the House of Commons and, indeed, for the Library of Parliament. For the Senate, under Main Estimates, the figure is \$73 million; for the House of Commons, \$346 million; for the Library of Parliament, \$30 million. Honourable senators will see that we continue to be a very frugal and prudent chamber of sober second thought.

Honourable senators, the major reorganization that took place in December has resulted in some delays in the preparation of the normal documentation that would flow. The planning and priorities documentation will be forthcoming. That is Part III of the estimates, but it has not as yet been prepared.

The good news, honourable senators, is that your committee remains seized of the work to be done on your behalf with respect to Main Estimates. We will continue, under the able leadership of Senator Murray, to study the Main Estimates throughout the year. We anticipate that we will have studied and reported on the estimates prior to the next full supply bill, which will be arriving in the fall.

The only other item that I should like to bring to the attention of honourable senators is the public debt charges. The \$183 billion for this fiscal year includes \$147 billion in program

spending, which is made up of both votable spending and spending that is already approved under other legislation and the public debt charges. We have very low interest rates, and we are still spending \$36 billion to pay the interest on our outstanding public debt. It is important for honourable senators to keep that in mind, even in the good times. It is important to recognize the potential for that number to grow in a difficult economic time when interest rates are higher.

Honourable senators, this supply bill is asking for supply in different categories that appear in the back of the supply bill, either nine twelfths or ten twelfths of the year. That is one of the items we discussed this morning. The total amount that we are voting on at this time is \$50.1 billion, and I would urge honourable senators to support this bill.

Hon. Anne C. Cools: Honourable senators, I have just one question. The absence of Part III is quite worrisome, and I hope that this does not become a habit.

In addition, honourable senators, normally the amount that comes forward in the interim supply bill is three-twelfths of the total. In this instance, by my reckoning, it seems they are asking for eight twelfths or nine twelfths, and right through to the end of December. Understanding that we are obviously going into an election period, I would have not frowned very much if the amount was, say, to September. I do find December somewhat worrisome.

Honourable senators, my question to Senator Day, the Deputy Chair of the National Finance Committee, is in respect of the firearms registry program. As the honourable senator will know, the phenomenon of the continuing appropriation to the firearms registry is continuing to be troublesome. This Bill C-27 for the firearms registry program is on the Main Estimates. Previously, the government had been bringing its request forward in the supplementary estimates. However, these are the Main Estimates. I wonder if Senator Day could tell this chamber, first, if there is a sum in the Main Estimates in this bill for the firearms program and, second, what is that quantum?

Senator Day: Honourable senators, I am looking for the firearms item. If my friend could refer to the page for me, I would be pleased to confirm it. I have not found it yet, but I am still looking.

Senator Nolin: Justice Canada.

Senator Forrestall: Right after "Sea King replacement."

Senator Day: Thank you.

Senator Cools: It is not the Department of Justice.

The Hon. the Speaker: So that we know where we are, Senator Day is trying to find information that Senator Cools asked him for, although he has taken his seat. I will see Senator Kinsella next, as soon as Senator Day has disposed of this question.

[Senator Day]

Senator Forrestall: Has he not read it?

Senator Cools: For the information of honourable senators, the firearms registry was moved from the Department of Justice a long time ago — it is now a year — and was put over to the Solicitor General. The Solicitor General's portfolio has also been reorganized. This is somewhat of an oddity. It is now the Ministry of Public Safety. We are even losing the language of the Solicitor General as a department, which is a serious matter.

Senator Forrestall: They are quite adept at hiding.

Senator Cools: I do not know whose estimates they are. You see, honourable senators, I am no longer a member of the Standing Senate Committee on National Finance. If I were, I have no doubt that I would be on top of this subject.

The Hon. the Speaker: I think Senator Day has the answer.

Senator Cools: I was just trying to fill in.

Senator Day: I thank the honourable senator for giving us the opportunity to look up the answer in this volume. In the Main Estimates, page 24-8, under the Solicitor General, "Public Safety and Emergency Preparedness, Canadian Firearms Centre, Program by Business Lines," the operating budget for the 2004-05 Main Estimates is \$85.768 million and transfer payments of \$14.5 million. The transfer payments would go to the various provinces to help them administer the program.

Senator Cools: I thank Senator Day for his capacity to ruffle through those pages and find things. Senator Day is muttering under his breath that I trained him well. I thank him very much.

Honourable senators, if I might be permitted a few minutes, I think it is important for us to understand that this particular program continues to be very troubling and troublesome for us, particularly in what we would call rural Canada. The current minister who is looking at the review — I believe she is an associate minister — is Albina Guarnieri. I have been supporting her and trying to help her as much as possible. I would hope that in the next several months the government, knowing the troublesome nature of this program, will be able to find some sort of genuine resolution to these problems that have been bothering and dogging Canadians.

• (1750)

Honourable senators, it has been some time since Bill C-68 was passed. I recall the circumstances with great clarity and vividness. I remember a situation exactly as today, where many of us, including Senators Watt, Adams and Sparrow, attempted to move an amendment that we thought would have greatly alleviated not only the problems in the bill but also some of the political distress in the country. We were not successful. As life would have it, the then minister is no longer with us. I should like to submit to this chamber that had that minister listened to us and let the amendment pass, he might still be in business in Parliament and in the ministry today. I just wanted to say that.

In addition to that, honourable senators — and this is impromptu — I was sitting here as the honourable senator proposed the motion for the supply bill.

I should like to return to the premise on which that bill was proposed to us. In today's community it may sound laughable, but that bill was presented to us by then Minister Rock as a means of protecting women from all these bad, terrible men. It was premised on a foundation that I totally repudiate, namely, that women are perfectly virtuous, that all virtue is theirs, and that men, after all, are just evil mongers and violent creatures always seeking to hurt or to damage women — the premise, honourable senators, that women are, somehow or another, morally superior to men or that men, somehow or the other, are morally inferior to women, and if not morally inferior, at least morally defective.

Honourable senators, just as this false premise has wreaked havoc and left a significant amount of wreckage behind in this country, I would submit that if we continue, or if this government continues to move on those premises, particularly in the area of divorce legislation and criminal laws, and so on, we will continue to meet with failure in these respects.

I am encouraged that the current minister is making a genuine effort to resolve some of these difficulties, and I look forward with interest to her results.

I see Senator Day sort of nodding and smiling at me. However, honourable senators, quite often, when we are making legislation, we forget the nature of this country.

Honourable senators, I am always quick to say that the majority of people in this country are not professionals, lawyers and doctors. The majority of people in this country are labourers, particularly the men. They are construction workers, carpenters, coal miners, forestry workers, and so on.

An Hon. Senator: Backbenchers!

Senator Cools: We forget this. Many of these individuals have looked to nature and to the outdoors as a means of recreation. Hunting, target shooting and target practice has been very important to them.

Honourable senators, frequently, in the name of social engineering, we have told those people that we think that their lifestyle is, somehow or the other, questionable or undesirable.

I have here, honourable senators, a newspaper article from the *National Post* of March 4, 2004. The headline is: "Gun registry violates native rights, Ontario judge rules: Charges for illegal possession of weapons thrown out." Honourable senators should understand that, at the end of the day, this will be the natural order for our failed firearms registry and the \$2 billion that it will cost. To this day, not a government minister has stood on the floor of this chamber and given one ounce of explanation as to why that expense. We are talking about billions of dollars.

I sat on the Standing Senate Committee on National Finance and, since 1996, immediately after the bill was passed, our committee members — not always myself — systematically asked questions but systematically never got an answer. Honourable senators, that is the democratic deficit, namely, the failure of this chamber and the failure of the House of Commons to hold governments accountable for the expenditure of dollars.

Honourable senators, remember: Men and women are equal. Men and women are equally capable of doing good things and equally capable of doing bad things. Virtue, altruism and morality are not gender specific.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I understand that I have 45 minutes.

The Hon. the Speaker: That is correct.

Senator Kinsella: Therefore, a decision would have to be made not to see the clock — which would require unanimous consent — or we must rise at six o'clock and come back at eight o'clock.

I will begin by pointing out that \$50 billion in my neck of the woods is not a small amount of change. Therefore, my colleague Senator Day would understand that it is hard for most of us to get our mind around how much money \$50 billion actually is.

I wish to congratulate our colleagues who serve on the National Finance Committee for having studied this bill this morning. If all honourable senators read the committee transcript from this morning, they will discover that it was well worth our decision as a chamber to send this bill to committee under these unusual circumstances, because it is not usual, as Senator Cools and others have pointed out, that supply is sought for nine twelfths of the year.

At second reading, our distinguished chair of the committee pointed out the rapidity which the matter was dealt with in the other place — namely, the chamber that is supposed to be guarding the purse. It has fallen on the shoulders of honourable senators to do the work that ought to have been done in the other place.

I wish to make some comments and speak to some of the issues that were raised in committee this morning. I apologize that it is late in the day for us to be doing this, but we have to do what we have to do.

In commenting on the bill, I should like to focus specifically on the Main Estimates, incomplete as everyone has recognized they are. The thesis I wish to advance is that there has been a fair amount of rhetoric around fiscal restraint. However, on closer examination, what do we find? We find that

there is a significant increase in spending. These Main Estimates are for some \$16 billion, which is 10 per cent higher than last year's Main Estimates. These are interim Main Estimates; we do not have the full picture. However, honourable senators, even with what we have before us, it is a 10 per cent increase over the Main Estimates of last year, some \$16 billion.

If you subtract debt service charges, you will find that the estimates for program spending are up by 13 per cent over last year's levels.

• (1800)

The Hon. the Speaker: I am sorry to interrupt, but as Senator Kinsella himself observed, it is now six o'clock. I am obliged to leave the chair until eight o'clock, when we will resume, unless it is your wish, honourable senators, to not see the clock?

Is it agreed not to see the clock?

Some Hon. Senators: Agreed.

Senator Cools: No, it is not.

The Hon. the Speaker: Agreement is being withheld by Senator Cools.

You are saying no?

Senator Cools: I was about to tell you what I am trying to say. I would be quite happy to give leave for Senator Kinsella to complete his speech and so that the vote on the supply bill can be completed, but not beyond that. I do not know how we can negotiate that point.

The Hon. the Speaker: I think that is a no, Senator Cools.

Senator Kinsella?

Senator Kinsella: I am prepared to turn to my abbreviated version of my remarks, which will take just a couple more minutes. I would concur with the suggestion by Senator Cools that that would conclude government business. In other words, we would then rise for the day and continue tomorrow.

The Hon. the Speaker: That would require unanimous consent. Is it agreed, honourable senators, that, upon our disposition of Bill C-27, which will be concluded by a vote, all remaining matters stand on the Order Paper until the next sitting?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: I come back to the question. Do we see the clock or adjourn until eight o'clock?

Senator Cools: We see the clock.

The Hon. the Speaker: We must see the clock. It takes only one dissenting voice.

You wanted to speak, Senator Comeau?

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Gerald J. Comeau: Honourable senators, given that we are going to see the clock, I would ask leave of the Senate to allow the Standing Senate Committee on Fisheries and Oceans to sit at seven o'clock, even though the Senate may be sitting. This evening we will be dealing with an extremely important subject regarding Nunavut.

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

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

The Hon. the Speaker: The sitting will resume at eight o'clock.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): If I understood correctly, honourable senators, it was Senator Morin who withheld leave. I would assume that is because of the situation regarding Bill C-260. I can advise the house that, an hour and a half ago, I received the letter that I was looking for from the Minister of Health. If that is all that is holding us back, I would point out that it would take me less than a minute to read that minister's letter into the record.

Hon. Anne C. Cools: We can do it at eight o'clock.

Senator Austin: It is out of our hands.

Senator Kinsella: I suggest that, if we have leave, we could finish the supply bill and then deal with Bill C-260. It would take only five minutes.

Some Hon. Senators: Agreed.

Senator Cools: I said no.

The Hon. the Speaker: There is no unanimous agreement. We will return at eight o'clock, honourable senators.

The sitting of the Senate was suspended.

• (2000)

The sitting of the Senate resumed.

The Hon. the Speaker: Honourable senators, Senator Kinsella had the floor, but Senator Rompkey wishes to speak.

Hon. Bill Rompkey (Deputy Leader of the Government): If His Honour were to take the temperature of the house, I think he would find agreement to continue debate on Bill C-27 and to dispose of it, then to call Bill C-260, and then to stand all other items on the Order Paper in their place until the next sitting of the Senate.

Hon. Douglas Roche: Honourable senators, I was distracted and did not hear the full implications of what the Deputy Leader of the Government was saying. What I hope he will say is that I can speak tonight on Inquiry No. 10. If he confirms that I can speak tonight, I will consent to whatever else he said.

Senator Rompkey: That is agreeable, honourable senators.

The Hon. the Speaker: It is proposed, honourable senators, and I will ask for unanimous agreement, that we proceed to the conclusion of our deliberations on Bill C-27, proceed to the next item, Bill C-260, proceed to Inquiry No. 10 and then proceed to the adjournment motion. Is it agreed, honourable senators, that we follow that order of business?

Hon. Senators: Agreed.

The Hon. the Speaker: We will continue the debate on Bill C-27. Senator Kinsella has the floor.

APPROPRIATION BILL NO. 1, 2004-05

THIRD READING

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Phalen, for the third reading of Bill C-27, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on the supply bill, Bill C-27, the point has been made that we recognize it as a nine-month request, which is a little unusual. The committee, as I indicated earlier in my intervention, conducted an extraordinary examination of it. The points have been made and, therefore, I am satisfied.

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

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Day, seconded by the Honourable Senator Phalen, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read the third time and passed.

HAZARDOUS PRODUCTS ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Munson, for the third reading of Bill C-260, to amend the Hazardous Products Act (fire-safe cigarettes).—(*Honourable Senator Kinsella*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a few moments left in my speech on this bill. Honourable senators will recall that I read into the record a letter that I wrote to the Honourable Pierre Pettigrew, Minister of Health, concerning the bill. A couple of hours ago, I received via fax a letter back from the minister, which I would like to place on the record.

Dear Senator Kinsella:

Thank you for your correspondence of March 17, 2004, concerning Bill C-260: An Act to amend the *Hazardous Products Act* (fire-safe cigarettes), and reduced ignition propensity cigarettes.

I would like to highlight the efforts of the Honourable John McKay, M.P., and the Honourable Yves Morin, Senator, who have brought the issue of needless property damage, injuries, and deaths caused by cigarettes to the forefront of both the House of Commons and the Senate.

Fires started by cigarettes are the leading known cause of fire-related death in Canada. Statistics for the years 1995 to 1999 indicate that at least 14,030 fires were started by smokers' materials. These fires killed 356 people, injured 1,615, and cost more than \$200 million in property damage. To make matters worse, the victims of such fires are often among society's most vulnerable such as children, the elderly and the poor — or the firefighters who are trying to save them.

Based on these facts, I support the idea of reduced ignition propensity cigarettes. Health Canada is completing the development of regulations pursuant to the *Tobacco Act* that would mandate a reduction in the ignition propensity of all cigarettes sold in Canada — imported or otherwise — and I intend to approve their submission to the Governor in Council, upon receipt from the Department. I am confident that these regulations will contribute to reducing the needless property damage, injuries, and deaths caused by cigarette-ignited fires.

With respect to your question regarding possible changes in cigarette smoke toxicity, the proposed regulations are designed to deal with this issue by requiring toxicological testing and reporting of the results to Health Canada on a regular basis. This requirement will help to monitor the toxicity over time of a product already too well known for causing numerous debilitating and fatal diseases.

Concerning the consumer behaviour issue, Health Canada is conducting a year-long survey to determine the current fire-risk behaviour of smokers with regard to cigarettes. This baseline survey is expected to be complete in early 2005. In addition, the Department is using data from the Ontario Fire Marshal to paint a statistical picture of a typical cigarette fire in Ontario. Once the regulations have been fully implemented, Health Canada will be able to perform a comparative analysis. It is my understanding that neither of these studies would be impacted by adoption of Bill C-260.

Finally, I am confident in saying that Bill C-260 will work in concert with the Department's efforts to protect the health of Canadians.

Should you have any further questions related to tobacco control issues, please do not hesitate to contact...

The letter is signed by the Honourable Pierre Pettigrew.

The minister has indicated that the action plan that the department had in train will not be impeded by the bill and the two can operate in concert. With that assurance, which unfortunately, could not be ascertained in committee where it could have been done, we now have it on the record, and the bill is supportable.

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

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Morin, seconded by the Honourable Senator Munson, that this bill be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read the third time and passed.

HISTORICAL ROLE OF WOMEN IN THE SENATE AND CHALLENGES FACING WOMEN LEGISLATORS TO ADVANCE PEACE AND HUMAN SECURITY

INQUIRY—DEBATE ADJOURNED

Hon. Douglas Roche rose pursuant to notice of March 24, 2004:

That he will call the attention of the Senate to the historical role of women in the Canadian Senate and the challenges faced by modern women legislators to advance peace and human security.

He said: Honourable senators, as the time nears for my departure from the Senate, I have been reflecting on the most important political developments during the 33 years I have been in public life and what it is that gives me the most hope for the future. The increasingly important role of women in the great issues of our time — peace, security, sustainable development — stands out.

Women who are in the Parliament of Canada today are the direct beneficiaries of the pioneering work of Agnes MacPhail, the first female federal parliamentarian in Canada who was elected in a rural Ontario riding in 1921. Blazing a trail for women into the House of Commons was not easy. When she first tried to enter Parliament and take up her duties, she was stopped by a guard who declared, "You can't go in there, miss." Aside from defending the interests of her constituents, Ms. MacPhail made peace a priority during the turbulent inter-war years. She called for Prime Minister King to create a department of peace and for the Canadian government to spend \$1 on peace education for every \$100 spent on war. It is a pity her suggestions were not accepted.

• (2010)

More doors were opened by the Famous Five women of Alberta: Emily Murphy, the first woman magistrate in the Commonwealth; Louise McKinney, the first woman to serve as a member of a legislative assembly in the Commonwealth when she was elected in 1917; Nellie McClung, who led the fight to enfranchise North American women; Henrietta Edwards, who published Canada's first women's magazine; and Irene Parlby, the first female cabinet minister in Alberta and a delegate to the League of Nations in Geneva. It was these Famous Five who successfully petitioned the Government of Canada to have women declared "persons" under section 24 of the British North America Act so that they could serve in the Senate of Canada. A statue of the Famous Five now graces Parliament Hill.

Four months after the Persons Case of 1929, Cairine Wilson was appointed Canada's first female senator and took an ardent interest in human security. Senator Wilson was a defender of the interests of refugees and was honoured for her work with refugee children. She chaired the Standing Senate Committee on Immigration and Labour and was Canada's delegate to the United Nations General Assembly in 1949, the first woman to hold either position.

Muriel Fergusson, the first woman Speaker of the Senate, used her position of influence to advance the rights of women and to ameliorate conditions for Canada's poor. She was instrumental in securing the right of women to sit on juries, which had the effect of increasing the reporting of sexual assaults, as women no longer had to confront an all-male jury when bringing their case to court. She summed up her outlook well when she stated: "People are my work, in fact my life. Doing things for people, even thinking about what can be done for them, has been what has kept me going." What a refreshing attitude towards public service.

Erminie Cohen, known to many of us in this room, is a more recent example of a female senator who values human security. Her position as honorary chair of the first Atlantic Poor People's Conference in 1996 "shocked and inspired" her, as she described it, to publish a book the next year, *Sounding the Alarm: Poverty in Canada*, calling attention to the plight of the poor.

The Very Reverend Lois Wilson was active in defending human rights in Canada long before her appointment to the Senate in 1998, active as a board member of both Amnesty International and the Canadian International Institute for Peace and Security. As a senator, she represented Canada in efforts to resolve conflicts around the world. Senator Wilson was Canada's special envoy to the Sudanese peace process. She also led the Canadian delegation to North Korea in 2000, which laid the groundwork for the establishment of Canadian diplomatic relations with that country.

Senator Mobina Jaffer succeeded Senator Wilson as envoy to the Sudan and co-chairs, with Lois Wilson, the Canadian Committee on Women, Peace and Security. This committee is responsible for overseeing the implementation in Canada of United Nations Security Council Resolution 1325, which calls for the full and equal participation of women in conflict prevention, peace processes and peace-building.

Senator Jaffer attended the forty-eighth session of the UN Commission on the Status of Women held earlier this month in New York, which repeated calls for greater involvement of women in peace and security and noted the need for men to be full participants in the process of overcoming obstacles to gender equity.

Senator Sharon Carstairs has long championed the interests of the terminally ill and their families. Her efforts to strengthen palliative care resulted in the recent announcement of a new compassionate care leave program to make it possible for family members to take time off work to care for their terminally ill relatives.

Senator Landon Pearson made a commitment following her appointment to the Senate in 1994 to be the senator for children. She co-chaired a Special Joint House Committee on Child Custody and Access to protect the interests of children. She has spoken out against child labour and the gross abuses of the rights of children that occur during war.

Senator Joyce Fairbairn has focused her efforts on fighting illiteracy in Canada, which she has called "our country's hidden shame."

Senator Thelma Chalifoux has stood up for social justice for Aboriginal peoples.

Senator Raynell Andreychuk has used her judicial and diplomatic experience to advance human rights through the promotion of the International Criminal Court and the work of Parliamentarians for Global Action.

Senator Lucie Pépin has worked to improve the health and status of women both in Canada and internationally.

Senators Ione Christensen and Elizabeth Hubley have deepened our understanding of the plight of the victims of land mines.

Senator Marjory LeBreton has raised public support for tougher laws against drunk driving.

Honourable senators, I could go on naming the contributions of other women senators, past and present, to human security issues. I see a pattern of concern for the most vulnerable people in our society. Perhaps this concern is rooted in the fact that women themselves have had to struggle to claim equal rights in our society — a struggle that continues to this day.

We have only to look around this chamber to see that women are not equally represented in the halls of power in Canada. Women occupy 35 per cent of Senate seats, which is good enough to make us sixth in the world in female representation in an upper house, but still falls far short of giving women their rightful share of seats.

Unfortunately, women do not fair as well in the House of Commons, where they make up less than 21 per cent of the members of Parliament, putting Canada in thirty-sixth place internationally. By comparison, Rwanda has the greatest percentage of women in the lower house, at almost 49 per cent, followed by Sweden, at 45 per cent.

Perhaps a second reason women are involved in advancing human security is that they experience insecurity differently from their male counterparts. It is those with less money and power who are most directly affected by government cuts in health and education spending and by reduced income support programs. They also benefit the most from strengthened human rights protections.

Internationally, women suffer disproportionately the effects of conflict, which today kill more civilians than military personnel. War brings with it an increase in violence against women, both by armed factions and within the home. The evidence of sexual violence in recent conflicts in the former Yugoslavia and Rwanda, among other places, is truly sickening.

• (2020)

Women in Canada and around the world are recognizing that peace is in their direct interest and are taking a leading role in resolving conflict. The Canadian Voice of Women for Peace, formed in 1960, played a leading role in promoting disarmament and reconciliation during the Cold War. In 1962, this group endured public ridicule from the media, which called them pathetically foolish for their courageous stand in petitioning the government not to accept American nuclear weapons on Canadian soil. How right the Voice of Women was then and now in the opposition they and like-minded groups displayed toward the recent Iraq war.

In the western world, the Women's International League for Peace and Freedom brought together 1,200 women from a wide variety of states to protest the First World War. Since then, this organization has continued to advance the cause of human rights and disarmament with chapters in 37 countries around the world.

[Senator Roche]

The United Nations has strongly promoted women's involvement in peace and security issues. The Fourth World Conference on Women, which took place in Beijing in 1995, concluded by issuing the Beijing Declaration and Platform for Action. The declaration, which aimed to empower women, recognized that "the full realization of all human rights and fundamental freedoms of all women is essential to the empowerment of women." This declaration was followed up by Security Council Resolution 1325, which I mentioned a moment ago, adopted in 2000. It expressed concern about the impact of conflict on women and stressed "the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security."

Honourable senators, my observation of the world scene over these past three decades has convinced me that women stand at the centre of change. When the representatives of the women of the world gathered in Beijing in 1995, it was affirmed that the leadership of the half of humanity that is female is essential to the search for peace and security. This leadership begins with ensuring that the doors of education are open to all the girls and young women in developing countries. Where this has happened, and I have seen it with my own eyes, startling results in development and population control have been achieved. The full development of women within all societies is, of course, paramount, along with the guarantees of their full human rights. The movement forward of the status of women in society is clearly occurring, despite lamentable acts of discrimination that still scar humanity.

However, I go further in my assessment of the role of women today in the need to build true human security. Here is the world that we face: 2.7 billion people live on less than \$2 per day; 1.1 billion lack safe drinking water; 800 million are hungry; 40 million are infected with HIV/AIDS; 16 million are either refugees or internally displaced persons.

On top of this scandalous social deficit, there still exist today 34,145 nuclear weapons with the capacity of destroying the world many times over. Nuclear weapons account for only a fraction of the \$850 billion that the governments of the world spend on their militaries every year.

The UN's Millennium Development Goals, avowed by UN Secretary-General Kofi Annan, require a minimum of \$50 billion to halve extreme poverty by 2015, reduce child mortality, combat HIV/AIDS, and develop a global partnership for development. However, so distorted are the priorities of governments that only about \$16 billion has been pledged to date.

These human security issues are by no means just women's issues; they are the business of men and women alike to repair.

The Hon. the Speaker: Senator Roche, your time has expired.

Senator Roche: I would ask honourable senators for leave to continue.

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

• (2030)

Hon. Senators: Agreed.

Senator Roche: I thank honourable senators.

I sense that the time has come for the growing and hardy band of women legislators to demand that governments everywhere get their priorities right and recognize that, if we want peace and human security in the world, we must replace the culture of war with the culture of peace.

I am not saying that a world run by women would necessarily be a completely peaceful world, but my political and diplomatic experience indicates to me that the prospects of achieving a more humane world would improve with more women in the decision-making processes of governments. It may be true that not all women politicians are dedicated to a social justice agenda, but I think many of them are. When the number of women in public life is strengthened to achieve a critical mass, I think women legislators will be emboldened to push for better policies.

This idea was eloquently expressed by a woman named Jamila, Director of the Afghan Women's Welfare Department and founding member of the Afghan Women's Network, in her testimony before the UN Security Council in 2001. She said:

I have often heard that Afghan women are not political; that peace and security is man's work. I am here to challenge that illusion. For the last 20 years of my life, the leadership of men has only brought war and suffering... Anyone searching for Afghan women to engage in peace does not have to look far... When the UN is looking for leaders, look to us.

Men have had their way long enough in world history and they have given us a chain of war and poverty. It is time for change.

Honourable senators all, but especially honourable women senators, as I leave this great institution, I appeal to you to raise your voices against hunger and AIDS, against weapons and against the great injustices that drag down so many people around the world. Raise your voices for an end to poverty, abuse and discrimination. Raise your voices for a nuclear-weapons-free world. Raise your voices for the full application of human rights for all women and for children and men, too. Take the high moral ground in the struggles ahead to obtain true peace. You stand on the foundation of what the women who have come before you have built. You hold up half the sky. The future is yours.

Hon. Senators: Hear, hear!

Senator Cools: I move the adjournment of the debate.

Hon. Laurier L. LaPierre: Honourable senators, I want to speak to Senator Roche's remarks. In the process of the great statement made by the honourable senator, we who are French-speaking will never forget the Honourable Marie Thérèse Casgrain and her contribution to the rights and freedom of the women of Quebec.

Not only did she have to battle men in pants, but she also had to battle men in skirts — priests, bishops, archbishops and cardinals, and even the Pope himself. She did it with astonishing courage.

Every day she was laughed at and, at the end of her life, she saw the result of all her work with the emancipation of women in the province of Quebec, which was a great social achievement.

I thought that I would add to the magnificent statement of the honourable senator.

Hon. Anne C. Cools: Before the adjournment motion is put, may I ask Senator Roche a question?

An Honourable Senator: No.

Senator Tkachuk: Why?

Senator Robichaud: The last speaker was Senator LaPierre.

Senator Cools: Colleagues!

The Hon. the Speaker: We have agreed to deal with this item. Senator Roche has given his speech. Senator Cools would like to adjourn the debate. Apparently she has a question, and Senator LaPierre made what I consider to be a comment on the speech of Senator Roche. Under our rules, that is permitted.

Senator Cools will ask a question and then adjourn the debate.

Senator Cools: The reason I did not put the question previously, honourable senators, is that I thought we were anxious to conclude this sitting.

Does Senator Roche know the name of the first Black female senator in all of North America — Canada and the United States of America? I am asking the honourable senator if he knows. Why is it that whenever great statements about women are made, a Black woman is never included?

Senator Roche: I thank Senator Cools. Of course, I should like to refer her to my penultimate comment tonight in which I quoted a Black woman from Afghanistan who testified before the United Nations Security Council. I gave her prominence in my speech by quoting her plea to the world, through the Security Council, that the role of women, all women, needs to be enhanced in order to develop peace and security. That was a very important statement.

Senator Cools: Perhaps I was not clear. When I said "Black," I was talking about the Negroid races.

Why is it in this country, and in this chamber, that, assiduously, whenever members rise to speak about women, they never, ever mention what in the old days you would have called Negro women? Why is it that one of them is never mentioned? Is it because no Black women are worthy of mention; or is it because no one has thought of it?

The honourable senator was talking about women. Afghan women may be dark of complexion, but in our part of the world, when we say “Black,” we do not mean Indian or Afghan or so on. It is the word that was substituted for the old term Negro — the Black races on this continent.

I am just curious. I listen to these statements again and again. I am always curious about the fact that, in the midst of statements that we must have love, peace and no discrimination, we discriminate again and again.

Senator Roche: I thank Honourable Senator Cools for the question. Since I am nearing the end of my time in the Senate, I will give her more than a one-sentence answer, I will give a two-sentence answer.

As a young man, a journalist before I went into political life, I was sent around the world many times. I travelled through Africa, Asia and Latin America. I saw the world as it was. I saw the colours, the religions, the cultures and the races.

Then, at a later stage of my life, when I started going to the United Nations — about 30 years ago, and I have been going regularly ever since — I became immersed in the peoples of the world as we see them at the United Nations. I can tell Senator Cools that I think I have become colour blind.

Some Hon. Senators: Hear, hear!

Senator Cools: Perhaps that blindness is a handicap. I am not talking about personal preferences here at all. I am talking about the phenomenon of conceptualizing of the whole concept of peace and security.

I would submit to Senator Roche that one of the reasons, perhaps, there is so much bloodshed, unhappiness and terror in the world is that some of the European races have not been sufficiently respectful of many of the African races.

The Hon. the Speaker: Before I see Senator Roche, I would remind honourable senators that Senator Roche indicated that he would be a couple of minutes. My understanding of the Deputy Leader of the Government’s proposal was that, as it is late in the evening, we would not be long. I would remind honourable senators of that.

Senator Roche: I would say amen to that.

Senator Cools: I am not a Black American. I do not do the “amen thing.”

Senator Roche: I can only speak in this chamber from the perspective of my own culture. If I took Senator Cools through a tour of my past writings, she would see in there the life history of an educator from Nigeria who significantly participated in my education. I was heavily influenced by him, among others who have inspired me and taught me throughout my life.

What I have learned is that there is discrimination in this world. It is economic, social, racial and religious. It is not discrimination that I have been able to measure by any one group against any one other group exclusively. It is epidemic in its manifestations.

I will leave this as my final word of the evening: It behooves all of us, wherever we come from, to work against discrimination against persons of all colours and faiths who are being discriminated against in the world today.

Senator Cools: Absolutely. I commend the honourable senator.

Hon. Bill Rompkey (Deputy Leader of the Government): I believe the intervention of His Honour was correct. We allow questions, but this is turning into a debate. We should now assume that Senator Cools has the adjournment. She will have an opportunity to make the points she is making now, but they should be done at a later date, not tonight. That was the unanimous agreement on both sides of the chamber.

Senator Cools: The agreement was at the completion of this particular question. I am asking one or two questions. If honourable senators wish to vote me down, feel free. It happens here a lot. If you want to do it, go right ahead.

I just want to say to Senator Roche, in my culture — and I was born and raised —

The Hon. the Speaker: I just wish to clarify one thing. Senator Roche, are you prepared to take more questions?

Senator Roche: I think the sense of the evening is that we have had a pretty good debate so far.

On motion of Senator Cools, debate adjourned.

The Senate adjourned until Wednesday, March 31, 2004 at 1:30 p.m.

CONTENTS

Tuesday, March 30, 2004

	PAGE		PAGE
SENATORS' STATEMENTS		Solicitor General	
The Honourable Gérald-A. Beaudoin O.C., Q.C.		Auditor General's Report—Canadian Security Intelligence Service— Integrated National Security Assessment Centre— Involvement of Agencies.	
The Honourable Douglas Roche, O.C.		Hon. Michael A. Meighen	714
Tributes on Retirement.		Hon. Jack Austin	714
Hon. Madeleine Plamondon	711	Hon. Terry Stratton	714
University Hockey Champions		Auditor General's Report—September 11, 2001— Inter-Departmental Meeting on Security and Intelligence— Attendance of Agencies Involved.	
Congratulations to St. Francis Xavier X-Men.		Hon. J. Michael Forrestall	714
Hon. B. Alasdair Graham	711	Hon. Jack Austin	715
Foreign Affairs		Hon. Terry Stratton	715
Middle East—Escalation of Violence—Government Position.		Health	
Hon. David Tkachuk	711	Auditor General's Report—Medical Devices Program.	
The Honourable B. Alasdair Graham		Hon. Marjory LeBreton	715
Tribute on Retirement.		Hon. Jack Austin	715
Hon. Norman K. Atkins	712	Justice	
<hr/>		Renewal of Court Challenges Program.	
ROUTINE PROCEEDINGS		Hon. Jean-Robert Gauthier	716
Senate Delegation to United Kingdom		Hon. Jack Austin	716
Report Tabled.		Auditor General	
Hon. Dan Hays	712	Possible Leak of Report to Media—Comments on Airport Security.	
Senate Delegation to Slovenia		Hon. Pierrette Ringuette	716
Report Tabled.		Hon. Jack Austin	716
Hon. Dan Hays	713	Questions on the Order Paper	
Senate Delegation to Germany		Request for Answer.	
Report Tabled.		Hon. Bill Rompkey	717
Hon. Dan Hays	713	<hr/>	
Auditor General		ORDERS OF THE DAY	
Report Tabled.		Business of the Senate	
Hon. Bill Rompkey	713	Hon. Bill Rompkey	717
Appropriation Bill No. 1, 2004-05 (Bill C-27)		Parliament of Canada Act (Bill C-4)	
Report of Committee.		Bill to Amend—Third Reading.	
Hon. Lowell Murray	713	Hon. Jack Austin	720
Study on Need for National Security Policy		Hon. John G. Bryden	725
Report of National Security and Defence Committee Tabled.		Hon. Anne C. Cools	725
Hon. Colin Kenny	713	Point of Order.	
Business of the Senate		Hon. Eymard G. Corbin	725
Adjournment Motion Adopted.		Hon. Jack Austin	725
Hon. Bill Rompkey	713	Hon. John G. Bryden	725
Advancement of Visible Minorities in Public Service		The Hon. the Speaker	725
Notice of Inquiry.		Hon. Anne C. Cools	725
Hon. Donald H. Oliver	713	Hon. Noël A. Kinsella	725
<hr/>		The Hon. the Speaker	725
QUESTION PERIOD		Hon. A. Raynell Andreychuk	726
Transport		Hon. David P. Smith	728
United States—Airlines Passenger Pre-Screening System		Hon. Herbert O. Sparrow	728
Hon. A. Raynell Andreychuk	714	Hon. Jim Munson	729
Hon. Jack Austin	714	Hon. Gérald-A. Beaudoin	729
		Hon. Serge Joyal	730
		Hon. Gerald J. Comeau	734
		Hon. Marilyn Trenholme Counsell	736
		Hon. Consiglio Di Nino	736
		Hon. Terry Stratton	737
		Hon. Fernand Robichaud	738
		Hon. Lowell Murray	739

	PAGE
Appropriation Bill No. 1, 2004-05 (Bill C-27)	
Third Reading—Debate Suspended.	
Hon. Joseph A. Day	739
Hon. Anne C. Cools.	740
Hon. Noël A. Kinsella	742
Fisheries and Oceans	
Committee Authorized to Meet During Sitting of the Senate.	
Hon. Gerald J. Comeau	743
Business of the Senate	
Hon. Noël A. Kinsella	743
Hon. Anne C. Cools.	743
Hon. Bill Rompkey	743
Hon. Douglas Roche	743

	PAGE
Appropriation Bill No. 1, 2004-05 (Bill C-27)	
Third Reading.	
Hon. Noël A. Kinsella	743
Hazardous Products Act (Bill C-260)	
Bill to Amend—Third Reading.	
Hon. Noël A. Kinsella	744
Historical Role of Women in the Senate and Challenges Facing Women Legislators to Advance Peace and Human Security	
Inquiry—Debate Adjourned.	
Hon. Douglas Roche	744
Hon. Laurier L. LaPierre	747
Hon. Anne C. Cools.	747
Hon. Bill Rompkey	748



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