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(HANSARD)

Tuesday, April 20, 2004

THE HONOURABLE LUCIE PÉPIN
SPEAKER *PRO TEMPORE*

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THE SENATE

Tuesday, April 20, 2004

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

Prayers.

SENATORS' STATEMENTS

HOLOCAUST MEMORIAL DAY

Hon. Mobina S. B. Jaffer: Hate crimes: Canadians show solidarity in condemning hate crimes against all people of all faiths.

Honourable senators, in the early morning hours of April 5, 2004, the library of the United Talmud Torah school in Montreal was set ablaze. Anti-Semitic leaflets were reportedly left at the scene of the fire, leaving little doubt that this crime was one motivated by hatred.

This attack followed an equally deplorable spate of racist attacks in Toronto, where two Jewish schools and a synagogue were vandalized and a Jewish cemetery was desecrated. The Al-madhi Islamic Centre in Pickering was also set on fire and vandalized, showing that all religious and ethnic groups are vulnerable to this kind of attack. Jewish homes were spray-painted with swastikas, a chilling reminder of the horrors of the Holocaust, so close to our National Holocaust Memorial Day, Yom HaShoah, which we marked this past Sunday.

Honourable senators, Yom HaShoah is an opportunity for Canadians of all religious and cultural backgrounds to reflect on the horrors of the Holocaust and to remind ourselves of the devastating effects of religious and ethnic hatred on our communities and our society. As we reflect on the horrors of the past and compare them with more recent acts of hatred, we should take the opportunity to reaffirm our Canadian values of harmony and multiculturalism and reaffirm our commitment to protect all Canadians from those who would commit crimes of racist violence and hate.

Honourable senators, I know that all of us here will join together with all Canadians in condemning these kinds of attacks regardless of who is targeted and continue to fight for our Canadian values of multiculturalism, openness and harmony.

Hon. Senators: Hear, hear!

NATIONAL VOLUNTEER WEEK

Hon. Ethel Cochrane: Honourable senators, the week of April 18 to April 24 is National Volunteer Week. Therefore, I rise today to pay tribute to the roughly 6.5 million people across Canada who give freely of their time and energy for the betterment of others. Without their dedication and hard work, many areas of our society, such as the arts and culture sector or sports and recreation groups, would not function as well, or perhaps at all.

In the year 2000, for example, volunteers contributed approximately 1 billion hours of their time. That is an amazing contribution, especially when one considers that those hours are equivalent to about 550,000 full-time, year-round jobs.

The theme of this year's celebration is "Volunteers grow community!" More than 5,000 events are scheduled to take place across the country this week to recognize the contribution volunteers have made to almost every aspect of our society. It is important that we continue to use National Volunteer Week to celebrate the role of volunteers in our communities and to promote charitable involvement and giving.

We must encourage people of all ages to get involved, not just for the overall benefit of society, but for the benefit of the participant as well. Volunteers often build and strengthen existing skills through their philanthropy and explore areas of personal interest. However, other advantages are less tangible.

There is an old saying that it is better to give than to receive. Volunteers put those words into practice every single day. When one gives of himself or herself as a volunteer, the personal satisfaction and the pride that the volunteer feels is immeasurable. It is my hope that charitable organizations across the country will gain many new recruits this week who will experience these feelings first-hand.

Through teaching, fundraising, counselling, organizing and countless other activities, Canada's volunteers help grow their communities by making them a better place to live.

Honourable senators, during this National Volunteer Week, let us say a heart-felt thank you in response.

Hon. Senators: Hear, hear!

[*Translation*]

FRANCO-ONTARIAN FLAG

Hon. Marie-P. Poulin: Honourable senators, a few days ago the Franco-Ontarian flag was officially raised in front of the Lycée Claudel building in Ottawa. The event was held in the presence of His Excellency Mr. Philippe Guelluy, Ambassador of France to Canada. Also in attendance were Mr. Jean Poirier and Mr. Brian Beauchamp, presidents of the regional ACFOs; Mr. Alain Landry, chairman of the Lycée Claudel board of directors; the members of the board of directors; and Ms. Jacqueline Égon, the lycée's principal.

The teaching staff and more than 800 students, boys and girls registered at Lycée Claudel, also attended the ceremony.

As the senator representing Northern Ontario, and as President of the Fédération Canada-France, I was proud to attend this ceremony.

Let us not forget that the French language and culture have been present in Ontario for 350 years. The first French speakers to settle in Ontario were the missionaries who established the mission of Sainte-Marie among the Hurons in 1639.

The white and green Franco-Ontarian flag, decorated with the fleur de lys and the trillium, reflects the history and hope of the francophone community of Ontario. It was officially raised for the first time on September 25, 1975 at Laurentian University in Sudbury.

• (1410)

Congratulations to all those who took part in this initiative by Lycée Claudel, which recognizes the richness, contribution and value of the French language and culture in Ontario.

[*English*]

VISIT OF DALAI LAMA

EMPHASIS ON SPIRITUAL AND CIVIC MATTERS

Hon. Jim Munson: Honourable senators, I rise today on the occasion of the visit of His Holiness, the Dalai Lama, to Canada this week. I want to praise the Prime Minister for agreeing to see the Dalai Lama. This is a good thing, but I am puzzled as to why this meeting has been placed into a so-called spiritual frame. I am sure that when the Pope or the Archbishop of Canterbury meets with political leaders, the discussion covers more than just spirituality. In this complex global village, the Pope's views on many issues, such as the horrible violence in the Middle East, are well received and respected in political circles. History has taught us that the views of religious leaders go beyond the spiritual and very much into everyday realities.

On a personal level, as a reporter in the late 1980s and early 1990s I witnessed the brutality of the Chinese police in the Tibetan capital, Lhasa. I watched as my cameraman videotaped the Chinese police beating defenceless monks. I then listened in the Jokhang Temple as the monks told their stories of harassment by the Chinese authorities. As a result of these experiences, I had the not-so-welcome opportunity of spending a number of hours in a Chinese jail in Lhasa. We were ordered to give up the tapes. Fortunately, the authorities did not get all of them and we were able to transmit their story to Canadians.

Fifteen years have passed since my experiences in Tibet, and I am disappointed to hear that our Department of Foreign Affairs has recommended that, when meeting with the Dalai Lama, political leaders should bear in mind that "emphasis should be on the spiritual and civic matters as opposed to political issues which might appear to confer recognition of sovereignty." This visit is described as an extremely sensitive political issue.

Honourable senators, there is a reality check here. The Dalai Lama has met presidents, prime ministers, kings and queens around the world, while Canada, as a sovereign nation, is worried about upsetting the authorities in Beijing. It has been argued by some that meeting the Dalai Lama may affect our trade relations with China, which are, by the way, very much in China's favour.

Honourable senators, this is nothing short of diplomatic blackmail. There should not be a price tag on human freedom. Canada and China have forged a great friendship over the last few decades, but I do not think we need any lessons on how to treat a guest in our own house.

I stand here today as a witness to history, as a person who has some understanding of the issue of human rights. I urge others to stand up and listen to whatever message the Dalai Lama will deliver. At this time, the issue is not so much about recognizing the autonomy of Tibet; it is about first recognizing the autonomy of the mind and the fundamental right to speak it.

ROUTINE PROCEEDINGS

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO ESTABLISH MANDATE OF STANDING COMMITTEE ON INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION IN SELECTION OF ETHICS OFFICER

Hon. Serge Joyal: Honourable Senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Committee on Rules, Procedures and the Rights of Parliament be authorized to review rule 86(1)(g) and the mandate of the Standing Committee on Internal Economy, Budgets and Administration in order to provide it with a role in the selection of the Senate Ethics Officer and any successor to that position;
>
> That the Standing Committee on Internal Economy, Budgets and Administration or a subcommittee of that Committee, that is made up of at least one representative from each recognized party, be empowered to establish and follow measures to identify suitable candidates to be the Senate Ethics Officer;
>
> That these measures include:
>
> a) the determination of selection criteria;
>
> b) the dissemination of advertisements to solicit applicants for the position;
>
> c) the evaluation of applicants through a professional agency;
>
> d) the preparation of a short list;
>
> e) the review of the short listed applicants prior to interviews; and
>
> f) the recommendation of the selected candidate to the Senate; and

That the process and guidelines to be followed by the Standing Committee on Internal Economy, Budgets and Administration in determining a suitable candidate for the position of the Senate Ethics Officer be included as an Appendix to the *Rules of the Senate*.

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF NEED FOR NATIONAL SECURITY POLICY

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

That, notwithstanding the Order of the Senate adopted on February 13, 2004, the date for the final report by the Standing Senate Committee on National Security and Defence on the need for a national security policy for Canada be extended from June 30, 2004, to September 30, 2005.

FOREIGN AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO HOLD JOINT SESSION WITH HOUSE OF COMMONS STANDING COMMITTEE ON FOREIGN AFFAIRS AND INTERNATIONAL TRADE TO MEET WITH DALAI LAMA—DEBATE ADJOURNED

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

That the Standing Senate Committee on Foreign Affairs be authorized to join the Standing Committee on Foreign Affairs and International Trade of the House of Commons for a joint meeting in order to meet with His Holiness the Dalai Lama and his delegation; and

That the Committee be authorized to meet at 3:30 p.m. on Thursday, April 22, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Eymard G. Corbin: May we have an explanation?

Senator Di Nino: As honourable senators know, His Holiness has undertaken a historic visit that includes three cities. He is in Vancouver today, will be in Ottawa until Saturday and will then travel to Toronto for 11 days of "kalachakra" teachings, or teachings of peace. He will be in Ottawa for a short time and the foreign affairs committees of the Senate and the other place have extended an invitation to His Holiness to speak to us about peace, compassion and human rights from a foreign perspective in respect of what is happening in the world today.

• (1420)

The chair of the committee told me that he spoke with my colleague regarding this matter and I certainly was under the impression that he did so as a member of the committee. The expectation is that we will receive His Holiness and hear his opinions on the world issues of peace, compassion and human rights.

On motion of Senator Corbin, debate adjourned.

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE NATIONAL SECURITY AND DEFENCE SUBCOMMITTEE ON VETERANS AFFAIRS TO EXTEND DATE OF FINAL REPORT ON STUDY ON VETERAN'S SERVICES AND BENEFITS, COMMEMORATIVE ACTIVITIES AND CHARTER

Hon. Michael A. Meighen: Honourable senators, I give notice that at the next setting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on February 26, 2004, the date for the final report by the Standing Senate Committee on National Security and Defence on Veterans' Services and Benefits, Commemorative Activities and Charter be extended from June 30, 2004 to September 30, 2005.

[*Translation*]

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA—PRESENTATION OF PETITION

Hon. Jean-Robert Gauthier: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 37 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

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

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

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

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

Therefore, your petitioners ask Parliament to affirm in the Constitution of Canada that Ottawa, the capital of Canada — the only one mentioned in the Constitution — be declared officially bilingual, under section 16 of the Constitution Acts from 1867 to 1982.

Hon. Marisa Ferretti Barth: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 2,008 residents of Montreal, in the province of Quebec, asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

[*English*]

QUESTION PERIOD

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

POSSIBLE TERRORIST ACTIVITY— LEVEL OF SECURITY

Hon. J. Michael Forrestall: Most honourable senators will be aware of the recent arrest in Ottawa of Momin Khawaja, who was reportedly linked to a plot to carry out terrorist attacks in Britain. Strict security measures were put in place almost immediately around National Defence Headquarters. That was two weeks ago, about the same time as the arrest.

Will the Leader of the Government in the Senate tell us whether this Canadian citizen was linked to any plot to carry out attacks in this country?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information to provide to Senator Forrestall.

Senator Forrestall: Honourable senators, I trust the leader might have his staff look into this matter and I will ask the question again tomorrow.

A recent al-Qaeda manual has ranked killing Canadians as a priority. Yesterday the U.S. announced measures to tighten security ahead of elections and warned that terrorists might be already in place.

Will the Leader of the Government in the Senate tell this chamber if we are currently at a higher state of vigilance?

Senator Austin: Honourable senators will know that matters of security are not generally discussed and that the paramount issue is the safety of Canadians. When it is in the interest of the safety of Canadians, the security forces act on the information they have, if they have any at all, without public discussion. I have no information to provide the honourable senator, and I doubt that I will have information in the near future.

Senator Forrestall: Honourable senators, the leader has surprised me somewhat. I thought he might at least rise to the occasion and tell us when we might have a general election.

Hon. Terry Stratton: Honourable senators, since the United States makes public announcements regarding different levels of security using colour coding, that is, yellow, orange or red, should Canadians not be provided with similar information so that we are aware of our status?

Senator Austin: Honourable senators, we do provide Canadians with information, but we do not have colour codes. Canadians are given narrative information.

Senator Stratton: Perhaps the Leader of the Government in the Senate will indicate what level we are at now?

Senator Austin: Extremely watchful.

Senator Stratton: Is the official position of the government that the current security level is extremely watchful? The public has a right to know. Can we tell the public that security is at an extremely watchful level?

Senator Austin: Honourable senators, I would be delighted if Senator Stratton would tell the public the government is extremely watchful about public security.

Senator Stratton: If we are at "extremely watchful," what are the other categories?

Senator Austin: Honourable senators, we do not keep our security alerts in categories; we use a narrative form to advise the public.

Senator Stratton: In other words, obfuscation and bafflegab works. We are asking about the levels of security. Surely to goodness the Leader of the Government in the Senate can provide this chamber with that information.

Senator Austin: I would be delighted to provide that information in narrative form.

INDUSTRY

TECHNOLOGY PARTNERSHIP PROGRAM— HIRING OF UNREGISTERED LOBBYIST TO SECURE GRANTS

Hon. Pat Carney: Honourable senators, my question concerns the revelation last week that, against Industry Canada rules, Mr. Neelam Makhija, acting as a middleman, collected $2 million in commissions for helping three British Columbia companies obtain grants from the Technology Partnership Program.

The consultant in question lives in Toronto and, apparently, has a remarkable record of obtaining grants for companies that would otherwise be denied them and, in at least one case, for getting a grant for a project that had been turned down before the recipient hired him.

Beyond the three known companies, another six have had their payments from the Technology Partnership Program frozen while Industry Canada auditors investigate their dealings with Mr. Makhija.

I expect that the Leader of the Government in the Senate will realize that two Industry Canada rules were broken. First, the companies were working with an unregistered lobbyist. Second, commissions and contingency fees violate Industry Canada contract rules.

• (1430)

Could the Leader of the Government in the Senate report to the Senate on how much money went out the door before the auditors realized there was a problem? Second, could the government leader also advise the Senate how long the auditors expect to take to complete their work?

The Leader of the Government in the Senate may also wish to comment on why someone from British Columbia would have to go to Toronto to hire an unregistered lobbyist to get the grant.

Hon. Jack Austin (Leader of the Government): Honourable senators, I have seen the reports of this story and I will endeavour to provide the Senate with information when it is made available to me. I do not have a statement to make on the findings of any investigation. I am aware, as I said, of the allegations. It is my hope that, if there is malfeasance here, such malfeasance was not sourced in British Columbia.

NATIONAL REVENUE

CANADA REVENUE AGENCY— REDRESS TO CITIZENS GIVEN INCORRECT INFORMATION

Hon. Pat Carney: Honourable senators, my second question involves the expenditure of money and is supplementary. I recently phoned the Canada Revenue Agency to get specific tax information, which I was given, by a real person. I subsequently learned from my accountant that the information I was given was incorrect. In fact, my accountant said that information given through this process by the CRA is so often incorrect that in his company they take the best two out of three answers. It is a serious situation for anyone who files an incorrect tax return. Why should Canadians have to hire an accountant to fill out their income tax forms?

What is the redress for an individual who is given incorrect information by the CRA in their very public Web process, and when can I expect my refund?

Hon. Jack Austin (Leader of the Government): Honourable senators, if such a thing has ever happened, I am sure there will be a record of it and a precedent established. I will search for the answer in that form.

Senator Carney: Honourable senators, I want an answer from the Leader of the Government in the Senate that can be given to Canadians about what redress they can expect when they either telephone the agency or use the Web site and are given incorrect information. Surely, the government leader is able to get a response or a remedy for those of us in that position.

Senator Austin: Honourable senators, I thought I had answered the question in a very serious way. To repeat my answer, I said that if such a thing has happened, I will search for the precedents and see what is the policy of the Canada Revenue Agency when taxpayers have been improperly advised.

Senator Carney: I am asking the government leader to supply that answer to the Senate.

HEALTH

TOBACCO CONTROL STRATEGY

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government in the Senate.

Several international health groups, including the Canadian Cancer Society and the Heart and Stroke Foundation of Canada, have made public their concerns that the federal Tobacco Control Strategy will soon be eliminated. They say that the government's program expenditure review has put the strategy's work on hold, including its new advertising campaign. Despite the falling smoking rate, the need for such a program has not gone away. Tobacco use is still responsible for over 45,000 deaths per year in Canada, which is more than those caused by car accidents, drug overdoses, suicides, murders and AIDS combined.

Could the Leader of the Government in the Senate tell us if these health groups have true concerns, or if there is something in the works that could alleviate their anxiety?

Hon. Jack Austin (Leader of the Government): Honourable senators, I certainly will make enquiries and try to make the information available quickly.

Senator Keon: Honourable senators, when the Tobacco Control Strategy was announced in 2001, then finance minister Paul Martin and then health minister Allan Rock promised that the funding of this program would be sustained, but the funds were cut last year by $13 million. Despite that loss, the program may still yield results as long as the funding is not cut any further.

Could the Leader of the Government in the Senate tell us whether the funding will remain stable at the present rate or whether additional cuts might be anticipated?

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

AGRICULTURE AND AGRI-FOOD

BRITISH COLUMBIA—OUTBREAK OF AVIAN INFLUENZA IN POULTRY INDUSTRY

Hon. Gerry St. Germain: Honourable senators, my question is also directed to the Leader of the Government in the Senate. It relates to the avian flu that has struck the poultry industry in British Columbia. There has been great concern on the part of growers in that industry that there was no effective emergency strategy in place to deal with the outbreak. That is reinforced by the fact that some of the farms that were originally contaminated still have not been evacuated of poultry and poultry manure.

Could the Leader of the Government in the Senate elaborate on what measures the government has in place and what would be done if another outbreak occurred elsewhere in Canada?

Hon. Jack Austin (Leader of the Government): Honourable senators, the Canadian Food Inspection Agency acted expeditiously the moment avian flu was reported in the poultry population in British Columbia. According to my information, Health Canada was advised on February 18 of this year that an avian influenza virus had been certified in one broiler breeder stock in British Columbia. A series of steps have been taken from that time until this date. Action was taken almost immediately to quarantine reported sources. Following that, an order was given for the destruction of the infected poultry population. As Senator St. Germain knows, a hot zone was established and then expanded.

One of the most difficult parts of this avian influenza issue is that all efforts made to trace the manner in which infection is spreading have not resulted in a definitive answer. Currently, 31 breeder farms are infected in addition to a number of farmyard flocks and, to date, no source of the infection and no methodology for its transport have been defined.

This is an extremely serious matter for the bird industry. At the same time, we have not been able to detect an avian flu occurrence in the wild bird population. That adds to the mystery and difficulty.

In the meantime, there is no expectation of a human health problem of any consequence with regard to the virus in question.

Senator St. Germain: Honourable senators, the Leader of the Government will know that there has been great controversy in British Columbia with regard to dump sites, et cetera. I believe that these things should have been part of an emergency program already in place.

There was an outbreak in the state of Texas and they immediately took such aggressive action that they were able to contain it to, I believe, only one farm. There have been other outbreaks of this unfortunate epidemic in other areas of the country.

I know that the Canadian Food Inspection Agency did as good a job as possible in dealing with the BSE situation. For some odd reason, it seems we are stumbling in establishing who is responsible for what at the provincial and federal levels.

• (1440)

There have been protests in Cache Creek, where there is a major GVRD dump site. People have protested against bringing these infected birds into the area. This leaves the feeling that no one knows what is really going on, something which is reinforced by the farmers, who do not know what is going on. No one can put a handle on the outbreak.

I do not think anyone is trying to lay blame. Officials are looking at how to contain the outbreak and deal with it effectively and immediately. However, this has been an issue for two months now. There was a recent outbreak at a Cloverdale farm. As opposed to being able to contain the situation, we are stumbling along. Again, I lay no blame on anyone.

Is the federal government responsible for establishing emergency programs to deal with an issue of this nature, or does such responsibility revert to the provincial government? Establishing jurisdiction is important in dealing with an outbreak of this sort.

Senator Austin: Honourable senators, Senator St. Germain has raised a number of points.

First, I would like to make it clear that the CFIA reported today that avian influenza has been detected on 33 commercial premises and in 10 backyard flocks in the Fraser Valley area. The new sites are outside the original 10-kilometre-wide hot zone where the first avian flu cases were confirmed in February. All backyard flocks with a confirmed infection have been depopulated. Depopulation continues on a priority basis for all other premises.

The health of animals and its role in the human food chain is the responsibility of the federal government. As Senator St. Germain knows, under the Health of Animals Act we have established a program of compensation when the federal government orders the destruction of infected or potentially infected animals and, in this particular case, poultry. The disposal of the carcasses is the responsibility of the provincial government, which has been assiduous in attempting to supervise the destruction of poultry either infected or ordered to be destroyed because of potential infection.

There have been problems in British Columbia with some communities whose populations fear the contagion of these birds. Health scientists say that the level of contagion risk to humans is extremely low. They also say that once these birds are dead they are no longer infectious. There are communities that do not want these bird carcasses on any terms whatever.

I believe the province has been doing very well under the circumstances and that both governments have cooperated extremely well. The poultry industry is aware of and has approved the measures being taken. Issues of compensation are not contentious, and the federal government has begun to pay compensation.

As to why this situation has been going on for this long, I answered that inquiry in response to the first question posed by the honourable senator. We do not know. Scientists cannot discover the nature of the transmission vehicle. Speculation has been that infection is carried on equipment or perhaps on the clothes of farm workers who go from one farm to another. In the last few weeks, those people have been given new clothing that was not used in a previous exposure and the contagion has continued.

Senator St. Germain: Honourable senators, the Leader of the Government has just said that there are 33 cases. This means that there have been two new cases over the course of the last 24 hours, further exacerbating the situation.

It is not a question of being critical. The province is doing as much as it possibly can, as is the CFIA.

Why is it that other areas have been able to contain the spread of the virus so rapidly and we have not? There must be an explanation. Perhaps it will emerge down the road. At the present time, the concern of the farmers is that the process of arresting the spread of the virus seems to be prolonged.

Senator Austin: Honourable senators, thus far, the contagion has been contained to the Fraser Valley, which is a very large area. Chinese in the provinces of Guangdong and Fujian took several weeks to depopulate very substantial bird flocks. Senator St. Germain may recall that every bit of poultry was destroyed in Hong Kong in order to deal with an avian flu epidemic.

The only way known to science to destroy this contagion is to destroy the population entirely and then rebuild it after the period of infection has lapsed.

INTERNATIONAL TRADE

UNITED STATES— BOVINE SPONGIFORM ENCEPHALOPATHY— OPENING OF BORDER TO LIVE CATTLE EXPORTS

Hon. Leonard J. Gustafson: Honourable senators, my question relates to the United States trade ban on live cattle.

Now that the U.S. Department of Agriculture has decided to lift the remaining restrictions on Canadian beef from younger animals, which effectively opens the door to $170 million of Canadian beef exports to the U.S., could the Leader of the Government in the Senate comment on when the government expects the U.S. to end the trade ban on live cattle?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information for Senator Gustafson as to when the Government of the United States may come to a conclusion on live cattle being moved into the U.S. market.

HEALTH

UNITED STATES— BOVINE SPONGIFORM ENCEPHALOPATHY— TESTING STANDARDS FOR DETECTING DISEASES

Hon. Leonard J. Gustafson: Honourable senators, we certainly know that the issue is moving younger cattle on the hoof into the United States. Undoubtedly, the Prime Minister will raise the U.S. trade ban on live cattle when he visits the President at the end of the month. However, as we know, the battle against protectionism by the American government must be fought on other fronts. Senators, including Democratic presidential candidate John Kerry, as well as Hillary Clinton, contend that Canada has lax testing standards for mad cow disease. Nothing could be further from the truth. Our scientists and the Department of Health have done an excellent job, which has been revered around the world. What will the government do to set the record straight on this very important health issue?

Hon. Jack Austin (Leader of the Government): As Senator Gustafson knows, the consultation period that was initiated by the Department of Agriculture in the United States, and on which we exchanged comments some two weeks ago, has closed. We believe that the U.S. ought to rule on a positive resumption of imports of live cattle under as well as over the age of 30 months.

• (1450)

It is the view of the Canadian government that the United States Department of Agriculture will take a science-based approach. It is also the view of the Canadian government that should the United States take a science-based approach, it will then find that Canadian cattle can be safely imported into the United States. However, it is impossible to say when they will come to the same conclusion. I think, finally, that measures are underway to refute the inaccuracy of the statements made by those U.S. senators to which Senator Gustafson referred.

Senator Gustafson: Honourable senators, when high-profile people are not informed of the situation, it is necessary to create an educational program to make them aware of what is in fact happening. Perhaps the government should write these people a letter telling them what we have done, as this is a very important matter.

Senator Austin: Honourable senators, as we know, people sometimes make comments in error because they do not have appropriate information or because they do not want to know anything different from the comment they made.

LOCATION OF NATIONAL CENTRE FOR DISEASE CONTROL

Hon. Terry Stratton: Honourable senators may not be aware that the Leader of the Government in the Senate has made known his opinion on where Canada's disease control centre should be located. Shortly after taking on his new position, Senator Austin stated in a press release:

> When researchers at the University of British Columbia were the first in the world to solve the genetic code for the SARS virus last April, it confirmed Vancouver's place amongst the top medical research centres in the world. I am convinced that B.C. would be an excellent and appropriate site for Canada's national centre for disease control.

Could the Leader of the Government in the Senate tell us if he consulted with his colleagues on the government side before releasing his statement and whether his colleagues are in full agreement with his views?

Hon. Jack Austin (Leader of the Government): Honourable senators, I consulted with as many colleagues as I could. I discovered that there were a variety of views with respect to this particular issue; but nothing I heard changed my view.

Senator Stratton: Honourable senators, in case some of you did not know and are unfamiliar with it, I would like to tell you a little bit about the National Microbiology Laboratory. It is the only Level 4 containment facility in Canada, meaning that it is the only place in the country that is able to study the most deadly of diseases in both human beings and animals. The National Microbiology Laboratory, along with its talented scientists, is recognized around the world for its state-of-the-art work. Of course, it is located in Winnipeg, Manitoba.

Given its many fine attributes, would the Leader of the Government in the Senate agree that the National Microbiology Laboratory would be the most appropriate site for the new national centre for disease control?

Senator Austin: Honourable senators, I want to say that Canada's facility located in Winnipeg is one of the world's best in terms of a Level 4 diagnostic laboratory system. It definitely is an essential part of a disease control management system for Canada. It must be there.

As Senator Stratton may not know, the question of a centre for disease control was given over to a study by scientists headed by Dr. David Naylor. His report included the unanimous opinion of some 10 or 11 other scientists that the Vancouver facilities for disease control, which are of long and experienced standing and are very integrated in their work in the fields of genomics, microbiology and epidemiology, received 12 of the 20 points awarded for the establishment of a centre for disease control, while Winnipeg received four of 20 points.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting 10 delayed answers to oral questions. The responses are for the following: a question posed by the Honourable Senator Stratton on March 11, 2004, concerning payouts to EDS Canada for the gun registry computer system; a question posed by the Honourable Senator St. Germain on March 29, 2004, regarding British Columbia's outbreak of avian influenza in the poultry industry; a question posed by the Honourable Senator St. Germain on March 23, 2004, regarding protocol for flying flags at half mast; a question posed by the Honourable Senator St. Germain on March 10, 2004, concerning consumer beef prices; a question posed by the Honourable Senator Spivak on March 24, 2004, concerning mandatory labelling of genetically modified grains; a question posed by the Honourable Senator Spivak on February 26, 2004, concerning bovine spongiform encephalopathy — the decision not to ban blood in feed; a question posed by the Honourable Senator Sparrow on February 16, 2004, concerning the cost of the Canadian firearms program; a question posed by the Honourable Senator Meighen on February 26, 2004, regarding the compensation for veterans exposed to chemical agent testing; a question posed by the Honourable Senator Gustafson on February 5, 2004, regarding BSE's effect on cattle trade; and a question posed by the Honourable Senator Gustafson on February 26, 2004, concerning the income stabilization program — support of provinces.

I want to say to Senator Lynch-Staunton that I gave him an undertaking some weeks ago and have not been able to keep it. However, I want to assure him that I am assiduously pushing the people who get the answers, and I hope to have them in the near future.

JUSTICE

PAYOUTS TO EDS CANADA FOR GUN REGISTRY COMPUTER SYSTEM

(Response to question raised by Hon. Terry Stratton on March 11, 2004)

In the fiscal year 1997-1998, EDS was awarded the original contract to develop, implement and manage the Canada Firearms Centre information system. As of December 31, 2003, the Canada Firearms Centre has paid EDS approximately $165 million to develop and subsequently operate the information system. I would like to point out that the IT system developed by EDS is operational. It has been working since the law came into force in December 1998. To date, it has been used to license almost two million firearm owners and to register almost seven million firearms. It has also been successfully enhanced over the years to provide improved services to Canadians, for example, by means of Internet transactions.

AGRICULTURE AND AGRI-FOOD

BRITISH COLUMBIA—OUTBREAK OF AVIAN INFLUENZA IN POULTRY INDUSTRY

(Response to question raised by Hon. Gerry St. Germain on March 29, 2004)

The Canadian Food Inspection Agency (CFIA) is allowing products to move with general and specific permits, weighing the risk of spreading disease when issuing these permits. This will remain in place until it is clear that there is no further infection in the area and the incubation period of the disease is past (3 weeks) without further infection.

Table eggs that have been washed and graded, are allowed to move from the control area to all of the province of British Columbia. Cooked poultry products can be moved any where in Canada.

Movement restrictions are being reassessed as more information emerges through the CFIA's surveillance and investigation activities. We will seek to minimize these restrictions, where possible, but our first consideration is stamping out this disease.

CFIA scientists are completing a risk assessment and consulting with the industry and provincial governments. The continued discovery of new infected flocks must also be taken into account.

For domestic purposes, the restrictions will be lifted in the control area after at least 21 days have elapsed after the last case has been reported and following the completion of the stamping-out policy and disinfection procedures.

Compensation

The CFIA provides compensation to owners of animals ordered destroyed under the authority of the *Health of Animals Act*. The compensation program is part of the CFIA's effort to control or eradicate animal diseases that threaten Canada's livestock population. Such diseases are listed in the Reportable Diseases Regulations.

The compensation program is designed to encourage owners to report disease in their herds and flocks at the earliest signs, thereby preventing or reducing the spread of disease and assisting owners in rebuilding their herds. The control of animal disease is a shared responsibility of the owner, the industry, and the federal government. In addition to the human and animal health benefits of reporting disease in farm animals, public confidence in Canada's safe food supply is enhanced. Early reporting and control of any disease outbreak also helps Canada maintain its excellent international animal health status which bolsters Canadian exports of animals and animal products.

The amount of compensation awarded to owners is determined by an assessment of the market value of an animal and takes into consideration factors such as genetic background, age and production records. If an individual animal or a small number of animals are ordered destroyed, the veterinary inspector, with the written consent of the owner, may establish the value based on knowledge of the local market.

Each animal is evaluated and its market value is determined; however, the compensation awarded is subject to maximum levels set out in the Compensation for Destroyed Animals Regulations. The owner is awarded market value less the value of the carcass received if salvage is possible, but if the animal's market value is equal to or exceeds the maximum allowed, the owner is awarded the maximum compensation amount.

Owners of animals ordered destroyed may also be awarded compensation for disposal costs including transportation, slaughter, labour, and equipment. Additionally, compensation is paid for things such as contaminated animal products or feedstuffs that are ordered destroyed to control the disease.

The *Health of Animals Act* does not provide compensation for costs associated with testing animals. The farmer is compensated, however, when an animal dies during inspection or testing, or is injured so severely that the animal has to be destroyed during inspection or testing. Producers whose farms are found to be infected are not paid for costs such as feed and labour, including the producer's time, nor for cleaning and disinfecting the infected premises.

The compensation provisions of the *Health of Animals Act* are not designed to address impacts of control measures on other producers in a control area or the impacts of market changes, nor are they intended as insurance. The *Act* is intended to provide compensation for animals destroyed as a means of encouraging animal owners to report specific diseases in their herds and flocks at the earliest signs, thereby preventing or reducing the spread of disease.

Disease eradication programs in livestock and poultry are not only for the public good, but for the good of the industry itself. Historically, producer groups have agreed that the financial cost of an eradication program (testing costs, mustering fees, etc) is a worthwhile investment in the future of their industry and the protection of their families and enterprises against animal diseases.

HERITAGE

PROTOCOL FOR FLYING FLAGS AT HALF MAST

(Response to question raised by Hon. Gerry St. Germain on March 23, 2004)

The current policy regarding the half-masting of the National Flag of Canada was adopted by cabinet in 1966 and revised in 2003. Upon the death of a member of the Privy Council, the National Flag of Canada is flown at half-mast on all federal buildings in the member's city of residence until dusk of the day of their funeral. This does not include the flag which flies atop the Peace Tower, should the member's city of residence be Ottawa, Ontario. This flag is lowered to half-mast from dawn until dusk on the day of the funeral of the Member of the Privy Council.

Clause 7 of the policy states that:

> Upon the death of a Privy Councillor, who is not a current member of the Canadian Ministry, or a current Senator, the Flag is flown at Half-mast:
>
> A. on all federal buildings and establishments in his or her place of residence, excluding the Peace Tower if the place of residence is Ottawa, from the time of notification of death until sunset on the day of the funeral or the memorial service;
>
> B. on the Peace Tower from sunrise to sunset on the day of the funeral or the memorial service, as the case may be.

This should explain why the flags on Parliament Hill, with the exception of the Peace Tower, were flying at half-mast on March 23, 2004. They were at half-mast in honour of the late the Honourable Mitchell Sharp, P.C., C.C., whose city of residence was Ottawa. On March 27, 2004, the National Flag of Canada on the Peace Tower was lowered at dawn and kept at half-mast until dusk that very same day.

The policy regarding half-mastings in Canada is available for all Canadians on the Department of Canadian Heritage Web site at:

http://www.pch.gc.ca/progs/cpsc-ccsp/berne-halfmasting/index_e.cfm.

AGRICULTURE AND AGRI-FOOD

CONSUMER BEEF PRICES

(Response to question raised by Hon. Gerry St. Germain on March 10, 2004)

The BSE situation has affected all participants in the beef supply chain and I appreciate the concerns that have been raised on this issue by both cattlemen and consumers. The Government of Canada is committed to ensuring that a fair, open, and efficient marketplace exists. The Competition Bureau has indicated that the evidence to date does not suggest behaviour that is contrary to the Competition Act. The Bureau has said that it will consider any additional information brought to its attention that may point to a breach of the Act.

In addition, on March 11, 2004, the Government of Alberta also released a report into the issue concerning consumer beef prices. This report concluded that packers had not profited unfairly from the BSE situation. The report indicated that, although cattle prices have fallen significantly, many new costs have arisen. These include the costs to implement new procedures to minimize contamination, such as SRM removal brought forward by this government to ensure food and animal safety. The report also indicated loss of export markets for certain products and cuts has translated into a reduction of carcass value.

On March 22, 2004, representatives of the Canadian Council of Grocery Distributors appeared before the Standing Committee on Agriculture and Agri-Food. The presented data showing that average retail beef prices in their members' stores have fallen 13.8 per cent since May, 2003. The Canadian Cattlemen's Association has suggested that claims that one sector of the beef industry is profiteering at the expense of others are simplistic and require more in-depth analysis.

The Government of Canada also announced a few days ago that a further $680 million will be provided directly to cattle producers to help them with cash flow difficulties during this period of uncertainty, and $250 million to Canadian agricultural producers, including cattle producers, as transitional support until new Business Risk Management programming is fully implemented later this year.

The most pressing issue in resolving the BSE crisis, however, is the reopening of international borders. The Government continues to work closely with foreign officials to expedite this process.

GENETICALLY MODIFIED GRAINS— MANDATORY LABELLING

(Response to question raised by Hon. Mira Spivak on March 24, 2004)

Sound science is the basis of the federal government's health, safety and environmental assessments of new products. As with any new product of biotechnology, biotechnology-derived wheat will be subjected to a thorough safety assessment before the Canadian Food Inspection Agency (CFIA) would consider authorizing its unconfined environmental release. No wheat with new traits will be approved until the proponent has completely satisfied all regulatory requirements and has provided the CFIA with sufficient evidence that the crop will not pose a significant risk to the environment.

Along with a complete characterization of the modified crop, the CFIA will consider the impact of the biotechnology-derived wheat on weediness and pollen outflow to related species, as well as the effect on non-target organisms and on biodiversity. As part of this environmental assessment, any impacts on the control of volunteer wheat as a result of the novel traits will also be considered.

In order for a wheat variety to be sold in Canada, it must be registered by the Variety Registration Office of the CFIA, pursuant to Part III of the *Seeds Regulations*. The registration process for a Plant with Novel Trait (PNT) wheat variety and a conventional wheat variety is the same with the exception that a Plant with Novel Trait (PNT) wheat variety must be approved for human consumption by Health Canada and for unconfined environmental release and feed use by the CFIA before it is registered.

The variety registration process ensures that new varieties of wheat being introduced in Canada have agronomic, disease and quality merit. Recommending committees recognized by the Minister, evaluate new varieties and make recommendations to the Variety Registration Office as to whether or not they meet the merit criteria necessary for registration. Market acceptance is not a consideration for variety registration.

Once a biotechnology-derived crop has been granted approval for commercialization, it is treated just like any other commodity crop. Growers are free to implement identity preservation systems for certain specialized types of production and can co-operate with their neighbours to minimize the impacts of surrounding production methods. The CFIA continues to sponsor public research into pollen flow and the resulting data can be used by farmers who wish to minimize the impact of pollen flow from surrounding crops.

The CFIA listens to the concerns of all producers. Biotechnology and organic agricultural practices are but two production approaches available to people working in the agriculture and agri-food sectors. Producers need access to a variety of technologies and production techniques that offer the potential for improved returns, conservation of natural resources and greater flexibility in production management.

Organic production practices are established by organic grower groups, who although requiring zero tolerance for pollen flow from biotechnology-derived crops, know that gene flow from crop production is not unique to biotechnology-derived crops.

For matters of health and safety, the Government requires mandatory labelling in Canada. To date, the foods that have been assessed and approved by Health Canada are considered to be as safe and as nutritious as foods presently on the market. As such, Health Canada can require mandatory labelling if there has been a change in nutrition or safety.

In Canada, labelling policy allows industry to voluntarily label products for method of production (i.e. product of biotechnology), provided the label is truthful, not misleading and complies with other regulatory standards. This approach allows food manufacturers to meet consumer demand for information while remaining consistent with international trade obligations.

The Government of Canada has supported the work undertaken by the Canadian General Standards Board, since 1999, to develop a Canadian standard for the voluntary labelling of genetically engineered foods. The Standard is currently in the final stage of approval at the Standards Council of Canada.

BOVINE SPONGIFORM ENCEPHALOPATHY— DECISION NOT TO BAN BLOOD IN FEED

(Response to question raised by Hon. Mira Spivak on February 26, 2004)

The Honourable Mira Spivak was advised that Canada does not plan to ban the feeding of cow blood to calves. The Honourable Senator asked what consultations took place between the United States FDA officials and U.K. officials before our government decided to continue this ill-advised practice? What science supports our policy of which governments in the U.S. and the U.K. are unaware?

For the moment, the ruminant feed bans in both Canada and the United States allow for the feeding of blood products derived from any species (including ruminants) to other ruminants. The U.K. is subject to a European Union-wide animal product to farm animal feeding ban, which includes blood products. Under these restrictions, animal origin protein from all species of animals are prohibited for feeding to livestock.

On January 26, 2004, the U.S. Food and Drug Administration (FDA), the agency responsible for administering the feed ban in the U.S., announced they would be moving to make several amendments to their ban, including the removal of the exemption for feeding blood products to ruminants. As of yet, the FDA has not published their amendments so it is not known what blood restriction will apply. The Government of Canada was not given any indication by the FDA that a change on the feeding of blood products was forthcoming nor were any formal discussions concerning the feeding of blood products held between the Government of Canada and FDA officials prior to the making of this announcement.

With respect to Canada's position on the feeding of blood products to ruminants, scientists at both the Canadian Food Inspection Agency (CFIA) and Health Canada have reviewed the current knowledge about the potential for blood to contain and transmit bovine spongiform encephalopathy (BSE) infectivity and have concluded that the risk is very low. While there is evidence indicating BSE can be transmitted from infected sheep to other sheep via blood transfusion, there is no evidence indicating the disease can be transmitted via the consumption of blood products processed into animal feed ingredients (for example, blood meal, dried blood plasma or serum).

At the moment, no final decision has been taken on whether a change is necessary. But all options to strengthen the current feed restrictions remain under active consideration.

JUSTICE

REVIEW OF GUN REGISTRY PROGRAM

(Response to question raised by Hon. Herbert O. Sparrow on February 16, 2004)

The Firearms Program has not cost two billion dollars — in fact, it has not even cost one billion dollars. We do not anticipate reaching one billion dollars until sometime during 2004/05.

As of March 31, 2003, the full cost for the Program was $814 million as reported in the 2002/03 Department of Justice Departmental Performance Report. This number includes the Information Technology costs and the reimbursements to the provinces and federal partners, such as the RCMP and the Canada Border Services Agency. This total also includes all of the supplementary estimates that were approved by Parliament.

The money that has been invested in the Canada Firearms Centre's information technology system, including its development and operation over the past seven years, has been money well spent. The information technology system has been operational since 1998, the date the law came into effect. The system has been used successfully to license 2 million firearms owners and to register almost 7 million firearms.

The total projected expenditure relating to the Program for 2003/04 is approximately $133 million. This amount represents $116 million for the Canada Firearms Centre and an estimated $17 million identified by our other federal partners. All of these monies were approved by Parliament, and I can assure you that the Program continues to focus on efficient and cost-effective operations.

VETERANS AFFAIRS

COMPENSATION FOR VETERANS EXPOSED TO CHEMICAL AGENT TESTING

(Response to question raised by Hon. Michael A. Meighen on February 26, 2004)

While a dollar value cannot be placed on individual pain or suffering, this tax free payment offer of $24,000 is being provided to these Veterans as a gesture of goodwill in recognition of their service. The amount is consistent with ex-gratia payments provided to other groups of Veterans such as the Hong Kong Prisoners of War. It is estimated that 2,040 veterans or primary beneficiaries of veterans who participated in Suffield and Ottawa would be alive today to receive this payment.

AGRICULTURE AND AGRI-FOOD

BOVINE SPONGIFORM ENCEPHALOPATHY— EFFECT ON CATTLE TRADE

(Response to question raised by Hon. Leonard J. Gustafson on February 5, 2004)

The Government of Canada reaffirmed its commitment to producers on March 22, when the Prime Minister and the Minister of Agriculture announced the Transitional Industry Support Program, which will provide nearly $1 billion to the agricultural sector. $680 million of this is earmarked specifically for cattle producers, to help them with cash flow difficulties during this period of uncertainty. Another $250 million will be available to all Canadian agricultural producers, including cattle producers, as transitional support until new Business Risk Management programming is fully implemented later this year. The government will continue to monitor the situation facing the sector, and may consider additional programming to address specific needs.

As the honourable senator knows, the Government of Canada has worked closely with its provincial counterparts and industry from the outset to find solutions to the situation that has resulted from the confirmation of BSE in Canada. Last summer, governments committed $520 million to the BSE Recovery Program, which succeeded in keeping cattle moving through the value chain and helped prevent a backup of animals into the domestic market. In the fall, governments committed up to $200 million for the Cull Animal Program, which was designed to help producers feed older animals (whose meat could not and still can not be exported) until they could be slaughtered domestically.

But as the honourable senator surely knows, the real solution to the situation facing the Canadian cattle and beef sector is the reopening of export markets for live cattle and beef products. Let me assure him that the Federal Government, provincial governments, and the industry are committed to working together to this end, and will not rest until this goal is realized.

The Government of Canada has demonstrated its commitment, at the Prime Ministerial, Ministerial and officials level, to work with counterparts in the United States to normalize trade in cattle and beef between our two countries.

President Bush publicly stated that science will be used as a basis in the U.S. Administration's approach to this issue, and Canada's efforts have centred on the scientific rigour of our BSE risk mitigation measures. The U.S. Government's confidence in these measures was reflected in the partial reopening last September of the U.S. border to certain Canadian beef products derived from animals under thirty months of age and in their subsequently adopting nearly identical measures after the detection of BSE in Washington State.

On November 4, 2003, a proposed rule was promulgated which, if implemented, would allow the resumption of U.S. imports of certain classes of live animals from Canada, including youthful slaughter and feeder cattle, sheep and goats. This process was temporarily suspended following the detection of BSE in the United States in December, but was re-started in early March after the joint Canada-U.S. investigation concluded. Comments are now being requested on the possibility of allowing imports of beef products from animals over thirty months of age.

In addition, almost immediately following the meeting between Prime Minister Paul Martin and President Bush, Canada, the U.S. and Mexico committed to working together toward harmonizing policies and regulations on BSE, and to managing BSE within a North American context. Since last September, the three countries have been pressing the World Organization for Animal Health (OIE), to update the international guidelines for BSE to reflect a risk-based approach that takes into account current understanding of the disease.

The U.S. has committed to work with us to reintegrate the North American market on a timely basis to the full extent possible. While it is premature to predict when the proposed U.S. live cattle rule will be finalized, we are hopeful that this will take place in a timely manner. All indications coming from the U.S. continue to be that science will be the deciding factor in the finalization of the rule and the resumption of live ruminant trade.

The option of processing more cattle in Canada is being explored at many different levels. Different groups are proposing the construction of new plants or the expansion of existing facilities. New packing plant capacity is expected to come on line at within the few months in Ontario and in Prince Edward Island.

Increasing domestic slaughter capacity encourages value-added processing in Canada. This would create wealth and jobs in this country, and reduce some of our dependence on the export of live animals. Governments and industry are working within the Beef Value Chain Round Table forum to explore the issue of increasing domestic slaughter capacity, in the context of long term sustainability.

The development of new markets is a more challenging task. Governments and industry have been working to reopen historical export markets; to widen the range of beef products that can be exported to countries that are already open (e.g. United States, Mexico); and to identify new markets. The difficulty in selling Canadian beef, given its high quality and resulting high price, is that sales are limited to high quality beef markets.

In November, the Government of Canada provided $1.5 million to the Beef Information Centre to support the marketing of beef from older cattle that could not be exported due to current border closures. This was done to encourage the consumption of beef domestically, further reducing our dependence on the export of live animals.

INCOME STABILIZATION PROGRAM—
SUPPORT OF PROVINCES

(Response to question raised by Hon. Leonard J. Gustafson on February 26, 2004)

In response to the Honourable Gustafson's question regarding the coming into force of the Canadian Agricultural Income Stabilization (CAIS) Program under the Agricultural Policy Framework. The launch of the CAIS program was announced in December 2003. All provinces have signed the Implementation Agreement. The CAIS program is available to producers in all provinces.

In December, program changes were suggested by industry. The following changes have been incorporated in amending agreement number 3.

- a simplified deposit option for 2003 which allows producers to only deposit 1/3 of the normal amount required to fully access government payments corresponding to the level of coverage selected;

- a commitment to review deposit options for 2004;

- raising the cap on the government payment from $975,000 to $3 million per producer; and

- governments contributing to 60 percent of negative margin coverage.

In order for the amendment to come into effect it must be signed by two-thirds of the participating provinces representing more than 50 per cent of total production margin.

To date, three provinces (Alberta, Ontario and Prince Edward Island) have signed the amending agreement. Several other provinces have indicated that they will be shortly seeking necessary authorities.

[*Translation*]

LIBRARY AND ARCHIVES OF CANADA BILL

BILL TO AMEND—MESSAGE FROM COMMONS—
SENATE AMENDMENTS CONCURRED IN

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons returning Bill C-8, to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain acts in consequence, and acquainting the Senate that they have adopted the amendments made by the Senate to this bill without amendment.

[*English*]

ORDERS OF THE DAY

PUBLIC SAFETY BILL 2002

THIRD READING—DEBATE ADJOURNED

Hon. Joseph A. Day moved third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

He said: Honourable senators, Bill C-7 is an important piece of legislation, which the Deputy Prime Minister has described as one that is required to fill gaps and one that is urgently needed. It is in that light that I would like to present my submissions on behalf of the government with respect to this bill.

Bill C-7 seeks to enhance public safety and to establish a new act to implement the Biological and Toxin Weapons Convention, a convention that was entered into by the Government of Canada some time ago. The bill was reinstated in the other place in February of this year and received first reading in the Senate on the same day. On March 11, the bill received second reading and was referred to the Standing Senate Committee on Transport and Communications. Honourable senators will recall that the Chair of the Standing Senate Committee on Transport and Communications, the Honourable Senator Fraser, reported the bill to the Senate without amendment on April 1, 2004.

• (1500)

[*Translation*]

The government's first responsibility is to ensure that Canadians are safe. All the other rights and freedoms are second to this. This is not solely about the security of long-time Canadians, but also current and future immigrants and newly established Canadians. In fact, Canada is so attractive to potential immigrants because it offers a secure and non-violent society.

Bill C-7 will give twelve departments, including the authorities responsible for law enforcement and the agencies responsible for border control and intelligence, additional tools to better evaluate threats to transportation and national security, and to better intervene and prevent such threats.

[*English*]

The Senate committee heard from various witnesses including the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness, the Minister of Transport, the RCMP Commissioner, the Director of CSIS, the Privacy Commissioner of Canada, the Canadian Bar Association, representatives of B'Nai Brith Canada, the Muslim Lawyers Association, the International Civil Liberties Monitoring Group, the Canadian Association of University Teachers, Air Canada, Air Transat, the Air Transport Association of Canada, the Canadian Border Services Agency, and Citizenship and Immigration Canada.

Bill C-7 and its predecessors have been the subject of much debate over several years. Since it was first introduced two years ago a number of amendments have been made to improve Bill C-7 and, as a result, it has evolved into a more balanced bill.

The bill was first written in the months immediately following the terrible events of September 11, 2001, when departments were assessing how we, as a government, reacted to the crisis and the necessary actions that had to be taken. A realization arose that we had, in one sense, been lucky in that some of the regulatory tools that we needed at that time to deal with the horrendous tragedy were already in place.

In the hours and days that followed September 11, several public servants worked to cope with the incredible impact of this horrific event. Then came the time when ministers and public servants had to evaluate whether we had the tools to handle the next event, an event we all hope will never happen but, realistically speaking, is likely to happen.

As I said, the bill was drafted in those first few weeks and months following September 11, 2001 and has been amended and tested against potential events since that time. One of the areas of concern was and is that the ability to react quickly to unprecedented and heretofore undreamed of events must be there. No one would have believed that a number of aircraft full of innocent people would have been hijacked with such precise timing and then used as bombs to kill many more innocent people. That concern resulted in the proposal before us to expand the existing limited power to make instant regulations to be known as interim orders. This provision caused much debate and discussion, and I think that the changes made to the earlier versions of this bill serve to illustrate the balance that has been sought and achieved in this bill.

While in committee, we heard testimony about the unpredictable and more difficult reality of today's threats against public safety. September 11, 2001 taught us that airplanes are no longer just a means of transportation. They can be used as bombs. The international threat environment has reached North America in a way it never did before and we must do what we can to prepare for the next attack. For Canada and our allies throughout the world, heightened and sustainable vigilance is the new reality. While Canada may not be a primary target for terrorist attack, we have been named as a possible target, and we must not forget that. We must be prepared. The cry has gone out from our Senate Standing Committee on National Security and Defence for better preparation. Most recently, there was a report by the Auditor General discussing emergency preparedness and how well we are handling matters.

I must say that some of the provisions in this bill respond to some of the concerns outlined in those reports and others.

As Minister McLellan has said:

> ...if you look around this world in terms of what is happening, there are more global threats, and more threats of terrorism, and we have an obligation to be able to tell Canadians that we are doing everything we can within reason to protect their safety and security. We have an obligation to do our part in conjunction with our allies to help protect the people who live in this world. If we do less, we will have failed.

Minister Valeri also spoke to this new reality when he advised that this bill gives the Government of Canada the ability to make air travel more secure. That is what we seek to achieve.

Some have questioned why we need this bill when the government already has many provisions that allow for rapid reaction in times of emergencies. The short answer is that no other legislation covers the subject matter to which these new proposals apply. The Deputy Prime Minister, during her appearance before the committee, noted:

> ...the proposals in this bill come at a time when it is imperative that Canada close the legislative gaps that currently exist with respect to national and transportation security.

We need this bill to provide the level of security that the public expects and, indeed, deserves. The answer must begin by recognizing that legislation deals with the prevention of terrorist actions as well as with the response to such actions.

Under "prevention" the bill deals with matters such as requirements for the implementation of security measures for pipelines, the sale of explosives, the manufacturing of biological and toxic weapons, and the assessing of individuals to be onboard an aircraft.

With respect to the assessing of individuals to be onboard an aircraft, consider, for example, a flight from Toronto to Vancouver, which I referred to during second reading, involving a large aircraft carrying a large fuel load. The aircraft will fly over several Canadian cities as well as several American cities. I can buy the ticket on the Internet and I can check in at the electronic kiosk. My possessions will be screened at the security point and, at the time of boarding, I need only present any document with

my picture on it. The security people cannot go behind that. Whatever name I have used and whatever picture is on the document is acceptable. Under Canadian law, no one can examine who I am from a security point of view for this flight, other than by referring to the documentation that I have presented.

As the law now exists, we do not know who is flying and we are not allowed access to that information. Being in such a position is not helpful in trying to prevent terrorist attacks.

• (1510)

[*Translation*]

During its consideration, the committee was careful to ask if the appropriate balance between protecting the privacy of Canadians and protecting against serious threats, an important objective, had been achieved.

I believe that Bill C-7 does strike this balance. Many senators agreed that we should be better equipped to identify individuals in Canada and on our planes who intend to do us harm. Senator Beaudoin's assessment of Bill C-36 is relevant for the purposes of analysing this legislation in the spirit of the Charter of Rights and Freedoms.

Bill C-7 strikes an appropriate balance between the government's duty to ensure public safety and its duty to respect the rights of individuals as guaranteed by the Charter.

We believe that we have taken important measures to ensure privacy protection and strike a balance between that right and security concerns.

Canadians want the assurance that, when their children board a plane to travel or to visit their grandparents, they will reach their destination safe and sound.

[*English*]

What price must we, as Canadians, pay to ensure safety and security? That was the question asked by Senator LaPierre of one of our witnesses. Clearly, honourable senators, the role for this legislative body is to determine the balance between our privacy rights, our fundamental rights and liberties, and the collective right to security, the security that the public expects. That is the balance we are trying to achieve with this Bill C-7.

In this country, we cherish our fundamental rights, our freedom and our privacy. In fact, that is what makes Canada so attractive to new immigrants. They know they can come here and have that security of person that they do not have in other places. We do recognize that we may have to give up a bit of those rights for the public good, to ensure the safety and security of others. It is very clear, honourable senators, that Canadians do want a secure society.

The Minister of Transport, along with his colleague the Deputy Prime Minister, who is also the Minister of Public Safety and Emergency Preparedness, appeared before our committee on March 30. They were both of great help in advancing our understanding of the requirements for this legislation and the subsequent balancing that they have gone through over a considerable period of time and the urgency of this bill.

The Deputy Prime Minister stated in that appearance before the committee the following:

> We cannot allow ourselves to become complacent. Rather, we must remain vigilant to guard against new threats. We must always be looking for ways to improve our strategies and emergency response capabilities. We must ensure that we do this in a way that reflects Canadian values, safeguards our liberties and respects our laws, our Constitution and our sovereignty.

In appearing before the standing committee, the Minister of Transport responded to concerns of certain senators that the bill seemed to focus mostly on airline security. The Minister of Transport advised that security legislation already exists for other modes and pointed out that, in addition, Bill C-7 introduces security for pipelines and certain power lines, as well as enabling significant security improvements to the marine mode of transportation.

Specifically, the Minister of Transport referred to Part 12 of the bill, which would allow the government to permit him, as Minister of Transport, to enter into agreements respecting the security of marine transportation or to make contributions or grants in respect of the cost or expense of actions that would enhance security on vessels and at marine facilities at our ports.

I quote the Minister of Transport:

> The part is necessary because the existing Canada Marine Act constrains the government from providing funds to port authorities, for instance, to support their capital plans —

— for additional security measures.

> As you know, senators, security circumstances have changed considerably since that provision was put into the Canada Marine Act in 1998.

That statement is quite clear, honourable senators. We would agree with the minister that the circumstances have changed considerably since that time. That is part of the approach of Bill C-7, to go through many different statutes. There are 23 different statutes that are touched upon in this proposed amending legislation — to clarify, to rectify and to enhance, all from the point of view of public security.

In speaking to this part of the Canada Marine Act and Bill C-7, the Minister of Transport noted that last month's budget made reference to marine security as part of the government's commitment over the next five years to address security priorities. In the budget, the government committed a further $605 million to address security issues in addition to the over $7 billion in funding for security measures that were announced in the 2001 budget.

[*Translation*]

I will, if I may, make a few general comments on certain provisions that are essential to the security of Canadians, but that were less touched on during our deliberations. They will certainly be of interest to the senators.

As far as Part 1 is concerned, the proposed changes to the Aeronautics Act would make it clear that aviation security requirements would apply not only to passenger safety but also to the safety of the public, crew members, aircraft, aerodromes and other aviation facilities, such as control towers and runway markers.

The proposed provisions relating to the Aeronautics Act would authorize requirement of security clearances for those wishing to take part in pilot training, to pilot a crop-dusting plane, or to pilot or crew on a large private aircraft.

As well, any aircraft registered outside Canada would not be allowed to land at an aerodrome in Canada unless the aircraft and all persons and goods on board had been subjected to requirements that are acceptable to the minister.

Similarly, outside of Canada, the minister could assess the security of air carriers providing, or contemplating providing, flights to Canada, or that of the facilities used in such carriers' operations.

• (1520)

[*English*]

The last proposed provision of the Canadian Aeronautics Act I will mention concerns so-called acts of air rage. The proposed provision would ensure that no person could engage in any behaviour that endangers the safety or security of an aircraft in flight or of persons on board an aircraft in flight by intentionally doing one of the following: interfering with the performance of the duties of a crew member, lessening the ability of any crew member to perform that crew member's duties, or interfering with any person who was following the instructions of a crew member.

Following the events of September 11, 2001 and subsequent anthrax-related incidents in the United States and, to a degree, here in Canada, the serious harm occasioned by hoaxes having the appearance of actual terrorist activity was felt here in Canada as well as in many countries around the world. Bill C-7 contains measures to defer that type of harmful behaviour. More specifically, Part 4 of the bill will create a new Criminal Code offence that criminalizes both those who convey false information that is likely to cause reasonable apprehension that terrorist activity is likely to occur, and those who commit acts that are likely to cause a reasonable but false apprehension that terrorist activity is occurring or is likely to occur. Those are the only aspects that deal with the Criminal Code, whereas honourable senators will recall that the Criminal Code was the primary focus of Bill C-36 when we dealt with that.

I will now turn to Part 7 of the bill, which deals the Explosives Act. Here, the main thrust of the proposal is to ensure that it would be very difficult to obtain explosives for improper purposes. The purchase of explosives or components of explosives has been adequately regulated for some time in order to ensure their safe use. However, as evidenced tragically by Oklahoma City — and, more recently, in Great Britain in the past few weeks — ordinary substances such as ammonium nitrate, a fertilizer, can be abused for improper purposes. Consequently, changes are proposed under the Explosives Act that would, for instance, provide restrictions on the acquisition, possession, use or sale of any explosive or class of explosives, to deal with this new type of threat.

I should also like to mention the following important provisions contained in Part 13, dealing with the National Defence Act. Reserve Force members of the Canadian Forces who are called out for military duty during an emergency would be reinstated in their civilian employment by their employers on return from that service. I am confident that all senators will applaud this initiative.

The proposal in Part 19 of Bill C-7 would assist the federal government's Financial Transactions and Report Analysis Centre of Canada, sometimes referred to as FINTRAC — which I will refer to, with your permission, as the centre. In the fulfillment of its mandate to uncover money laundering activities or financing for terrorist activities, these amendments would allow the centre, where an agreement has been entered into, to access information from government national security databases that the centre considers relevant to carry out its mandate, and only for that purpose. That would allow the centre to share compliance-related information with financial sector regulators and supervisors.

This past March, in an *Ottawa Citizen* article on the operation of FINTRAC, it was reported that information on 25 separate cases of terrorist financing involving $22 million had been disclosed to law enforcement agencies in fiscal 2002-03. The information on 29 suspected cases of terrorist financing involving in excess of $35 million had been disclosed in the first nine months of fiscal 2003-04. I am sure that we want this very good work to be assisted in every way, which is the goal of the amendments to Part 19 of Bill C-7.

Honourable senators, the provisions with respect to interim orders, or what some people refer to as instant regulations, will only be used where there is a demonstrable requirement for immediate action to deal with a significant threat to public safety. The provisions providing for the interim orders must take authority from the act under which they are created. If there were more time, they would have to have been properly generated as regulations. If they could not have been a regulation, they cannot form the subject matter of an interim order.

As explained at committee, an interim order can be reviewed by the Standing Joint Committee on the Security of Regulations immediately upon its issuance and, as a result of an amendment to the Statutory Instruments Act that we passed here last year, the Standing Joint Committee can recommend to Parliament that the interim order be revoked. An interim order can only be made if the act — and I just made that point — that contains the authority to make a regulation about that matter provides for the authority in the form of a regulation.

I would also remind honourable senators of the requirement, provided for in Bill C-7, for Governor-in-Council approval of the interim order. That approval must be within 14 days of the issuance of the interim order; otherwise, the interim order expires automatically. There is also a requirement for the tabling in Parliament within 15 days of the interim order being made and for the publishing of the interim order in the *Canada Gazette* within 23 days. Honourable senators will see there are many checks put in place to avoid potential abuse or free wheeling use of this proposed authority.

To turn to another complex area of the bill, the issue of disclosure of air passenger information to certain foreign countries has been raised by a number of senators. The Commissioner of the RCMP and the Director of CSIS indicated in their testimony before the committee that, before air passenger information could be shared with an official in a foreign country, under the strict disclosure regime in this bill arrangements that set out privacy safeguards will be in place. CSIS already has a statutory process for entering into relations with foreign states and trading information. During her appearance before the committee, the Deputy Prime Minister committed to issuing a directive to the RCMP to have the same procedure in place to ensure they will do the same.

• (1530)

I remind honourable senators that Bill C-44, which dealt with the issue of providing passenger information to the United States, was passed in late 2001. We were required to pass that bill quickly in order to ensure that we could fly aircraft to the United States. The witnesses indicated that they anticipate similar requirements from countries within the European Community and others, in which event this legislation will provide for a framework and a model to ensure that there are proper controls on the exchange of that information. Of course, if an individual wishes to protect his or her privacy information, then he or she should not fly to that country.

Senator Lynch-Staunton: Stay home.

Senator Day: I will now talk about sharing of information with foreign governments, and I am talking about Part 11.

[*Translation*]

Part 11 would amend the Immigration and Refugee Protection Act to allow for the making of regulations providing for the disclosure of information for the purposes of national security, the defence of Canada or the conduct of international affairs. These regulations would specify the conditions relating to the disclosure of such information, thereby protecting the handling of personal information by the Canada Border and Revenue Service Agency and the Department of Citizenship and Immigration.

Such regulations would, moreover, have to be laid before each House of Parliament and each House would refer the proposed regulations to the appropriate committee of that house. Honourable senators will find this provision in favour of parliamentary overview and transparency in clause 70 of Bill C-7.

[*English*]

With respect to Part 11, the committee heard that information sharing with foreign governments currently takes place within the confines of agreements and arrangements. They are for clearly defined and specific purposes and must be compliant with the collection, use and disclosure provisions as provided for in the Privacy Act.

In response to concerns raised by Senator Jaffer, representatives of the Canada Border Services Agency and Citizenship and Immigration Canada clearly stated that racial profiling is not an element of this program or any of their programs, nor is it condoned. If honourable senators believe that racial profiling is taking place on the ground, then that is an area we should investigate, but it is not a reason to not support this bill.

The RCMP and CSIS, as well as Citizenship and Immigration Canada, also stated unequivocally that racial profiling is not condoned or authorized in Canada. They do not collect data on religion, race or ethnic background. In fact, the process of automated advance screening, such as is the case with passenger information, ensures that all travellers are reviewed in a consistent and equal fashion. The information provided by commercial air carriers is used to identify suspected or known high-risk travellers and known inadmissible persons.

Another important issue raised by several honourable senators concerns the level of accountability and oversight applicable to CSIS and the RCMP. Pertinent to this, the deputy minister provided the following information:

> A related commitment of the government was announced on December 12, 2003, was the creation of a new national security committee of parliamentarians, members of the House of Commons and senators, to review national security matters. It will be a joint committee...
>
> This committee will be unique in the culture of the Canadian Parliament... They will be sworn in as Privy Councillors and members will have access to information that will not be normally available to others. We want to swear them in so that they can have access to a wide range of secret and confidential information....
>
> This committee of parliamentarians is going to reflect a major departure in that it will be unique by being a joint committee, people sworn in as Privy Councillors, and to discharge their obligation on behalf of all Canadians, it will have to be a non-partisan venue where everyone is focused on the safety and security of Canadians.

That is the end of the quote from Minister McLellan.

In addition, Mr. Justice O'Connor will be making recommendations on an independent review mechanism for the RCMP national security activities. Minister McLellan also indicated that she would be proposing that this new national security review mechanism be used to provide a review of the RCMP activities under proposed section 4.82 of the bill.

I would like to remind honourable senators that a number of specific review mechanisms are already in place to ensure that CSIS and the RCMP be held accountable for their conduct. The Privacy Commissioner may initiate an investigation on how the agency collects, uses, discloses, retains and disposes of personal information under section 37 of the Privacy Act. Other existing review mechanisms include the Office of the Auditor General, the Security Intelligence Review Committee, the Office of the Inspector General for CSIS, and the Commission for Public Complaints Against the RCMP. Of course, there are always committees of both the House of Commons and the Senate, that have authority to review various aspects of legislation and how that legislation is being implemented.

Proposed section 4.82 of the bill has generated a lot of discussion among honourable colleagues. It seeks to provide information on air travellers in order to better inform risk assessments. Under this proposed section, airlines and operators of airline reservation systems would be asked to share passenger information upon request with designated RCMP and CSIS officials to assess threats to transportation or national security. To ensure that the right balance between security and privacy is achieved, the proposed section requires that the Commissioner of the RCMP and the Director of CSIS appoint certain designated officials only to handle that information initially. It will not be for just anyone within their agencies. Those designated officials would match the passenger information against restricted information related directly to their respective mandates under the bill. They would also be authorized to disclose that passenger information to a third party only for very restricted purposes and only if certain thresholds of reasonable belief were met — for example, if they had reason to believe that the information would assist an aircraft protective officer with his or her duties.

• (1540)

Proposed section 4.82 provides a good model of how information can be used and how it can be shared. In assessing passenger lists, it is conceivable that certain passengers may be found to have outstanding arrest warrants issued against them by a judge. This information would be passed on to a peace officer for action.

Some honourable senators questioned this indirect activity of passing on information on individuals who had an outstanding arrest warrant issued against them. Draft regulations were made available to us that listed the offences for which passenger information could be used to assist in the execution of an outstanding arrest warrant. Each of those listed offences is subject to a penalty of five years or more and is either directly or indirectly related to the mandate of the RCMP or CSIS for national security.

As was indicated by the Minister of Public Safety and Emergency Preparedness, the current draft regulations tabled with the committee include very serious offences that could place the public at risk. These offences are linked directly to potential risks to transportation security and include violent and organized crime offences. They are reflected in the draft regulations because they relate specifically to the RCMP's mandate under 4.82 to assess threats to transportation security.

From a police perspective, a fugitive with a court-ordered arrest warrant for a serious offence such as murder, kidnapping, child abduction and drug trafficking could very well pose a threat to the safety of passengers on an aircraft. Again, these draft regulations have been tabled to provide honourable senators with an opportunity to respond and to ensure transparency.

As the Commissioner of the RCMP indicated to the committee, if we were to restrict the offences to terrorist acts only, the regulations would be of limited effectiveness because terrorists may not have a criminal record. If they do, it would more likely be related to crimes such as forgery, fraud and organized crime. The regulations must support the RCMP's mandate under the bill to identify any person who could threaten transportation security in the context of its broader public safety mandate.

[*Translation*]

There were suggestions from some senators to defer passage of Bill C-7 until after Parliament had studied the anti-terrorism legislation and the investigation into the Maher Arar affair had been concluded.

The Hon. the Speaker *pro tempore*: Honourable senators, Senator Day's time is up. Does he wish to seek leave to continue?

[*English*]

Senator Day: Honourable senators, I would ask for your indulgence. I can finish quickly, but I do think it is important to go through this bill in detail, as it is an extensive bill.

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

Hon. Senators: Agreed.

Senator Day: I apologize for running over the time allotted, but this is an extensive bill and some portions of it have not been properly aired heretofore. I wanted to spend some time talking about those aspects.

Senator Lynch-Staunton: Send it back to committee then.

Senator Day: I will now touch on Bill C-36 because that bill was often referred to in debate. This is not the review of Bill C-36 that will be taking place. However, we heard so much debate on Bill C-36 that I will touch on the relationship between the two bills.

Both of these bills, Bill C-7 and Bill C-36, represent appropriate legislative responses to the threat posed by a new reality of terrorism, which is clearly not a temporary phenomenon. Each bill focuses on distinct aspects of the fight against terrorism.

The Anti-Terrorism Act, which was Bill C-36, focused on bringing terrorists to justice, cutting off their financing, and discouraging them through incarceration and charges under the Criminal Code. Bill C-7 enhances Canada's comprehensive and balanced approach to national security and terrorism in transportation. It strengthens our ability to protect ourselves and respond to terrorist acts. It recognizes that terrorist acts are likely to take place, and it deals with how we will address those activities and how we might be able to prevent some of them.

Its first goal, to thwart acts of terror, is exemplified by provisions to protect air travellers by the exchange of information, which I talked about. The second goal is to respond to unpredictable acts of terror, which is the reason for the interim order authority.

For Canada, as well as many other countries, heightened and sustained vigilance is the new reality. We must remain vigilant to guard against the new threats.

Honourable senators, we heard compelling testimony in committee about the changing face, fluidity and unpredictability of threats to Canadian security. Air travel further facilitates the globalization of such threats. We have witnessed the horrors of September 11, Bali and Madrid.

Although Canada has not been the primary target, we are a named target. Heightened vigilance is critical. Bill C-7 will enable our law enforcement, security intelligence and border agencies to assess the threats that we are facing, to share threat information with our partners and possibly prevent an incident from happening.

We also need to ensure that the tools we use to prevent crimes and serious incidents remain appropriately balanced with fundamental interests such as privacy and human rights, and that they promote transparency and accountability. The proposals in this bill come at a time when it is imperative that Canada close what the Deputy Prime Minister has described as current legislative gaps with respect to national and transportation security. Bill C-7 will provide essential tools for safety and security. At the same time, our liberties will be safeguarded and our constitutional rights respected.

The Senate has played an extremely valuable role in reviewing this public safety bill. I should like to thank all of those honourable senators who participated in the Standing Senate Committee on Transport and Communications for their hard work in this regard.

There is no doubt that terrorist threats to transportation and national security remain a major concern. Enacting the proposed provisions set out in this bill will help ensure transportation and national security for all Canadians, which is essential if we are to continue to enjoy the life to which we have become accustomed in Canada.

I would, therefore, respectfully ask all honourable senators to join with me in supporting Bill C-7.

Hon. A. Raynell Andreychuk: Honourable senators, will Senator Day accept questions?

Senator Day: If honourable senators will allow me more time, I will be pleased to attempt to answer some questions.

Senator Lynch-Staunton: We already have.

Senator Andreychuk: Honourable senators, the honourable senator started out his presentation, as did the minister, by reminding us of September 11. We had been told that the passage of Bill C-36 would be a response to the events of September 11. The honourable senator has phrased his remarks in such a way to imply that if we pass Bill C-7, with its broad, sweeping powers, Canada and Canadians will be secure. No government can give such an assurance and guarantee of safety, but a government may take steps which will provide a greater measure of safety.

• (1550)

Would Senator Day respond to the point made by the Canadian Bar Association? Mr. Simon Potter, former President of the Canadian Bar Association, representing the CBA, said:

> The Canadian Bar Association sees no point in putting another anti-terrorism law on the books, particularly one so broadly drafted as this one, when Canada has not yet determined whether the current laws are now, or indeed ever were, absolutely necessary and when we have not yet assessed the impact already felt on our rights and freedoms.
>
> Passage of Bill C-7 would further and needlessly complicate the critical task of deciding whether these quite unprecedented laws are needed.
>
> We are not calling only for delay. Speaking to the merits of it, we see serious flaws in this proposed legislation. It condones violation of privacy by, for example, allowing police to peruse airline passenger records for a full week after the flight has landed. You have had witnesses come before you saying they want to prevent violence on the flight. That hardly accords well with the need to keep the records for a full week.
>
> If the goal is to preserve the safety of the aircraft in flight, why not destroy the records within 24 hours? Why do we need to warehouse all this information in data banks? This provision gives police a week to comb through flight records for purposes that are wholly unrelated to fighting terrorism.

Why would we want, in the name of fighting terrorism, to give such broad sweeping powers in respect of not only terrorism but also in respect of all other purposes that may be negative or may be nefarious? Why do we cloak these measures in the name of fighting terrorism? Why has the government not heeded the plea of the Canadian Bar Association? Does the honourable senator believe that their questioning of and sincere concern about this bill is warranted?

Senator Day: I would thank the honourable senator for her question. I was present when the Canadian Bar Association appeared. I would have been more appreciative of their presentation had they dealt with specifics rather than generalities. Both ministers have said there are gaps in the framework of legislation, that this bill is absolutely necessary to fill those gaps and that it is urgently needed. The minister would have been well aware of Mr. Potter's position, which the minister does not accept.

To suggest that this is merely another piece of anti-terrorist legislation does a serious injustice to the work of many people over several years. There are 23 different pieces of legislation. Many amendments have been made to Bill C-7 through representations made by parliamentarians and through committee work prior to it coming before the Senate this final time.

We specifically asked the representatives of the RCMP and CSIS if seven days were adequate from the time information is received to the time they must deal with it. They indicated that was the minimum length of time, and that they would prefer to have the information for 28 days. The Commissioner of the RCMP and the Director of CSIS indicated that they could not complete their mandate in fewer than seven days.

For the Canadian Bar Association to say that this information would be used for many unrelated purposes is totally contrary to indicators in the proposed legislation. The bill specifically indicates for what purpose the information could be used and against what criteria the names could be matched. It is specifically outlined in the bill. To suggest otherwise is to suggest that there is a kind of conspiracy whereby information could be used for reasons other than those contemplated in the bill.

Senator Andreychuk: In fairness to the Canadian Bar Association, the honourable senator's representation of it and of all lawyers across Canada is a touch harsh, if I may be diplomatic. They specifically spoke to some of the problems with the bill, which would allow the police to take our records not only for flight safety reasons but also to conduct criminal record searches. The information could then be given to other police services, such as the FBI and the CIA, as well as to any other country's representative with whom we would choose to make an arrangement. This information could be blanketed everywhere.

Ministerial officials rightly said that, once the information leaves our borders, we have no control over it. It could be used for any purpose after that. Under this, they are entitled to share the information with the Canada Revenue Agency and with Citizenship and Immigration Canada. It casts a rather wide net. The Canadian Bar Association and I are making the point that perhaps parts of the proposed legislation are needed to deal with air rage, hoaxes, and to uphold international treaties, but the proposed provisions are so sweeping and so broad that we would give a mandate to ministers to invoke emergency powers with very little specificity in the act. Would that withstand a constitutional challenge by the Canadian Bar Association and others?

Senator Day: I thank the honourable senator for her follow-up question. I certainly was not intending to be harsh on the CBA, of which I am a long-standing member. Rather, I was looking for the right words to describe my impression of their presentation. It would have been more helpful for me, and I think for members of the committee, had they spoken to the clauses specifically as they appear. So much time was spent on generalities and on the broad subject of national security and anti-terrorism as opposed to dealing with what this proposed legislation will do.

The RCMP and CSIS will deal with any information in accordance with their respective mandates only. Specific rules apply regarding with whom those organizations can share information that they think should be passed on and under what circumstances. The minister has stated clearly that protocols and agreements would be in place, internationally and nationally, as to how and to whom that information could be passed. Many good points are dealt with in this bill.

• (1600)

CSIS came to us and said, "We are in the business of sharing information and have been doing so since we were created." We know that.

This is a good model with many more checks and balances than we have had in the past. We should hold this up as a good example of where we would like to go and expand it into other areas. We are dealing now with just the Aeronautics Act.

Senator Andreychuk: Honourable senators, this measure does not just cover aeronautics, although that is a subject to which I wish to return. It gives many ministers broad and sweeping powers that are not defined. They are tantamount to an emergency, when the minister deems it. It would allow interim orders to be used instead of regulations that must pass through the normal scrutiny.

The government says it is concerned about having the right checks and balances, yet it has given broad and sweeping powers instead of incorporating into the regulations what it requires. We are used to regulations. We are used to the provisions of the Emergency Measures Act. Instead, the government is using a shortcut to give to the minister the same powers. The minister simply has to invoke an interim order.

Why are there three exemptions from the Regulations Act? One covers the Canadian Charter of Rights and Freedoms. Why were those made exempt from the Regulations Act if we are trying to find a balance?

While I am on my feet, perhaps I can ask another question which is less legalistic and which deals with something we did cover in committee. We did not have time to get into the legal questions. The honourable senator is absolutely right. By the time we had dealt with the broad policy issues, it seemed as if the time to study this very legal and intricate bill was running out.

We heard from representatives of Air Canada, Air Transat, WestJet, other small airlines and the aviation association. They questioned the effect this bill will have on a very fragile industry. If we pass Bill C-7, they indicated that the government will be entitled to seek all this information from the airlines or from travel agencies and that they will be obliged to provide it. This will create an unnecessary, added cost to what they believe has to do with flight security. It will be after a plane takes off that this information will be disseminated and held for seven days. The small airlines are saying that they simply do not have the capacity, the capability or the technology to comply with this measure.

Their second problem was that the government has not provided a plan or costing. The inference in this bill is that the airlines will have to suffer these costs. Air Canada pointed out that after 9/11 it has cost them a minimum of $100 million to put in place a platform to handle these operations. That platform will be obsolete if this bill is passed. There is no assurance that the government will share the costs or, at the very least, a plan with them. They said there has been very little discussion about it.

Why would we give such broad and sweeping powers to a minister when such powers could jeopardize our air travel? I am not talking about international flights but, for example, a flight from Regina to Toronto or a flight from Lethbridge to Calgary. All this information about Canadians will be picked up.

How will we respond to the cry from those in the airline industry that they cannot manage this bill? This measure follows the Auditor General's report wherein it is indicated that as far as what the government has been mandated to do, they are neither technologically up to speed nor do they have the financial or human resources to take care of what exists already. We are spreading them even thinner with the illusion that Canadians will be safer.

I am sorry to bunch all my questions together. There are at least 1,000 questions that have not been answered.

Senator Day: I thank the honourable senator for her 1,000 questions. I will choose from those questions a couple to which I think I can reply.

Earlier, I was talking about the exchange of information under the proposed section of the Aeronautics Act. The honourable senator moved from that proposed section to interim orders. Interim orders are not a new concept. They exist under the current law in the Aeronautics Act and in the Canadian Environmental Protection Act. The concept is an existing one. When an emergency situation is perceived and quick action is needed and there is not a regulation in place, then the minister or deputy minister can make an interim order. This can only happen when, for whatever reason, there is not a regulation in place, perhaps because the situation had not been anticipated.

There are many checks on such an order. It must be filed in both Houses of Parliament within 15 days. It must be approved by the Governor-in-Council within 14 days. It can be challenged by the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations. There are many checks on that particular provision.

The most important check is that, first, the order cannot be made if there is not a statutory and regulatory basis for it. Second, one cannot be charged with violating it until it is brought to that individual's attention, even though it is in existence. There is much protection for the individual in this measure.

The issue of small airlines brings us back to proposed section 4.82. It is important for honourable senators to know that there is a schedule at the back of Bill C-7, page 104. It outlines the maximum information that the Commissioner of the RCMP or the Director of CSIS may reasonably require.

If honourable senators would turn to the bill, they will see that it provides that the commissioner or a person designated may require any air carrier or operator of an aviation registration system to provide information that is in the air carrier's or operator's control. There was a debate in committee as to what control meant. Certainly, the argument can be made, and it was agreed by the departmental people when I asked that specific question, that this does not force them to gather all the information that appears in the schedule. It is only such information that is in the schedule and that they have in their control that they may be required to give up. This provision does not force them to do something that they are not already doing.

The objective is to move them along and to get to the stage where the information that they do have can be readily passed on to others, to the RCMP and to CSIS. In that regard, the government has said that they have had lots of consultation and will conduct more.

It may turn out that a small operator is not able financially to put that information in place. Undoubtedly, if the government really wants it, they cannot force that operator to give them the information. If the information cannot be given to them without having certain equipment in place, then undoubtedly some accommodations will be made.

Senator Andreychuk: It was made absolutely clear that the schedule to which the honourable senator refers contains the items that the government shall want and that they can mandate the carriers to collect it. Therefore, it will be in the control of the airlines once they are asked to collect it. As the airlines said, this will stop any purchase of tickets at airline counters because they will not be able to handle this kind of information.

• (1610)

The whole point is that this information will be self-acknowledging information. In other words, an individual could say, "I am Mary Smith and I was born in 1954," and that is the information the police will spend their time searching. It will not match up to who I am and what I look like. However, that is the

information that will be triggered. Honourable senators will also agree, I suspect, that a terrorist will not identify himself or herself as a terrorist. The individual will probably use an alias and then disappear into the fabric of Canadian society. Nevertheless, the police will be scanning literally thousands of pieces of information on honest citizens. We will have the same set-up that we had on the gun registry, where we will spend all our time licensing citizens who comply with the law, while we do nothing about the criminal element that is using the guns on the street.

Will we not end up having the police running around looking at records on citizens instead of putting their resources into intelligence networks to find the terrorist cells and the terrorist activities?

Senator Day: Honourable senators, I do not agree with the honourable senator that CSIS or the RCMP can force the collection of this evidence. My reading of this proposed section is that they may require such information that is in the air carrier or operator's control. Senator Andreychuk and I can argue about what the word "control" means, but the honourable senator said "force them to collect," and that is different from what is in their control.

Could the honourable senator please repeat her second question?

Senator Andreychuk: Honourable senators, in a nutshell, the names of average Canadians who travel all the time will be scanned. The authorities will have a monumental task sifting through all the information, when in fact the resources of the police, of CSIS and of the government would be better utilized in targeting terrorists and terrorist activity. In other words, this self-generating information from passengers will be information about honest citizens who happen to need to fly in such a large country. An individual who must travel from Ottawa to Regina has almost no alternative but to fly. Would we not be better to marshal our resources, in light of what the Auditor General and our own Senate committee said: Target the terrorist activity; do not target Canadians and have the resources deflected on needless information shifting and sifting, and causing perhaps the downfall of some airline?

Senator Day: I appreciate the honourable senator helping me with the second part of her question.

The way this process was described to us was that the RCMP and CSIS will have designated individuals who will have a very restricted database of individuals who could potentially cause difficulty with transportation security or are a menace to national security, depending on the department or agency. Restricted individuals will look electronically at a restricted database. In other words, the information will come in and names will be run through a computer. Designated individual will only look at the matched information, when a name comes out on who is flying on that aircraft that day against the restricted database of potential problem individuals. If there is a match, there will be further investigation.

I do not have the same concern that the honourable senator has that the RCMP as an agency will become bogged down in a bunch of paper. They have already thought that one through.

Senator Andreychuk: As a supplementary, the honourable senator says that the information will be electronically matched. The United States is attempting to do CAPPS II, which is just that, to match up the data, and they have not been able to perfect that technology as yet. Do we have that kind of technology? In light of what the Auditor General has said, that RCMP data about forged and false and missing passports cannot be uploaded to the equipment being used by port authorities, that it has to be transcribed manually, it is no wonder there is such a backlog and that our border is not safe. We do not have the necessary technologies. This all sounds good on paper, but it is not working.

Senator Day: I thank the honourable senator for that question. I believe that Canadian technological ingenuity will lead the way in this regard. I have no doubt that we will be able to help our American friends if they are having difficulty with this.

On motion of Senator Andreychuk, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Mac Harb moved third reading of Bill C-14, to amend the Criminal Code and other Acts.

He said: Honourable senators, I understand there is consent with regard to this bill that no honourable senators have indicated an interest in speaking. In light of that, perhaps we can proceed with third reading.

Hon. Terry Stratton: Honourable senators, I would ask the honourable senator to repeat that explanation, because I did not catch it. It is our understanding that the government side will speak today and that Senator Nolin will speak tomorrow.

Senator Robichaud: He just spoke.

Senator Lynch-Staunton: He is still in the other place. They do not debate there.

Senator Harb: Honourable senators, I do not have much to add to my initial speech. If the honourable senator is interested in speaking at any point in time, that would be quite fine with us.

On motion of Senator Nolin, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Léger, for the second reading of Bill C-22, to amend the Criminal Code (cruelty to animals).

Hon. Terry Stratton: Honourable senators, I want to talk about the history of Bill C-22. This bill was numbered Bill C-10B in the Second Session of the Thirty-seventh Parliament and died on the Order Paper when Parliament was prorogued. It was reintroduced as amended on June 6, 2003.

Bill C-10B had a lengthy history. In the last session, it was part of Bill C-10, which the Senate split in December 2002 into two parts. Bill C-10A dealt with the firearms program that was passed in the last session, while Bill C-10B dealt with cruelty to animals and amendments thereto.

Bill C-10 reintroduced the same provisions as Bill C-15B, which died on the Order Paper at the end of the First Session of the Thirty-seventh Parliament without making it to Senate committee stage.

• (1620)

Bill C-15B, in turn, had reintroduced several provisions that were part of Bill C-17 and Bill C-36. Both died when the Thirty-sixth Parliament was dissolved on October 22, 2000, without passing second reading in the House of Commons.

The Standing Senate Committee on Legal and Constitutional Affairs proposed five amendments to Bill C-10B on May 29, 2003. The first amendment dealt with the definition of an animal. The original definition included "any other animal that has the capacity to feel pain." The amendment cuts off the definition after the words "other than a human being." This amendment was accepted by the House of Commons on June 6, 2003.

The second amendment dealt with the unnecessary death of an animal. It deleted the offence of "killing without lawful excuse" and added the element of "causing unnecessary death" to the offence of causing pain or suffering to an animal. Concern was raised with regard to whether or not lawful killing would still be an exception. The argument put forth by the Liberal's Paul Macklin on June 6, 2003, was that:

> The term "unnecessary" has been judicially interpreted in the context of "pain." In essence, it means that "no more pain than is reasonably necessary taking into account the objective sought."

Mr. Macklin argued that the word "unnecessary" could not be logically applied to killing where the only relevant question is whether or not there was good reason for killing.

The Senate feels, given a ruling by Justice Sopinka in *R. v. Jorgensen*, that the use of a provincial permit is not valid when it comes to breaching a federal statute such as the Criminal Code. The House rejected this amendment twice — on June 6, 2003 and September 25, 2003.

The third amendment dealt with Aboriginal hunting, trapping or fishing rights that would clarify that no Aboriginal person would be convicted of an offence if the pain, suffering, injury or death is caused in the course of traditional hunting, trapping or fishing practices, provided that any pain, suffering or injury caused is no more than is reasonably necessary in carrying out traditional practices. The House rejected the Aboriginal amendment, saying that Aboriginal people, if charged, would have the protection of section 35 of the Constitution. Further, the House argued that it would be confusing for police to know what are traditional practices before laying a charge.

The fourth amendment provided the legal justification or excuse and the colour of right defence. This means the accused "must show that he believes in a state of facts which, if it actually existed, would constitute a legal justification or excuse." That is found in Martin's Criminal Code. The House of Commons accepted the amendment.

The fifth amendment, which was accepted by the House of Commons, corrects a line in the French version of the bill.

The current penalties for cruelty to animals are found in sections 444, 445 and 446 and 447 of the Criminal Code and are treated as "wilful and forbidden acts in respect of certain property," as provided in Part XI of the Criminal Code. A person found guilty of cruelty to an animal is liable to six months in jail and a fine of $2,000. These provisions have not been amended since 1982.

Recently, several incidents involving cruelty to and mistreatment of animals have raised the public's indignation. In 1998, the Department of Justice held consultations to completely revise the way in which the system dealt with the problem. Government officials say that this examination was justified by a series of studies showing that cruelty to animals may be a precursor of violent behaviour toward people.

The government says that Bill C-22 is a reflection of Canadian indignation for the mistreatment of animals. The amendments proposed in Bill C-22 do not target usual and acceptable animal care practices, in particular, animal husbandry, responsible use of animals in research or other practices governed by more specific legislation. The concern expressed by witnesses at the committee were, for example, that researchers would be under threat by this bill. They did not feel comfortable with it whatsoever and wanted it amended. As well, fairs, festivals and rodeos across the country expressed concern that there would be severe restrictions placed on them in conducting such events as the chuckwagon races at the Calgary Stampede. Those concerns were expressed at committee and amendments were proposed.

That completes my remarks, and we will see what happens in committee again.

[*Translation*]

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Honourable senators, it was moved by Senator Jaffer, seconded by Senator Léger, that Bill C-22 be now read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

[*English*]

An Hon. Senator: On division.

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

[*Translation*]

REFERRED TO COMMITTEE

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

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

[*English*]

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate, I ask that Bill C-3, to amend the Canada Elections Act and the Income Tax Act, which is set down on the Orders of the Day for Wednesday, April 21, be brought forward now.

[*Translation*]

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion that Bill C-3 be considered today?

Hon. Senators: Agreed.

[*English*]

CANADA ELECTIONS ACT
INCOME TAX ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Terry M. Mercer moved the second reading of Bill C-3, to amend the Canada Elections Act and the Income Tax Act.

He said: Honourable senators, last June the Supreme Court of Canada handed down the decision in the *Figueroa* case. He was the leader of the Communist Party of Canada. I know him, having met him in my former capacity when I sat on the advisory committee of political parties to the Chief Electoral Officer. I find him a charming gentleman and a well-meaning fellow. If you get a chance to meet him, I think you will agree.

The Supreme Court ruling struck down the central feature of our system of political party registration, namely, the requirement that a political party field at least 50 candidates. To give Parliament time to respond, the court suspended its ruling for one year. That suspension expires on June 27. It is important that new rules be in place by that date to ensure that our electoral system remains fully operational and that it is not open to abuse. The purpose of Bill C-3 is to deliver a timely response to the Supreme Court decision.

Honourable senators, I believe that Bill C-3 provides a balanced, targeted and effective response, and I am very pleased to sponsor the bill in the Senate. While I am sensitive to the concerns that this chamber be allowed sufficient time to do its work and that it not be asked to act with undue haste, the fact remains that the courts deadline looms. I ask honourable senators to give this legislation their early consideration and support in order to safeguard the integrity of the electoral system.

In striking down the 50-candidate requirement for party registration, the Supreme Court's decision calls for a re-examination of key principles underlying political registration in this country. The essence of the court's ruling is what defines a political party. It is more than simply the number of candidates it runs. The decision makes it clear that, under the Charter of Rights, a strictly numerical candidate threshold is not a valid measure of whether a party is genuine or not. Instead, the ruling looks to the fundamental role that political parties play in a democratic process as vehicles of political expression, debate and participation. As the decision makes clear, a party is more a function of ideas and objectives than an arbitrary number of candidates per se.

• (1630)

The court did not go on to provide a recipe for what constitutes a party. Frankly, it left that job to Parliament and gave us a year to devise a new approach. Bill C-3 is the first, and I underline first, culmination of these efforts. It is a critical first step toward a new framework for political party registration in Canada, and there will be further steps in the future.

With the elimination of the 50-candidate rule, we are faced with two key challenges: first, to come up with new ways of defining what a party is; and, second, to distinguish legitimate parties from groups that might seek to register to take advantage of the system, in particular the tax credits for contributions.

To achieve these goals, Bill C-3 contains two fundamental pillars: first, new party registration and accountability measures; and, second, a series of measures to prevent abuse.

The result is to replace the 50-candidate threshold with a purpose-based approach that is consistent with the Supreme Court decision but at the same time preserves the integrity of the electoral system. As such, the bill not only responds to the June 27 imperative of the Supreme Court decision, but it does so in a way that makes good sense in policy terms. This is a classic case where the Charter reinforces the instincts of sound public policy.

Honourable senators, Bill C-3 will, for the first time, add a definition of political party to the Canada Elections Act. I expect most Canadians and perhaps even some members of this place will be surprised to learn that no such definition has existed to date. Now, however, a political party will be defined by reference to its purpose, whether it seeks to participate in public affairs by fielding one or more of its members as candidates. A party must have this as one of its fundamental purposes in order to register and to remain registered. The party's leader and its officers must attest to and ensure adherence to that purpose.

I know the constitution of the Liberal Party of Canada inside out and have had the opportunity to write some of it, but I have taken the time to read the constitution of the Conservative Party of Canada and also the constitution of the former Progressive Conservative Party. Actually, I found there is no constitution, but there is an agreement. I have read the constitution of the two unified parties, the Alliance and the old Progressive Conservatives, to find out that all three of these parties would qualify under the new rules as long as we pass the threshold I am about to outline.

Parties will have to satisfy other new criteria as well. For example, Bill C-3 increases the number of members a party must have from 100 to 250.

Senator Stratton: The Hells Angels can do that.

Senator Mercer: That is true, and any one of its chapters. That is why we have other protections to prevent them from registering. I will get to that.

Bill C-3 also requires that those members sign declarations that they support the party's registration. This assures that there will be a critical mass of real members to support the party's commitment to electoral competition.

As well, parties will have to have a minimum of three officers in addition to the leader, and these officers will also have to provide their signed consent to act. Like the membership provision, this ensures that the party is not a one-man band and that it has an organizational nervous system that one would expect of an entity that would wish to call itself a party.

I would argue, honourable senators, that these are more meaningful criteria by which to measure parties than the 50-candidate rule the court struck down. They are more consistent with our evolving democratic values.

Honourable senators, we are all troubled by the serious decline in voter turnout in recent years and other symptoms of democratic disengagement among Canadians. While I do not suggest that Bill C-3 will single-handedly solve these problems, I do believe that it can make an important contribution by opening up party registration to more players and ensuring a fuller spectrum of ideas in political debate. It creates an opportunity for greater voter choice. This increases the chances that voters will see their ideas, priorities and values reflected in the electoral choices available to them. This is particularly true of those who traditionally feel alienated or disconnected from the political process. I also believe it will help citizens reconnect with parties currently in existence. A greater diversity of parties reflects the pluralism of Canadian society and promises to invigorate electoral competition and debate.

Honourable senators, I have spoken about Bill C-3 in terms of its new rules for party registration and the move to a purpose-based approach. As I also mentioned, however, the second pillar of the bill is a series of measures to prevent abuse. Of course, despite its many advantages, opening up the system of party registration to more players also carries certain risks. That is why there must be an appropriate balance to ensure that parties seeking to register are genuine and not simply groups masquerading as parties to take advantage of the tax credit and other benefits of registration.

I have already identified some of the bill's safeguards, such as the purpose-based definition and stricter membership and party officer requirements. Beyond these measures, the bill contains provisions designed specifically to identify and weed out fraudulent parties. Foremost among these is a provision that allows the Commissioner of Canada Elections to require a party to satisfy him that it is genuine and meets the definition, failing which the commissioner may apply to the court to deregister the party. Very important, while such an application is pending, the ability of the party to issue tax receipts for contributions will automatically be suspended. If the court deregisters the party, it could also order that it be dissolved and its assets liquidated. Officers of a fraudulent party could be held civilly and criminally liable. I submit that these safeguards are important in that the process of registration would be taken seriously in light of the consequences of inaction.

The other key anti-abuse measure I want to highlight relates to the distinction between political parties and interest groups. The blurring of this distinction was one of the key concerns about the potential impact of the Supreme Court ruling. If interest groups were simply able to register as political parties, then the third-party spending limits would become meaningless. I have a long history of supporting limits and regulations for third parties. As a private citizen, I made a presentation to the Lortie commission in support of that.

Bill C-3 responds to this concern by preserving a clear separation between political parties and third parties. Specifically, it prevents an interest group from creating a shell party in order to take advantage of the political party tax credit and then flowing the money back to the parent organization. This would allow interest groups to reap the benefits of party registration while avoiding the burdens. The bill prevents this flow-through of funds and contains other measures to keep the distinction between political parties and third parties clear. For example, it prevents political parties from soliciting or accepting contributions on the expectation that they will be transferred to a sister third party.

Honourable senators, in the time that remains, I would like to address why time is of the essence with this legislation and what this implies. The fact is that the Supreme Court ruling will take effect June 27 whether or not replacement rules are in place. The deadline we face as parliamentarians is not one imposed by the government but one flowing from the decision itself.

• (1640)

It is no secret that, under Canada's parliamentary system, the electoral machinery must remain fully operational at all times. Just read the papers. Should the *Figueroa* ruling take effect without a new party registration regime in place, there will be a major gap in our system. At best, there will be confusion and uncertainty; at worst, litigation and chaos. Bill C-3 is designed to avoid this, without purporting to be the last word.

That last point is critical. The government has made it clear from the outset that parliamentarians should have a further opportunity to consider the consequences of the *Figueroa* ruling. That is why, on the same day he introduced the legislation in the other place, the Leader of the Government and the Minister responsible for Democratic Reform asked the Standing Committee on Procedure and House Affairs to undertake a broader examination of the Canada Elections Act and the electoral process generally. The government continues to reiterate the importance of that broader review and has asked the committee to bring back recommendations in the form of draft legislation within a year.

As well, the government moved an amendment at committee stage to add a two-year sunset clause to the bill. This means that the provisions of the bill will expire two years after they come into force, thereby ensuring that Parliament will have the opportunity to revisit these issues in the near future and, obviously, post-election as well. This reflects the ever-changing process of democracy. By including this clause, we ensure that the legislation may and will improve. Thus, Bill C-3 is really a bridge to a more wide-ranging review. It provides a targeted and timely response to the Supreme Court ruling while creating room for Parliament to undertake a more thorough examination.

Honourable senators, far from forcing parliamentarians' hands, this is about preserving our role and ensuring that we have a workable electoral system in the meantime. The June 27 deadline looms and we need new rules to ensure that our electoral system remains complete and fully operational. Ultimately, Bill C-3 is about balancing a more open system of party registration with measures to prevent abuse, about respecting and implementing the Supreme Court ruling while preserving the integrity of our electoral system, and about ensuring a timely and targeted response that meets the Supreme Court deadline while ensuring the opportunity for further review in the future.

This legislation is not only legally and operationally necessary; it is both sound and beneficial in policy terms. I urge honourable senators to give it the strong support it deserves.

Some Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Will the honourable senator take a question or two?

Senator Mercer: Yes.

Senator Lynch-Staunton: Can the honourable senator confirm that, during the court proceedings, at some stage, Mr. Rowe offered to withdraw his action if the government agreed to a figure of 12, yet the government insisted in fighting to maintain the 50-candidate rule? Much to the government's surprise, the Supreme Court said that the number of 50 was not Charter-proof and that, therefore, one person is enough to form one recognized party. Is that not the result? You are claiming now that this is a wonderful improvement to the act, but it actually goes against all the government's intentions, which included maintaining the 50-candidate rule. Mr. Rowe would have been satisfied with 12 but the government insisted and that is why we are faced with this bill.

Senator Mercer: Honourable senators, I was not a party to that decision. I do recall the debate. The number 12 is significant because, in the other place, you need 12 members to maintain official-party status and one of the arguments was based on that rule.

In reality, the government felt that we needed a cut and dried answer. The argument was that if we settled upon 12, other smaller parties might decide to challenge that number and we would be back in court again, forced to defend it.

Now we have the decision. We are implementing it. I think that we are moving forward. Is this how we wanted it to end up when we began way back when? Probably not, but that is what the court has told us.

Senator Lynch-Staunton: The court has told us that the government was pig-headed and would not compromise; it went for the number of 50 and it lost. Now we are stuck with this mess, and it is a mess. No matter what you call them, they are not safeguards. Anyone who meets so-called minimum requirements, like 250 members, four officers and an office, telephone and fax machine, needs only one candidate and he is eligible to register a party. We are encouraging the creation of regional, fractional parties. That is not what we want. A country like ours does not need that. We have had enough of regional parties so far. Some of us have learned that to our — I will not add any more.

I fail to understand why the government, having had since last June to implement this bill, only brings it to the Senate today, two months before the deadline. We are being asked to rush it through. This is a stopgap measure, if I understand the honourable senator's presentation. More elements of the act will be changed to improve on this provision. Why does the government not ask the Supreme Court to extend the deadline by another six or 12 months so that this matter can be looked at with all the time needed? Once it is in place, with an election looming, this country will be faced with a confusing electoral system. That is not the purpose nor the intention of Parliament, I would hope.

Senator Mercer: With respect to asking the court to provide a delay, that would not give us a system by which to govern ourselves. With respect to regional parties, I do not necessarily disagree. The proliferation of small political parties is not something that I would desire. I remind the honourable senator that he, for a time, was the leader of a party that merged a strong national historic party and a party that arose out of a regional party, being the Canadian Alliance-Reform movement.

The honourable senator says that regional parties are not what we want. As a Liberal, I can say we certainly do not want them. However, the success of the Reform-Canadian Alliance, having now formed the official opposition and having merged with what I would consider the more historical, traditional Progressive Conservative Party, shows there is a place in Canadian politics for parties that grow out of regions.

We all started somewhere. They started there. If we do not have rules in place as we face the election that is rumoured to be coming up in the next few weeks or months, as I said in my closing remarks, there is a chance that we will have some abuse by pranksters and third parties who want to take advantage of the very lucrative tax credit that we have for funding political parties.

Senator Lynch-Staunton: I have one last question and a quick comment. This bill does not encourage the creation of national parties; it encourages the creation of nuisance parties for very narrow purposes.

If the bill must receive approval by June 27, why is there, at the end of the bill, clause 27(2):

> If this Act receives Royal Assent on a day that is after June 27, 2004, it comes into force on that day.

That implies we can pass the bill before the end of June but Royal Assent can be withheld. Why is that clause there? If this bill has to be law by June 27, that includes Royal Assent. It says that if Royal Assent comes later — it could be a day later or a year later — the bill will come into effect on the day Royal Assent is given.

• (1650)

Senator Mercer: Honourable senators, I am not a parliamentary expert, but I would suggest that it means that if for some reason we do not pass it until June 28, then it will come into effect on that day. It will come into force when it is given Royal Assent.

Senator Lynch-Staunton: That is right.

Senator Mercer: I have often heard members of the opposition in this place and in the other argue against retroactive legislation. If the suggestion is that the act come into effect retroactively — that is, if we do not pass it until July 15 and make it retroactive to June 27 — I do not think it is practical or reasonable.

Senator Lynch-Staunton: If it is essential that it come into force on June 27 to respond to an instruction from the Supreme Court, why would we allow this loophole that allows for an indefinite delay in Royal Assent?

It has nothing to do with retroactivity. Retroactivity would be to make it effective as of June 27. In effect, this will come into effect on the day Royal Assent is given. Royal Assent need not be given to bills. It can be refused or delayed. Unless the Governor General or her representative receives the bill, Royal Assent cannot be given. Parliament can decide not to pass it on. This loophole requires some explanation.

Senator Mercer: I can assure Senator Lynch-Staunton that between now and the time the matter is raised in committee we will do some homework so that we may provide a more detailed answer.

Hon. Terry Stratton: I have one question before I move the adjournment of the debate.

In the view of the honourable senator, is this not the first step along the track to proportional representation?

Senator Mercer: No, I would not be sponsoring the bill if I thought it led down that road. As a representative of the advisory committee of the Chief Electoral Officer, I argued strenuously against proportional representation, which was supported by some of my honourable colleague's new friends and by the New Democrats. It is not something in which I have any interest, and I do not think it is necessarily something in which my old friends in the old Progressive Conservative Party were interested. I am still against it and will retain that stance.

Senator Stratton: I am of the other view. It is the 21st century and I believe we should have proportional representation now.

On motion of Senator Stratton, debate adjourned.

[*Translation*]

BILL TO CHANGE NAMES OF CERTAIN ELECTORAL DISTRICTS

SECOND READING—DEBATE ADJOURNED

Hon. Fernand Robichaud moved the second reading of Bill C-300, to change the names of certain electoral districts.

He said: Honourable senators, I see that this bill has been on the Order Paper fifteen times now, which means that if it is not debated today, it will be struck from the Order Paper.

This bill originated in the House of Commons. I would like a bit more time to consider it and make sure it is not simply struck from the Order Paper. I fear that, at some point, the favour might be returned. I want to verify the facts. That is why I move that the debate be resumed at the next sitting of the Senate.

On motion of Senator Robichaud, debate adjourned until the next sitting of the Senate.

The Hon. the Speaker *pro tempore***:** Honourable senators, pursuant to the order adopted by the Senate on April 1, 2004, the sitting is suspended until 5:15 p.m. today.

The sitting of the Senate suspended until 5:15 p.m..

• (1710)

[*English*]

The sitting of the Senate resumed at 5:15 p.m..

CRIMINAL CODE

BILL TO AMEND—THIRD READING—
MOTION IN SUBAMENDMENT—VOTE DEFERRED—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator LaPierre, for the third reading of Bill C-250, to amend the Criminal Code (hate propaganda),

And on the motion in amendment of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Stratton, that the bill be not now read a third time but that it be amended, on page 1, in clause 1, by replacing lines 8 and 9 with the following:

"by colour, race, religion, ethnic origin or sex."

On the subamendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Gustafson, that the motion in amendment be amended by adding, before the words "ethnic origin," the words "national or."

The Hon. the Speaker *pro tempore***:** Call in the senators. The vote will take place at 5:30 p.m.

• (1730)

Motion in subamendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Angus	Keon
Carney	Lynch-Staunton
Cochrane	Merchant
Comeau	Plamondon
Cools	Rivest
Di Nino	Sparrow
Forrestall	St. Germain
Gustafson	Stratton
Kelleher	Tkachuk—18

NAYS
THE HONOURABLE SENATORS

Adams	Joyal
Atkins	Kirby
Austin	Lapointe
Bacon	Lavigne
Callbeck	Lawson
Chaput	Losier-Cool
Christensen	Maheu
Cook	Mahovlich
Day	Mercer
De Bané	Moore
Fairbairn	Morin
Ferretti Barth	Munson
Finnerty	Murray
Furey	Phalen
Gauthier	Robichaud
Gill	Rompkey
Hubley	Spivak
Jaffer	Watt—36

ABSTENTIONS
THE HONOURABLE SENATORS

Corbin	Sibbeston—2

Hon. Joyce Fairbairn: Honourable senators, I ask for leave to revert to Notices of Motions.

Hon. Jack Austin (Leader of the Government): Do we not continue the debate?

Hon. John Lynch-Staunton (Leader of the Opposition): We are on Bill C-250.

Senator Austin: We now go to the motion in amendment.

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

Hon. Senators: No.

The Hon. the Speaker *pro tempore***:** Leave is not granted.

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, there have been discussions. As I understand, we will continue debate on the motion in amendment to Bill C-250.

This is not a government bill; it is a private member's bill. I would make a suggestion to find if there is consensus in the chamber to balance the two issues of the lateness of the hour and that senators wish to speak. There will be more time later to debate this bill.

I propose that we begin debate on Bill C-250 and continue until 6:30, at which time we then adjourn debate to the next sitting of the Senate, if that is agreeable.

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

Hon. Senators: Agreed.

Hon. W. David Angus: Honourable senators, I move the adjournment of the debate on Bill C-250.

[*Translation*]

The Hon. the Speaker *pro tempore***:** It was moved by Senator Angus, seconded by Senator Stratton, that the debate be continued at the next sitting of the Senate.

[*English*]

Is it the pleasure of honourable senators to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker *pro tempore***:** Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore***:** Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore***:** In my opinion, the "nays" have it. Resuming debate with the Honourable Senator Angus.

Senator Angus: Honourable senators, I rise this evening on the subject of Bill C-250, to amend the Criminal Code regarding hate propaganda, and on Senator St. Germain's amendment to this bill.

When Bill C-250 was first introduced in Parliament, I was rather uneasy about it. I felt it to be bad law and not for the purposes intended, as honourable and sensitive as they may have been.

In my view, there are ample and effective provisions in existing Canadian law to protect all individuals on an equal level. This bill strikes me as unnecessary and one that has the potential to lead our justice system down a path that we do not necessarily wish it to follow. The bill could possibly open the floodgates to unintended and undesirable consequences. Indeed, it makes me think of the old maxim of *inclusio unius est exclusio alterius*, as well as the old adage that two wrongs do not make a right.

I concede that the purport of Bill C-250 is politically correct. However, it in fact tends to accomplish that which it is designed to protect against. It does not establish equality before the law, but rather it creates inequalities between people based upon differences. Bill C-250 raises issues fundamental to the basic fibre of our country.

• (1740)

Canada is a diverse, pluralistic and tolerant society, one of which we are all proud. As Canadians, we are proud of this rich tapestry, as it has come to be called. Our country and citizens welcome fundamental differences. We embrace variety and we cherish the cultural, racial and other diversity that defines our great nation.

Honourable senators, the underlying basis of our style of democratic society is that individuals are recognized as equal, with equal rights, and the relations and relationships amongst our people are governed by the rule of law. It is in my view difficult to find fault with the words of Thomas Jefferson, who, as we all know, was one the key architects of democracy, the democracy we know and practice here in North America today. He said that all men are created equal and that they are endowed by their Creator with inherent and inalienable rights and that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. I earnestly believe that if Bill C-250 were enacted as drafted this evening, our cherished equality, as spoken of by Thomas Jefferson, could be at risk. No one can deny there are bigoted people in our society who target others based on discriminating factors. These factors are as diverse and varied as our country and society.

I should like for a moment to share some personal elements from my own life. As I have said in this chamber before, I have a daughter who was not fortunate, who has a terrible affliction, a mental illness. I have spent many hours and days in a psychiatric acute care ward in Montreal where I have seen discrimination against an identifiable group, a member of which is my daughter. I have seen it over and over again outside the PACU and in schoolyards where people are different. They are not necessarily of a different sexual persuasion, but they are different from others and from what we call normal. Are they on the list; and, if not, why not and should they be? My reservations about Bill C-250 arise when we start carving out special protections for people with certain differences, ignoring others who also require such protections.

I truly believe this to be a slippery slope. It begs the question of criteria. What are the criteria for a group to become protected under section 318 of the Criminal Code? Presently, section 318 defines an identifiable group as any section of the public distinguished by colour, race, religion or ethnic origin. What are the criteria for a group to be identifiable and protected under this section? How does sexual orientation fit into it? What else could be added? What about severely handicapped individuals like my daughter or those other people who suffer from evident physical or mental disabilities?

Some people would argue that homosexuals should be protected because they are targets for hatred. This sadly is an unfortunate truth, but there are many other identifiable groups that are also frequent targets of hatred in this kind of terrible abuse. It is just impossible, honourable senators, in my respectful view, to identify all groups that are potential targets for hatred and to protect them accordingly, other than under the general Criminal Code and the time-tested laws we have in this country.

In my opinion, it is not the role of government today to carve out another group. This is a systemic problem that can only be alleviated as our society evolves and matures and becomes more sensitive and more tolerant about these kinds of matters.

Honourable senators, governments can only legislate legalities on matters of substance. They cannot and should not try to legislate attitudes. They cannot enforce tolerance, nor should they impose acceptance standards. I believe that what the supporters of this bill are looking for is a shift in attitudes toward gays and lesbians for political reasons, attitudes that cannot be achieved through this or any other decent legislation. Bill C-250 may well accomplish the opposite; in practice, it may actually deepen the divide between homosexual persons and the rest of our population. Categorizing homosexuality as identifiable will perpetrate all of the stereotypes and generalizations that gay and lesbian groups have fought so hard for so long to dissolve. Perhaps another bill should be introduced to amend the Criminal Code by removing entirely the concept of identifiable groups, but that is not the issue before us this evening.

Considering that what we have before us is a proposed amendment to Bill C-250 adding new groups to the list of identifiable groups set forth in section 318 of the Criminal Code, I think it is only appropriate that we as legislators take this opportunity to, at the very least, maintain a certain amount of consistency in our laws. Considering that the 1977 human rights legislation includes people with a pardoned conviction in the list of identifiable groups, is it not logical that pardoned convicts also

be protected under section 318 of the Criminal Code? By all intents and purposes, pardoned convicts are as worthy of protection as any other identifiable group. They are the victims of discrimination, targets of hatred and abuse, and are vastly misunderstood. Oftentimes, their conditions stem from factors beyond their control, such as sickness or abuse. If anyone deserves protection, it is people who have served time, sometimes unjustly, and are trying to integrate back into society to be productive contributors.

The John Howard Society has laid out six main principles surrounding the rights of pardoned convicts and others who have become involved with the law. Those principles are as follows: First, people have a right to live in a safe and peaceful society as well as the responsibility implied by this right to respect the law. Second, every person has intrinsic worth and the right to be treated with dignity, equity, fairness and compassion without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability when involved with the criminal justice process — this list is worth considering for section 318. Third, all people have the potential to become responsible citizens. Fourth, every person has the right and responsibility to be informed about and involved in the criminal justice process. Fifth, justice is best served through measures that resolve conflicts, repair harm and restore peaceful relations in our society. Sixth, independent, autonomous, non-government voluntary organizations have a vital role in the criminal justice process.

Honourable senators, these are just some of the reasons why I am uneasy and feel that C-250 is bad law.

MOTION IN SUBAMENDMENT

Hon. W. David Angus: If we go ahead with this bill, then I would propose a subamendment to Senator St. Germain's main amendment. I, therefore, move, seconded by Senator Stratton:

> That the motion in amendment be amended by adding, before the words "ethnic origin," the words "pardoned convicts,".

The Hon. the Speaker *pro tempore***:** Is it your pleasure, honourable senators, to adopt the motion in amendment? Do honourable senators wish to speak on the issue?

Hon. Anne C. Cools: Honourable senators, I move the adjournment of the debate.

The Hon. the Speaker *pro tempore***:** It is moved by the Honourable Senator Cools, seconded by the Honourable Senator Sparrow, that the further debate on the motion be adjourned until the next sitting of the Senate.

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

Some Hon. Senators: No.

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore***:** Will those in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore***:** Will those opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

• (1750)

The Hon. the Speaker *pro tempore***:** In my opinion the "nays" have it.

Senator Forrestall: That is not the way I heard it.

The Hon. the Speaker *pro tempore***:** Is there an agreement on the bell?

Hon. Terry Stratton: Honourable senators, pursuant to rules 67(1) and (2), I would ask that we defer the vote until 5:30 at the next sitting of the Senate.

Senator Cools: Something is wrong here. I wanted to speak to this subamendment. The next stage —

The Hon. the Speaker *pro tempore***:** There is a motion to adjourn the debate.

Hon. John Lynch-Staunton (Leader of the Opposition): If I may, the voice vote was on the adjournment of the debate and Her Honour ruled that the nays have it. That vote cannot be deferred until the next day. It must be taken right away. It is non-debatable. The vote must be taken immediately without the requirement of the bells ringing.

The Hon. the Speaker *pro tempore***:** Is there agreement on the length of bell?

Some Hon. Senators: No bell.

Senator Cools: Honourable senators, it is very interesting indeed that Senator Angus has brought forth this particular initiative. I would also like to say in —

Hon. Jack Austin (Leader of the Government): Senator Cools cannot continue the debate. We must have the vote.

Senator Lynch-Staunton: I believe the honourable senator is about to speak to the amendment.

Senator Joyal: If a debate is to continue, it should continue after the vote.

Senator Robichaud: The honourable senator wanted to speak to the subamendment.

Senator Cools: I am having difficulty hearing what is being said because I am on my feet.

The Hon. the Speaker *pro tempore*: I am also having difficulty hearing.

Senator Cools: The audio system is not working very well. It is cutting in and out. Perhaps Her Honour could repeat what she said.

The Hon. the Speaker *pro tempore*: Is there agreement on the length of the bell? No bell?

Senator Lynch-Staunton: Two senators rose to call the vote on the adjournment of the debate, and it was agreed that the vote could not be deferred. Now I understand that Senator Cools has, by rising to speak to the subamendment, agreed that we should not have the vote.

Senator Cools: No, no.

Senator Lynch-Staunton: The honourable senator commenced the debate on the subamendment; she cannot have it both ways.

Senator Cools: I am a little confused. Which vote were we talking about suspending until tomorrow?

Senator Stratton: Call in the senators.

Senator Cools: So you want a standing vote.

The Hon. the Speaker *pro tempore*: We are calling in the senators now, and the length of the bell will be an hour.

Senator Rompkey: No bell.

Senator Stratton: This is on the subamendment; correct?

Senator St. Germain: This is on the adjournment of the debate.

The Hon. the Speaker *pro tempore*: There will be no bell. We will take the vote now.

Senator St. Germain: No, never. You must have a bell.

Senator Lynch-Staunton: The rule is that if there is no agreement, there is an hour's bell; however, I believe the whip said that a 15-minute bell would be appropriate. If there are senators in the reading room or their offices, it is only fair to give them time to return to the chamber to vote.

The Hon. the Speaker *pro tempore*: Is it agreed that there be a 15-minute bell?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: The vote will take place at 6:10 p.m.

Call in the senators.

• (1810)

The Hon. the Speaker *pro tempore*: Honourable senators, the question is on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Sparrow, that debate on the subamendment moved by the Honourable Senator Angus be adjourned.

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Angus	Lynch-Staunton
Comeau	Merchant
Cools	Plamondon
Forrestall	Sparrow
Gustafson	St. Germain
Keon	Stratton
Lawson	Tkachuk—14

NAYS
THE HONOURABLE SENATORS

Atkins	Lapointe
Austin	Losier-Cool
Bacon	Maheu
Callbeck	Mahovlich
Chaput	Mercer
Christensen	Moore
Cook	Morin
Day	Munson
Fairbairn	Murray
Furey	Phalen
Hubley	Robichaud
Jaffer	Rompkey
Joyal	Spivak—26

ABSTENTIONS
THE HONOURABLE SENATORS

Corbin	Ferretti Barth—2

Senator Cools: Honourable senators, I rise to speak in support of the subamendment proposed by Senator Angus. I would like to begin by saying to Senator Angus and to all honourable senators that although we all work here, we know remarkably little about each other. I was most impressed and touched when Senator Angus talked about his daughter and the challenges that he and his family would have faced.

Honourable senators, I am always amazed when we rise to speak in this chamber by what we learn about other people's suffering. I believe it was Oscar Wilde who talked about certain aspects of life being a season of sorrow. Everyone has experienced some form of suffering in one way or another.

I would like to thank Senator Angus for bringing forward his concept of expanding the list of identifiable groups to include pardoned convicts. I am surprised and impressed by his thoughtfulness on this matter. It has been a long time since the Senate has examined any of these issues. When we speak to pardons we speak to the exercise of clemency in one of its myriad forms. Clemency is an aspect of the Royal Prerogative exercised by Her Majesty's representative, Her Excellency the Governor General of Canada.

It might be of interest to some senators that I know a considerable amount about this subject matter. In 1980, upon the advice of then Prime Minister Trudeau and then Solicitor General Robert Kaplan, I was appointed to the National Parole Board. I was a temporary member for Ontario because Mr. Trudeau wanted to keep me involved in politics. The National Parole Board is the administrative, quasi-judicial tribunal that looks after the business of parole applications from inmates and the processing of future parolees.

In that position, I listened and spoke to many inmates and voted on many cases. The process is quite complicated. I cannot explain it now, but essentially the Parole Board makes recommendations about parole for inmates that go before cabinet and are invariably accepted. In that way, Parole Board members exercise their intentions by voting. It is an elaborate system.

In addition to the granting of parole, which was developed under the former remission system, the authority and jurisdiction of the National Parole Board extends to recommendations on pardons. In particular, the subamendment moved by Senator Angus speaks to pardoned convicts. If they are pardoned, they are no longer convicts, but that was the language he chose to adopt and that is the language used currently in human rights legislation.

There are two kinds of pardons: the ones that fall under the Criminal Records Act and those that fall under the Royal Prerogative of Mercy emanating from Her Excellency the Governor General on the advice of cabinet. It would be interesting to go back to see the origins of that particular section, and the role in it of Edward Blake, a great Liberal of the late 19th century, particularly as a follow-up of the Louis Riel situation and that set of insurgencies. If my memory serves me correctly, Lord Dufferin took the initiative to grant certain pardons to many of the insurgents, and that angered many cabinet ministers. Thereafter, the Governor General's Royal Letters Patent insisted that the Royal Prerogative of Mercy could only be exercised on the advice of the cabinet.

• (1820)

Honourable senators, when I voted on pardon cases I was amazed at how so many reformed inmates clung to the system that allowed for pardons. I read many cases. Inmates sometimes spoke of a pardon as though it would make a complete difference to their lives.

I recently spoke in Toronto. The woman who introduced me told me that she had just received a phone call from a former inmate on whose case I had worked. The former inmate had said her life had turned around in a phenomenal way and that she wanted to thank me for the work that I had done on her case. We all have these kinds of episodes.

What I am trying to impress upon you, honourable senators, is that the process for laying out pardon applications is quite elaborate and systematic and it means a lot to those individuals who seek a pardon.

Despite the fact that many of these reformed or rehabilitated people had been pardoned, their records sealed and the offences vacated under the Criminal Records Act, many of these individuals complained of enormous discrimination and prejudices against them.

Honourable senators, I think it is important that we be always sensitive, particularly to that group of people in Canada that I call the working peoples of this country, who are mostly labourers. It is well known that the majority of inmates in the federal penitentiaries tend to be from the working peoples and the working classes. I was always deeply touched by the concerns that so many of these people raised about the hardships they encountered in finding jobs and so on.

I should also like to share another view, because it is very important. A part of me says that everybody should be protected from genocide and hate, but once we identify groups and once we begin to look at that list of identifiable groups, we begin to realize that many other groups of people are worthy of equal protection.

I must say to Senator Angus that I never would have thought of the group of people that he mentioned. I am pleased, indeed, to support that group because it gives us an opportunity to be sensitive to all those people out there who have had the misfortune of having an encounter with the criminal justice system.

That is the reason, honourable senators, I am opposed to Bill C-250 in the first place. I believe this particular bill will be used for political reasons, one of which will be to cleanse Canadians of moral opinions. I am of the opinion that this bill will engage many innocent Canadians in a prosecutorial process simply because some of them may happen to express views about certain homosexual sexual practices.

For example, if they wish to express moral views about certain homosexual or sexual practices, or if religious people wish to express the view that it is not only immoral but sinful, or if medical personnel wish to express the view that it is unhealthy, it would be very wrong to expose so many Canadians to vexatious and menacing prosecutions.

Honourable senators, I spent a lot of time listening to inmates and making decisions about granting parole. I visited every single penitentiary in Ontario many times to listen to inmates. I would also mention in passing, honourable senators, that, when I served on the Parole Board, I had a reputation for being a firm, fair and honest board member.

Senator St. Germain: Question? We still have time. Why are you calling time?

Senator Cools: I must object promptly. The Speaker usually stands to inform us that the time has expired. However, it is not yet 6:30. Is my speaking time up?

Senator Robichaud: Your 15 minutes are up.

Senator Cools: How does Senator Robichaud know that? Was he counting or is he a magician?

Senator Robichaud: I was counting.

The Hon. the Speaker *pro tempore***:** You have 90 seconds, senator.

Senator Robichaud: Question!

The Hon. the Speaker *pro tempore***:** Are senators ready for the question?

It was moved by the Honourable Senator Angus, seconded by the Honourable Senator Stratton:

> That the motion in amendment be amended by adding before the words "ethnic origin," the words "pardoned convict,".

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker *pro tempore***:** All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore***:** All those opposed to the motion, please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore***:** In my opinion, the "nays" have it.

And two honourable senators having risen:

Call in the senators.

Senator Stratton: According to rule 67(1) and 67(2), I should like to defer the vote to 5:30 p.m. at the next sitting of the Senate.

The Hon. the Speaker *pro tempore***:** Accordingly, the vote will be held tomorrow at 5:30 p.m.

The Senate adjourned until Wednesday, April 21, 2004, at 1:30 p.m.

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