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(HANSARD)

Wednesday, February 23, 2005

THE HONOURABLE DANIEL HAYS
SPEAKER

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THE SENATE

Wednesday, February 23, 2005

The Senate met at 1:30 p.m., the Honourable Fernand Robichaud, Acting Speaker, in the chair.

Prayers.

SENATORS' STATEMENTS

BLACK HISTORY MONTH

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, Black History Month affords us the opportunity to reflect on the rich history of Black communities in Canada.

The early roots of the Black community in the Maritimes demonstrate deep and varied origins. Historians are exploring the early days including the pre-Loyalist stories. In New Brunswick, we are learning of the early Black pioneers. Historian W. O. Raymond, in his *History of the River Saint John, 1604-1784*, gives but one account of Black presence in the 1690s. There are many descriptions of Black families in our region prior to New Brunswick being established in 1784.

We salute the journey of Arthur Richardson, who was the first New Brunswick Black university graduate in 1886. The first Black woman to obtain her degree was Matilda Winslow in 1905.

Honourable senators, the human rights movement in Canada during the 1950s and 1960s owes a great deal to outstanding Maritime Black leaders. I would underscore the pioneering work of the Reverend Dr. W. P. Oliver, a remarkable leader who I had the honour to meet through my work with Joseph Drummond and Dr. Fred Hodges of the Saint John Black community.

Another great Maritime pioneer was Dr. Carrie Best, O.C., a charismatic and dynamic lady who, among other things founded the first Black-owned and published newspaper in Nova Scotia. Carrie was once arrested for her refusal to observe "Whites Only" notices. She ran a human rights show and was always there to help in the struggle for equality.

We can also recall Viola Desmond, the brave Nova Scotian who refused to be relegated to the "Blacks Only" section of a theatre and was imprisoned and fired. She was a crusader in exposing what she called "Jim Crow" conditions in the Maritimes.

Today, honourable senators, the Black Cultural Society of Nova Scotia honours contemporary leaders by inducting such outstanding contributors into the Dr. William P. Oliver Wall of Fame. Honourable senators can fully appreciate why our own colleague, Senator Donald Oliver, a Harry Jerome Award winner, is one such inductee.

Hon. Senators: Hear, hear!

[*Translation*]

RADIO-CANADA

REDUCTION IN PROGRAMMING OF *ZONE LIBRE*

Hon. Jean Lapointe: Honourable senators, a few weeks ago, during an interview I gave on the show *Zone libre* about Bill S-11 on video lotteries, I was informed of an unusual situation, which I would describe as a crying shame. Next season, *Zone libre* will air only eight times, instead of 26, as is currently the case. In my opinion, this is absurd.

Radio-Canada's decision to cut its budget should in no way affect national and international news coverage. Is Radio-Canada not required, given its mandate, to inform the public?

It should be noted that *Zone libre* news reports have won numerous national and international awards. These news reports have aired on TV5 and been broadcast throughout the Francophonie. A reduction in the number of broadcasts, as proposed by management at Radio-Canada, means we are losing an excellent opportunity to showcase the quality of our information products.

Still shocked by this news, I want to take this opportunity to tell management at Radio-Canada that it should rethink this decision, which is, at the very least, upsetting.

I have in my possession a petition signed by a number of members of the House of Commons and the Senate. Tomorrow morning, a copy of this petition along with a letter will be sent to Robert Rabinovitch, Daniel Gourd and Carole Tyler. Given the capabilities of these three individuals, I am convinced that they will take into consideration this petition signed by the representatives of the general public and that they will find an equitable solution for *Zone libre* in the interest of all francophones in this country.

[*English*]

NATURE CONSERVANCY ASSOCIATION OF CANADA

NOVA SCOTIA—QUEENS COUNTY—
THREE NEW PROTECTED WILDERNESS AREAS

Hon. Donald H. Oliver: Honourable senators, I am delighted to rise today to announce that three wilderness areas where I live in Queens County, Nova Scotia, have been set aside to the Nature Conservancy of Canada to be protected forever. The three properties — Toby Island, Long Lake Bog and Shingle Mill Bog — encompass over 308 hectares of environmentally protected land.

The land was sold by the Queens Municipal Council to the Nature Conservancy of Canada for the price of $3. The Nature Conservancy believes this to be one of the first instances in Canadian history where a municipality has sold property to an environmental organization virtually free of charge. The details of this groundbreaking donation were announced on Monday by John Leefe, Mayor of the Region of Queens Municipality.

The Nature Conservancy of Canada has considered all three environmental sites to be "extremely ecologically valuable" for decades. In its press release dated February 21, it guaranteed that "all three pieces of land will now be set aside for nature forever."

Toby Island is a 7.28 hectare, or 18 acre, uninhabited island site situated near the Medway Harbour. It provides an important whelping ground for harbour seals and breeding ground for several species of seabirds. The other two properties are bogs. Long Lake Bog is approximately 218 hectares and is located near Lake Rossignol in the western part of the county. Shingle Mill Bog is 82 hectares and is located 15 kilometres northwest of Liverpool.

• (1340)

Now that the Nature Conservancy owns the land, it will be left as is. No trails will be built and people may visit the lands as they always have, provided they do not leave an impact on the environment.

Honourable senators, this recent transfer of land to the Nature Conservancy of Canada cements Queens County as a provincial leader in environmental conservation. It holds one of the highest percentages of protected land in Nova Scotia, at 13 per cent. There are now 34,705 hectares of environmentally protected land in the county, including these three wilderness areas, a nature reserve and a national park.

It is my hope, honourable senators, that this recent donation of land will set the standard and encourage all levels of government to work with private groups and non-governmental organizations to protect Canada's natural heritage for future generations.

[*Translation*]

CITIZENSHIP AND IMMIGRATION

TEMPORARY WORK PERMIT PROGRAM FOR EXOTIC DANCERS

Hon. Lucie Pépin: Honourable senators, most senators have recently expressed their grave concern with the living conditions and exploitation of exotic dancers in Canada, especially those from other countries who have entered Canada through the temporary work permit program.

The Minister responsible for Status of Women is not unaware of the deplorable conditions in which these women are confined. In November 2000, research conducted by the University of Toronto, with the support of Status of Women Canada's Policy Research Fund, was published entitled: *Migrant Sex Workers from Eastern Europe and the Former Soviet Union: The Canadian Case*. This study has been gathering dust ever since. The authors refer to the current and often illegal migration of women from Eastern Europe and the former Soviet Union to Canada, and describe in detail the degradations to which these women are constantly subjected. It is quite apparent that many of these women have, in fact, been victims of sex-trade traffickers. Many were escaping poverty in their own countries and were attracted to Canada for work in the "hospitality industry," often under false pretenses.

[*English*]

The Law Commission of Canada has just published a detailed report entitled: *Is Work Working? Work Laws that do a Better Job*, which describes these women's working conditions, particularly in chapter 4. The report raises a number of questions about their rights and what needs to be done to extend to them the minimum social protection of a civilized society. The report states:

> The Commission...singled out exotic dancers as among the most vulnerable workers because their work is seen to be of minimum moral and social value. They often experience a high degree of exploitation and violence. But they are powerless to do anything about their working conditions because of poor labour protection and society's negative take on their work. These women are stigmatized, often penniless, and feel they have nowhere to run.

The recommendations in the November 2000 study by the University of Toronto and the December 2004 report by the Law Commission must be acted upon. Alarm bells are ringing and intervention is urgently required. These women must be found and their current living conditions investigated so the most flagrant abuse can be remedied. Are we not responsible for the critical situation in which these vulnerable women find themselves? Can we remain indifferent to their exploitation on Canadian soil and wash our hands of them because a temporary work permit program has now been abolished for this category of employment? The Ministers responsible for the Status of Women and Human Resources must act immediately.

FOREIGN AFFAIRS

ELECTION IN ZIMBABWE

Hon. A. Raynell Andreychuk: Honourable senators, I am rising in the chamber today to call attention to the current situation in Zimbabwe. With a parliamentary election scheduled for March 31, it is imperative that countries, including our own, recognize that at the present time Zimbabwe is not heading toward a free and fair election. In the last presidential election of 2002, the international community, including Canada, deemed the election as being not free and not fair.

Since then, Zimbabwe, as a member of the Southern African Development Community, or SADC, has adopted the Protocol on Principles and Guidelines Governing Democratic Elections. This protocol stipulates that all elections are to adhere to specific guidelines, including freedom of association, political tolerance, full participation of citizens in the political process, the impartiality of the electoral institutions and the deployment of a SADC observer mission.

Recently, however, the Zimbabwe Election Support Network undertook an extensive evaluation of whether Zimbabwe's electoral legislation meets the SADC guidelines. The conclusion was that the current legislation falls short of the SADC requirements.

On February 21, the Zimbabwean government finally extended an invitation to 32 countries and 13 regional and international bodies to send observers to monitor the upcoming election. Most of the observers will be from African and Caribbean nations as well as organizations such as SADC, the African Union, the Non-Aligned Movement and the United Nations, but not the EU or the U.S. or, in fact, Canada.

It appears, however, that those observers who have been invited will be prohibited from actually monitoring the election in a practical way. Therefore, it is crucial that the Canadian government immediately give the Zimbabwean election top priority. Canada should exercise its good offices in impressing upon the Government of Zimbabwe that a free and fair election is in their interests and, in particular, the interests of the people of Zimbabwe. Given Canada's considerable expertise in election management and monitoring, our commitment against apartheid in the past in South Africa and in the region of Southern Africa, and Canada's stated commitment to Africa, it is important that the Prime Minister and the Minister of Foreign Affairs use every avenue to impress upon Zimbabwe's neighbours, in particular those in the SADC region, that the goals and principles for the elections as set out in the SADC guidelines are the responsibility of the SADC members to enforce in all member states. If the peer evaluation concept as proposed by African leaders is to have any merit, it must be seen to be put in action in this case. I, therefore, call upon the Canadian government to use every avenue at its disposal to ensure that the Zimbabwean government demonstrates a free and fair election.

ROUTINE PROCEEDINGS

CANADA TRANSPORTATION ACT

BILL TO AMEND—SECOND READING—
DOCUMENTS TABLED

Hon. Tommy Banks: Honourable senators, two days ago, in the second reading debate on Bill S-6, we discussed the suggestion made by Senator Kinsella that some documents to which I referred in that debate be tabled. I agreed but did not have those documents on hand at the time. I, therefore, rise now to ask permission of the Senate to table five letters to which I referred in that second reading debate, beginning with the letter of May 13, 2004.

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

Hon. Terry Stratton (Deputy Leader of the Opposition): Is there a more logical place for this item in today's proceedings?

The Hon. the Speaker: Honourable senators, I recall, because I was in the chair at the time, that Senator Banks, on the invitation of Senator Kinsella, tried to obtain leave to table the documents, but he did not have them with him. This probably is the appropriate moment for the matter to be dealt with after the fact, namely, Tabling of Documents under Routine Proceedings.

Is leave granted, honourable senators, for Senator Banks to table the correspondence referred to in his request?

Hon. Senators: Agreed.

STUDY ON OPERATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

REPORT OF OFFICIAL LANGUAGES
COMMITTEE TABLED

Hon. Eymard G. Corbin: Honourable senators, I have the honour to table the fourth report of the Standing Senate Committee on Official Languages, a progress report covering the work of the committee during the fall of 2004.

• (1350)

NATIONAL SECURITY AND DEFENCE

BUDGET AND AUTHORIZATION TO ENGAGE
SERVICES—REPORT OF COMMITTEE ON STUDY
OF VETERANS' SERVICES AND BENEFITS,
COMMEMORATIVE ACTIVITIES
AND CHARTER PRESENTED

Hon. Michael A. Meighen, for Senator Kenny, Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Wednesday, February 23, 2005

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

SIXTH REPORT

Your Committee, which was authorized by the Senate on Thursday, November 4, 2004, to examine and report on the services and benefits provided to veterans in recognition of their services to Canada, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

MICHAEL MEIGHEN
For the Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix, p. 496*.)

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

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

THE SENATE

NOTICE OF MOTION TO AUTHORIZE CERTAIN SELECT COMMITTEES AND THE SPECIAL COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Senate Standing Committees on Human Rights, National Finance, National Security and Defence, Official Languages, as well as the Special Senate Committee on the Anti-terrorism Act, be empowered, in accordance with rule 95(3), to sit on Monday, March 7, 2005, even though the Senate may then be adjourned for a period exceeding one week.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

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

> That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit at 3:30 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Terry Stratton (Deputy Leader of the Opposition): Is the honourable senator aware that the Senate rises at four o'clock? Is there still a need for this motion?

Senator Kirby: There is, and I am happy to explain why.

Honourable senators, the mistake essentially was mine. I thought we were back to our 3:30 p.m. adjournment schedule. There are two panels of witnesses on the mental health study. The problem we have is that another committee is meeting in our room at six o'clock and we will have to be out of the room by that time. I can assure honourable senators that this will not happen again. I will not attempt to start before four o'clock on Wednesdays in the future.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

NATIONAL DEFENCE

UNITED STATES— PARTICIPATION IN MISSILE DEFENCE PROGRAM

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, Canada's new Ambassador to the United States, the Honourable Frank McKenna, got off to a rather explicit start. Yesterday, he informed the world that Canada was already part of the U.S. missile defence program. This was news presumably even to the Prime Minister. Mr. Martin has now reportedly contradicted the distinguished new ambassador and has informed the United States President in Brussels that Canada will not participate in missile defence.

Honourable senators, welcome to Wonderland. Could the Leader of the Government confirm that the Prime Minister has indeed told the President of the United States that Canada will not participate in the U.S. missile defence program?

Hon. Jack Austin (Leader of the Government): Honourable senators, I cannot confirm the newspaper report as to what the Prime Minister might have said to President Bush. I have made inquiries, but I have not yet been advised officially of what might have taken place.

With respect to the statement of Ambassador Frank McKenna, I looked at the statement that he made during the committee hearings. If I may quote from committee hearings in the other place, with the permission of the Senate, Ambassador McKenna is reported as having said: "With respect to ballistic missile defence, this will be an issue decided by the Government of Canada with the contribution of the Parliament of Canada."

Following his testimony, he was interviewed by the media. I am assured that the point he was trying to make is that with respect to tracking incoming missiles, Canada has agreed to amend NORAD to allow NORAD information to detect and disseminate incoming ballistic missile threats to North America.

On the subject of whether Canada intends to participate in the interception of missiles directed at North America, that question remains for decision. I trust that a decision will be forthcoming shortly.

Senator Kinsella: Honourable senators, hopefully the new policy of this government will not be one that we duck when "Mr. Dithers" delays. I appreciate that the Leader of the Government in the Senate would have to await the return of the Prime Minister to ask him what he said. However, is there an assurance that this house will have the opportunity to engage in a full and wholesome debate prior to a decision being taken on any agreement concerning ballistic missiles?

• (1400)

Senator Austin: Honourable senators, first let me observe that it remains totally unclear what the position of the Conservative Party is with respect to joining with the United States in ballistic missile defence. There are newspaper reports, and I am not able to

ask Senator Kinsella to confirm them, that President Bush lectured the Leader of the Official Opposition, Mr. Harper, because he had not taken a determined stand to support the United States' request with regard to joining in the defence of North America through the American Ballistic Missile Program. Honourable senators, let us await a statement of policy with respect to this matter, and should it be the wish of this chamber to debate that statement of policy, then I believe that a debate in this chamber can be arranged by both sides.

Senator Kinsella: Honourable senators, in the not too distant future, when we are on the other side of this house, one of my colleagues will be in the chair that the present minister is in, and I fully anticipate that answers to questions from the opposition will be straightforward, clear and explicit.

Regardless of whether the Prime Minister of Canada or the Honourable Mr. McKenna speaks for the government, the government of our friends opposite has presumably come to some sort of a decision regarding the U.S. Missile Defence Program. That decision was supposed to be based on the merits. There was supposed to have been a debate in this house, as in the other place, if there are merits, or lack thereof, of the U.S. plan for the system. Therefore, quite simply, can the minister share with us the plan that the government is basing this decision on, whatever the decision is?

Senator Austin: Honourable senators, may I say to the first part of Senator Kinsella's aspirations that I believe that the opposition, the Conservative Party, will have to be much clearer about its position on missile defence and many other subjects before the Canadian people will be willing to trust them with a mandate.

With respect to the question of straightforwardness, again, the Conservative Party has shown no leadership in this area of ballistic missile defence. Honourable senators, the government has consulted widely with the Canadian people on ballistic missile defence, and its views will be communicated in a timely manner.

HUMAN RESOURCES AND SKILLS DEVELOPMENT

EMPLOYMENT INSURANCE PROGRAM— REPORT OF HOUSE OF COMMONS SUBCOMMITTEE—RESTORATION OF INTEGRITY

Hon. Terry Stratton (Deputy Leader of the Opposition): I have a fresh question. The question with respect to "Mr. Dithers" and missile defence will be coming forthwith in about six or eight months.

Honourable senators, last week in the other place the Subcommittee on the Employment Insurance Funds tabled a report calling on the government to take measures that would, in the words of the accompanying news release, "restore integrity to the Employment Insurance Program." To the knowledge of the Leader of the Government, does the government agree with the subcommittee report, tabled by none other than the chair of the main committee on Human Resources, his colleague Raymonde Folco, that the government needs to restore integrity to the EI program? If so, would he care to speculate on what caused this loss of integrity that the committee now calls upon the government to restore?

Hon. Jack Austin (Leader of the Government): Honourable senators, I do not share the view that there is any loss of integrity in the Employment Insurance Program. I would not care to speculate.

Senator Stratton: Perhaps I can quote from the report. Honourable senators, on page 10 of the report we find the following:

> ...we believe that there is a moral obligation on the part of the government to restore integrity to the *Employment Insurance Act*. This necessarily requires that the cumulative surplus in the EI Account be returned to the EI program.

Does the government agree with that?

Senator Austin: Honourable senators, the government has under consideration the report from which Senator Stratton made his quotation. In due course and in a timely manner, the government's position will be known.

Senator Stratton: For the record, I reiterate again that the surplus is now $48 billion. I would expect that perhaps $15 billion could be restored because that is the estimated amount required should there be a downturn in the economy. That $48 billion is sure a heck of a smack against the integrity of the government when it uses it to pay down the deficit and the debt of this country and goes on to pat itself on the back by saying as much. All it does is spend money. We still have $48 billion.

Senator Austin: We have heard this argument from Senator Stratton before and no doubt we will hear from him again on the same subject. I will repeat that the entire federal balance sheet stands behind the integrity of the Employment Insurance system.

Senator Stratton: With $48 billion, I should hope so.

VETERANS AFFAIRS

DENIAL OF ANNUITIES—CASE OF CLIFTON WENZEL

Hon. Michael A. Meighen: Honourable senators will know that the Minister of Veterans Affairs has declared 2005 the Year of the Veteran. This year is dedicated to the contributions and sacrifices made by our men and women in uniform who have so proudly served our country. While I am pleased that the country has decided to honour our veterans in this manner, I am concerned that it continues to neglect some of our genuine heroes.

Clifton Wenzel, an 83 year old veteran, has been continually denied an annuity by the Department of National Defence on the basis that his post-military career was deemed not to be "in the public interest." Squadron Leader Wenzel is an air force legend, having served in and survived four major conflicts since the beginning of his career. As a recipient of the Distinguished Flying Cross and the Air Force Cross, he served his country with great distinction for over 20 years in the regular force. In addition to his service in the regular force, he also served for 10 years in the reserve force and played an important and influential role in

the growth of Canada's civil aviation industry. Because of his years of service, Squadron Leader Wenzel would qualify for an annuity if his post-military career were considered to be "in the public interest."

My question for the Leader of the Government in the Senate is as follows: Various other veterans who left the regular force to pursue careers as farmers, court reporters, city solicitors and teachers were granted annuity because it was considered that they had left active military service for purposes that were "in the public interest." Surely 10 years of service in the reserves and a leadership role in the civil aviation industry constitutes a commitment that is "in the public interest." Surely this is not the time for narrow legal interpretation, but rather for compassion and flexibility.

Will the government live up to its promise in dedicating 2005 to our veterans, and finally exercise its prerogative to award heroes, such as Clifton Wenzel, the pension to which they are surely entitled and which they so richly deserve?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will take Senator Meighen's representation with respect to Squadron Leader Wenzel to the minister personally and ask her to deal with it expeditiously.

Senator Meighen: I have a point of clarification, I think that the matter has been looked at in previous years by the Department of National Defence. It is a matter rather for the Minister of National Defence as opposed to the Minister of Veterans Affairs. Perhaps the government leader will keep that in mind when making his inquiries.

Senator Austin: Thank you very much, Senator Meighen. I will spread my representations.

PUBLIC WORKS AND GOVERNMENT SERVICES

PURCHASE OF JDS UNIPHASE COMPLEX

Hon. J. Michael Forrestall: Honourable senators, it is time for the Honourable George Hees to make a decision. If there is a doubt, resolve it in favour of the veteran. It is pretty simple.

Can the Leader of the Government confirm that the JDS Uniphase complex in Nepean has either been leased or purchased by Public Works and Government Services Canada for the use of the RCMP?

• (1410)

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank Senator Forrestall for giving me prior notice of his question. I have been advised by Minister Scott Brison's office to provide the answer of an outright no.

Senator Forrestall: Could the leader explain his evasiveness?

Senator Austin: Honourable senators, were I on the opposition side, I, too, would agree with Senator Forrestall that it is hard to take no for an answer. However, in this case, I am told there have been no discussions of any kind by the Department of Public Works with respect to the use of the JDS Uniphase complex by the RCMP.

FINANCE

BUDGET 2005—RELEASE OF POSSIBLE CONFIDENTIAL INFORMATION TO *NATIONAL POST*

Hon. David Tkachuk: My question is for the Leader of the Government in the Senate. In today's *National Post* there is an article by Ms. Anne Dawson that I found quite troubling. Over the last few days, there have been stories about the upcoming budget on radio and television and in the newspapers, but the article to which I refer is quite definitive:

> Sources have also told CanWest News that the government is expected to offer across-the-board income-tax cuts by raising the basic personal exemption from the current $8,012 to $10,000, effectively removing one million Canadians, including 200,000 seniors, from the tax rolls.
>
> Sources say that the more than $12-billion defence injection will be used to recruit 5,000 more soldiers and 3,000 additional reservists, providing them with an across-the-board pay hike of 6.5 per cent.

Sources also say that:

> ...another $1.5-billion is expected to go toward filling the existing 'shortfall' that the defence department has been running due to previous budget cuts...
>
> Sources also note, however, that a portion of this overall injection has been announced previously to pay for new equipment.

Sources then say that:

> Other business measures will allow companies to write off capital investments...

It is interesting that the article is so specific. Is it possible that Anne Dawson has a copy of the budget or that the minister is speaking to Ms. Anne Dawson of the *National Post*?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no government answer to the question of what Anne Dawson knows. I am sure that she is not, as is customary in the journalistic tradition, prepared to reveal her sources, if any.

Senator Tkachuk: Is it possible that Ms. Dawson knows Mr. Derek Ferguson, who works in the Liberal Caucus Research Bureau, House of Commons?

Senator Austin: Honourable senators, I have no information to supply the chamber in response to the honourable senator's question, but I would be interested if he were to reveal any further speculation that he might have.

Senator Tkachuk: I am not revealing any speculation. I asked the leader a question, and I believe he knows the answer to it. I asked the leader whether Ms. Anne Dawson knows Mr. Derek Ferguson, who is the General Director, House of Commons, Liberal Caucus Research Bureau.

I put the leader and the government on notice that I will be listening to the budget speech to determine whether the article to which I referred is quoting that speech. The rest of the article is not mere speculation and good research. I believe the *National Post* article contains direct quotes from the budget that will be delivered at four o'clock this afternoon.

I ask the leader again whether he knows who Derek Ferguson is and what his relationship is to Anne Dawson.

Senator Austin: Honourable senators, I do not know Derek Ferguson, I do not know Anne Dawson, and I do not know their relationship. The honourable senator has no basis for speculating that I do know. I believe that reference is out of line.

Senator Tkachuk: Would the leader undertake to obtain the answer for me in respect of that relationship?

Senator Austin: No, honourable senators, it is not a matter on which I report for the government in this chamber. If Senator Tkachuk has an interest in the subject, the Conservative side has a research bureau and, no doubt, they could spend a few dollars making their own investigations.

Senator Tkachuk: I believe this to be a serious breach of confidentiality, which we parliamentarians have always treated with some respect. I am not speculating, but I am quoting from an article that contains specific dollar amounts and quotes that I believe will be in the budget this afternoon at four o'clock.

I would ask the leader to undertake a comparison of the article by Anne Dawson in today's *National Post* with the budget as it is being delivered at four o'clock. If the leader finds that there are many similarities, would he undertake to find out who Derek Ferguson is and what his relationship is to Anne Dawson?

Senator Austin: Honourable senators, at this moment I will not give any undertakings, but rather I will await the delivery of the budget. The Senate will meet again tomorrow and, no doubt, Senator Tkachuk will be here with questions if his speculation today has any basis whatsoever.

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present a delayed answer in response to an oral question raised in the Senate on February 17, 2005, by Senator Carney in respect of the Arts Promotion Program at Foreign Affairs Canada.

FOREIGN AFFAIRS

ARTS PROMOTION PROGRAM—CUTS TO FUNDING

(Response to question raised by Hon. Pat Carney on February 17, 2005)

The Arts Promotion Program is of key importance to advance our international interests and those of Canadian artists.

The Public Diplomacy fund is set to sunset. As a result, the arts promotion budget is currently under review in keeping with the government's priority setting and budget exercise.

The Government of Canada is committed to supporting our artists in the international realm. The Arts Promotion Program at FAC has a unique role to play in promoting Canadian culture internationally — a necessary cornerstone of our foreign policy.

Foreign Affairs Canada's (FAC) Arts Promotion Program is Canada's primary foreign policy tool to promote Canadian culture abroad.

Through the program, Foreign Affairs Canada annually assists over 400 artists and companies to reach international audiences and promote Canadian creativity abroad. The program receives over 700 requests in addition to another 1,000 enquiries a year for international travel grants to professional organizations and export-ready artists in four main disciplines: performing arts, visual and media arts, literature and publishing, and film and television.

Foreign Affairs Canada is proud to support a wide diversity of artists and companies to reach international audiences such as Cirque Éloize, Alberta Ballet, Lalala Human Steps, Mermaid Theatre of Nova Scotia, Michael Ondaatje, Margaret Atwood, Denys Arcand and Guy Maddin.

The program is the Government of Canada's largest supporter of international tours by Canadian artists and artist organizations, and the only federal supporter of funds to producers to attend festivals.

For nearly forty years, Foreign Affairs Canada has allocated funds to showcase Canadian talent abroad, an initiative which not only serves to expose our artists to a wider public, but also to support Canada's wider international interests and priorities, whether political, economic or governance-related.

Through a range of contacts and exchanges, culture is a valuable tool in communicating the Canadian experience of diversity, openness and creative expression to the world and contributing to a modern and innovative image of Canada abroad.

The selection of projects follows a rigorous process and eligibility criteria are posted on the FAC web site.

POINT OF ORDER

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, before proceeding to Orders of the Day, I have a ruling. On Tuesday, February 15, Senator Lynch-Staunton raised a point of order to object to proceedings that had occurred Thursday, February 10 with respect to the third reading and passage of Bill C-14. This bill, which provides for certain land claims and for a self-government agreement among the Tlicho, was adopted with leave the same day it was reported from committee without amendment. Indeed, the third reading motion was put almost immediately following the presentation of the committee report. Senator Lynch-Staunton objected to this accelerated consideration of a

bill, especially as it occurred during the Routine of Business. The senator has asked me, as Speaker, to rule out of order those requests for leave because, in his view, such requests distort the meaning of Routine Proceedings and deprive senators of an opportunity to participate in debate on a bill that would normally have taken place the next sitting day.

[*Translation*]

While I was prepared to give my decision before today, I decided to wait until now as a matter of courtesy to Senator Lynch-Staunton. This seemed to be the more suitable course to follow given that the ruling does not affect any matter currently before the Senate. In addition, the extra time taken in preparing this ruling has allowed me an opportunity to explain in greater detail some elements of our practice with respect to leave which I thought useful to bring to the attention of all honourable senators.

[*English*]

Let me point out that I did not take from Senator Lynch-Staunton's point of order that he wanted me to rule out of order what occurred on February 10. It is far too late for this. As I indicated at the beginning of the sitting on Tuesday, February 15, Bill C-14 has received Royal Assent and is now law. The real objection of Senator Lynch-Staunton, as I understand, is that asking for leave as happened on Friday, February 10 is contrary to good practice and, consequently, as Speaker I should use my authority to keep it from happening again.

Two other senators participated in the discussion on this point of order. Senator Rompkey, the Deputy Leader of the Government, indicated his surprise at the events of February 10; it had not been planned. However, he also observed that, in the final analysis, the Senate is the master of its fate and, if leave is given, then business can be conducted outside the boundaries of usual practices as governed by the rules.

• (1420)

Senator Robichaud made the same point in his intervention. While he agreed that the quick consideration of a bill is not normally the best approach, once leave is sought and granted without any objection from any senator then present, the Senate can dispose of the bill in this way. According to the senator, there is no reason to believe that what happened was an error in procedure.

[*Translation*]

I want to begin by thanking the senators who spoke to the point of order. In the time since this matter was raised by Senator Lynch-Staunton, I have had an opportunity to review the *Debates of the Senate* of Thursday, February 10 and the relevant passages from parliamentary authorities, particularly in Beauchesne and Marleau and Montpetit.

I have also benefited from research of past instances in the *Journals of the Senate* when similar events have occurred. As well, I have re-read a ruling dated November 2, 1999 that was given by my predecessor, Speaker Molgat, on a similar matter. Having considered all this information, I am prepared to give my ruling.

[*English*]

As Senator Lynch-Staunton pointed out, the Daily Routine of Business is a class of parliamentary proceedings where the Senate deals with items that enable it, by and large, to organize its Orders of the Day for subsequent sittings. Thus, for example, during the Routine of Business, notices of motions or inquiries are given, petitions for private bills are received, and committee reports are presented or tabled. All of these items are to be taken up at a future sitting day depending on which rule applies.

The *Rules of the Senate* are clear as to the order and sequence of the Routine of Business. Rule 23(7) also stipulates that the time of the Senate in handling these items is limited to 30 minutes, at which time I, as Speaker, must call Question Period.

Thus far, I have described what the Senate does as a matter of course when it follows standard practice. This flow of business, however, can be altered by a suspension of the rules by leave of the Senate. Rule 3 states that "any rule or part thereof may be suspended without notice by leave of the Senate."

This, in fact, is what happened on February 10. Under Presentation of Reports from Standing or Special Committees, the second rubric of the Routine of Business, the Chair of the Standing Senate Committee on Aboriginal Peoples, Senator Sibbeston, presented the report on Bill C-14 without amendment. In accordance with rule 97(4), I then asked when shall the bill be read a third time. Senator Sibbeston was prepared to move the routine motion for third reading at the next sitting, but before I put his motion, Senator St. Germain suggested that the bill be given third reading now in view of "exceptionally special circumstances."

In making this request, Senator St. Germain indicated that the leadership of the opposition had been consulted. For his part, Senator Austin, the Leader of the Government in the Senate, stated that he was also prepared to see the bill passed immediately. Accordingly, I asked if the Senate would grant leave for this. Once it was clear that the Senate had consented, Senator Sibbeston proceeded to move third reading of Bill C-14, seconded by Senator St. Germain. The motion was adopted immediately and so the bill passed.

There was nothing out of order in this, though I acknowledge that it is an infrequent event. Within the past dozen years, three examples have been found in the *Journals of the Senate*. Two instances occurred in 1994; another happened in 1998. All three bills were adopted at third reading with leave immediately following the presentation of the committee report.

Of course, none of these instances, including that of February 10, constitute a precedent. By definition, what occurs by leave can never be a precedent; it can never be considered binding on the Senate, obliging it to follow what was done by leave as if it were a rule. Nonetheless, the earlier examples confirm that a request for leave can legitimately be made and, if accepted,

can result, as was seen with Bill C-14, in the immediate consideration of the bill at third reading. There is nothing that I can do as Speaker to prevent this from happening if it is the will of the Senate to proceed in this way.

Finally, I wish to take this opportunity to reiterate an explanation about the nature or impact of such leave as it relates to the Routine of Business. In a ruling that Speaker Molgat made on November 2, 1999, he explained that whenever the Senate agrees to grant leave "now" either for the third reading of a bill, the adoption of a committee report or a notice of motion, it is agreeing to consider a motion that is debatable. Whether or not an actual debate takes place is immaterial to the consequences of the decision to proceed this way. As Senator Molgat explained, "in agreeing to grant leave and put the question, the Senate has, in effect, stepped out of the Routine of Business for the duration of the debate until it is decided or adjourned." If debate is engaged, "the restrictions imposed by rule 23(1) preventing points of order or questions of privilege during the Routine of Business do not apply." It is important to keep this in mind because it addresses one of the objections raised by Senator Lynch-Staunton through his point of order.

Accordingly, it is my ruling that what occurred with respect to Bill C-14 on Thursday, February 10, was out of the ordinary, but not out of order. It was the unanimous will of the Senate to proceed as it did and, as Speaker, I have no authority to prevent the proceeding or to overrule it.

[*Translation*]

ORDERS OF THE DAY

BILL TO CHANGE BOUNDARIES OF ACADIE—BATHURST AND MIRAMICHI ELECTORAL DISTRICTS

THIRD READING

Hon. Rose-Marie Losier-Cool moved third reading of Bill C-36, to change the boundaries of the Acadie—Bathurst and Miramichi electoral boundaries.

[*English*]

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I would like to say a few words at third reading on Bill C-36, the act to change the boundaries of Acadie—Bathurst and Miramichi electoral districts.

In my address at second reading of the bill, I explained why this corrective legislation was necessary. It was required due to an error in the original process — an error which ought not to have occurred in the first instance. It was corrected because a group of concerned individuals and organizations knew that there existed an injustice and took it upon themselves to seek a solution.

The government did not correct this error of its own volition. The individuals and organizations in the community had to pursue the matter; the courts agreed and the government then responded. That point must be made perfectly clear.

The Standing Senate Committee on Legal and Constitutional Affairs did not propose amendments to this bill, but it did make observations that ought to be taken into consideration, as pointed out in its fifth report. I would like to draw the attention of honourable senators to those observations.

First, any mistake that is made should serve as a reminder for future deliberations and the committee recognizes this. The report states:

> Your Committee, therefore, recommends that the Electoral Boundaries Readjustment Act be amended to ensure that an independent and transparent mechanism is available to deal with any similar situation that may arise in the future.

The committee arrived at this decision since currently the decennial census affords the only opportunity to appoint a boundary commission to alter the electoral map. This clearly needs to be corrected, and this recommendation from our committee, in my judgment, is laudable.

Second, community of interest and community of identity are two very important elements, with which the electoral boundary commission must deal. Our committee further observed that clearer direction should be given to the commissions when dealing with community of interest and community of identity.

• (1430)

I quote from the fifth report as follows:

> Your Committee believes that the law should be amended so that community of interest and community of identity are clearly defined and the importance of cultural identity recognized.

If these definitions are not precise, honourable senators, there is great opportunity for error, as we have witnessed. To prevent this from happening again, I urge the government to act upon this recommendation from the standing Senate committee.

Reading a map does not give one a sense of the community in which people live. This point must be recognized when electoral boundary commissions are undertaking electoral district readjustments. Each constituency has its own particular formation, and this must be considered. That is why our committee stated the following in its report:

> Your Committee acknowledges the frustration of a number of Members of the House of Commons who have large ridings, made even larger when, for example, pockets of their ridings are isolated by natural barriers such as mountains or rivers. Boundary commissions must realize that what may appear logical on the map is not necessarily logical on the ground.

Honourable senators, I should also like to note a further recommendation made by our committee, which is one that I had the opportunity to mention when the Honourable Mauril Bélanger, Deputy Leader of the Government in the other the place and Minister responsible for Democratic Reform, appeared. It involves compensation for the individuals who pursued this matter. As I stated when I commenced my remarks, this mistake

might not have been corrected at all had these persons in the l'Acadie-Bathurst community not given their time and resources to correct this injustice. They deserve not only our gratitude but to be reimbursed for their costs, recognizing also that a significant portion of their costs were met through pro bono contributions by some of their legal advisers.

To quote the committee's report:

> Your Committee therefore recommends that the costs incurred by those individuals be covered by the Privy Council Office.

In conclusion, honourable senators, it is my sincere hope that the Government of Canada acts on these recommendations and does its utmost to ensure that this mistake does not occur in the future. It is simply unfair to the individuals affected, and it does nothing to restore confidence in our institutions of government and democracy. Let us resolve to work together to improve future outcomes.

[*Translation*]

Hon. Lise Bacon: Honourable senators, I want to thank all the members of the committee who helped prepare the document we have tabled. However, I want to point out that we prepared these observations in camera. I was surprised to see some of these comments in the papers, despite the fact that I had refused to speak to journalists who approached me.

I understand the interest that some members of this noble chamber might have in this issue. However, for future reference, when we work in camera it is important not to disclose what is discussed in the Senate before the document concerned is tabled.

[*English*]

Hon. Serge Joyal: Honourable senators, I cannot refrain from drawing honourable senators' attention to the testimony of the Chief Electoral Officer last week at the Standing Senate Committee on Legal and Constitutional Affairs. Those who were in attendance will remember that we had the opportunity to question the Chief Electoral Officer on comments he made about the role of the Senate in relation to his appointment and his dismissal.

I want to remind honourable senators of the facts. Last fall, the Chief Electoral Officer appeared as a witness before the appropriate committee in the other place. In the course of answers to questions from members in the other place, he stated that the Electoral Boundaries Readjustment Act should be amended so that the Senate lose its capacity to dismiss the Chief Electoral Officer.

As honourable senators know, the Chief Electoral Officer is one of the five officers of Parliament. However, the Chief Electoral Officer enjoys a special status, in that he is appointed only by the other chamber but is dismissed by a resolution of both chambers. In my mind, it is an oddity that an officer of Parliament be appointed by one place and dismissed by the other place. I have always contended that the Senate should be as much a part of the appointment as it is of the dismissal.

I used the opportunity, with the authorization of the chair, Senator Bacon, to raise this issue with the Chief Electoral Officer and to express my dissatisfaction that the Chief Electoral Officer used the opportunity of testifying in the other place to talk about the role of this place in relation to his status as an officer of Parliament. The Chief Electoral Officer made the commitment that in his report next June on the Electoral Boundaries Readjustment Act he will recommend that our chamber be reinstated in its capacity to appoint the Chief Electoral Officer.

I want to commend Mr. Kingsley for that undertaking. This is a very important point, honourable senators. I have heard so many times that this chamber should not express any interest in relation to the Electoral Boundaries Readjustment Act because senators are not elected and that the other place, being elected, should deal with everything that pertains to elections in Canada.

That notion is totally wrong. It is a misconception of the role of our chamber with regard to elections. Bill C-36, which we are currently debating, is a clear example of where this chamber has a role in relation to the protection, for example, of the official languages minority, be it in Quebec or in other provinces — and our colleague Senator Ringuette has been very eloquent on this subject — and to the protection of the status of Aboriginal people. As the Honourable Leader of the Opposition knows, there is an Aboriginal community in the riding of Bathurst. We questioned the Chief Electoral Officer with regard to the capacity of Aboriginal people to state their concerns when there is a redrawing of an electoral map. This place has the unique role of expressing the interests of minorities in the electoral process. If we simply close our eyes and pass such bills without question, we fail our constitutional duty to protect the minorities in the electoral process.

I am very happy, honourable senators, that our committee was able to state that to the Chief Electoral Officer because the interests of all Canadians are served when we put forward such views.

The Hon. the Speaker: No other senator is rising and some senators are calling for the question. Are honourable senators ready for the question?

Hon. Senators: Question!

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

Motion agreed to and bill read third time and passed.

DEPARTMENT OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS BILL

THIRD READING—DEBATE ADJOURNED

Hon. Tommy Banks moved the third reading of Bill C-6, to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts.

He said: Honourable senators —

• (1440)

POINT OF ORDER

Hon. Anne C. Cools: Honourable senators, I was waiting to see whether Senator Banks would rise so that I could raise my point of order.

We have before us, honourable senators, Bill C-6, to establish the Minister and the Department of Public Safety, and in so doing this bill purports to jettison the position of the Solicitor General of Canada.

I would like to assert and to ask His Honour to rule on the very important question of the Royal Consent. I assert that this bill needs a Royal Consent because it involves the prerogatives of Her Majesty the Queen. In my view, this third reading debate should have properly been introduced not by Senator Banks but by the Leader of the Government in the Senate, Senator Austin, rising to give the signification that Her Excellency Adrienne Clarkson, the Governor General of Canada, has given consent that this bill may be deliberated and debated in this house. This bill touches not just one but many of the Royal Prerogatives of Her Majesty.

Honourable senators, I shall begin by putting on the record two paragraphs from Beauchesne. In arriving at the conclusion that I should raise a point of order today, I drew on Speaker Daniel Hays' ruling of November 17, 2004, which was the most recent ruling in this house on the phenomenon of the need and the use of a Royal Consent. I shall come to that in a second.

I wish to place on the record two paragraphs regarding the Royal Consent from Beauchesne's sixth edition:

> 726 (1) The consent of the Sovereign (to be distinguished from the Royal Assent to Bills) is given by a Minister to bills (and occasionally amendments) affecting the prerogative, hereditary revenues, personal property or interests of the Crown.
>
> (2) The Royal Consent is generally given at the earliest stage of debate. Its omission, when it is required, renders the proceedings on the passage of a bill null and void.

Paragraph 727 states the following:

> (1) The consent of the Crown is always necessary in matters involving the prerogatives of the Crown. This consent may be given at any stage of a bill before final passage; though in the House it is generally signified on the motion for second reading. This consent may be given by a special message —

— by the Governor General herself —

> — or by a verbal statement by a Minister, the latter being the usual procedure in such cases. It will also be seen that a bill may be permitted to proceed to the very last stage without receiving the consent of the Crown but if it is not given at the last stage, the Speaker will refuse to put the question. It is also stated that if the consent be withheld, the Speaker has no alternative open except to withdraw the measure.

Honourable senators, we have had quite a few debates in this chamber about the timing of the signification of the Royal Consent. The parliamentary authorities — and I speak of great masters such as Lord Landsdowne — all have told us that Royal Consent should be signified earlier than later. For the sake of discussion and for the sake of debate, I shall go with what our Speaker has said as recently as November 17 last. A point of order was raised by Senator Murray, spoken to by Senator Austin, Senator Joyal, myself and I believe Senator Kinsella. At that time, the issue was that it was the bill's second reading debate and that Royal Consent should be signified there at second reading. That case is a little different because it dealt with a private member's bill — not only a private member but an opposition member who, unlike a government member, does not have ready access to Her Majesty's representatives. In the instance of a government bill, it is a slightly different position because of the ready access.

This is what His Honour had to say. I quote from page 288, November 17, 2004:

> Further, the Senate rulings by the chair show that the requirement for Royal Consent is not an impediment to debate since it need only be given before final passage of the bill. There is no reason for me to dispute either of these assessments.

He continues:

> It will not, however, prevent debate on second reading from continuing.

Honourable senators, we are long past second reading debate on Bill C-6. I took the counsel of His Honour, Senator Hays, the Speaker of the Senate, and did not raise the question of the Royal Consent at second reading because His Honour has said that it could be given at the final stage of the debate.

If we look at the same ruling again, His Honour cites Senator Joyal and myself. At that time I said that the Speaker has always said that want of the Royal Consent at second reading will not impede the matter. His Honour then recognized Senator Joyal, who also said that the chair was not required to provide a ruling until third reading.

Honourable senators, we are now at third reading debate of Bill C-6, which in parliamentary lexicon is the final passage of a bill. I can prove that point because when Senator Banks rose to speak just now, he believed that his speech alone would close the debate and bring on the question and the adoption of this bill. We are clearly in the final stage of the debate, what could be described as the final passage of this bill.

The business of the Royal Prerogative is probably the largest and the most complex area of all law, probably only matched by the complexity of the law of Parliament. The point I want to make is that Her Majesty in Canada is no ornament and is no piece of nostalgia. The BNA Act tells us clearly in section 9 that:

> The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.

Note the words "to continue." In other words, executive authority is vested in Her Majesty. In the BNA Act it was Her Majesty Queen Victoria. A fact of the constitutional life of this country is that all power is vested in the Queen.

• (1450)

We must understand very clearly, honourable senators, a fact that does not seem to be well known; that the BNA Act constitutes Canada as a country, but it does not constitute the office of the Governor General of Canada. This is a fact that is not understood and is largely ignored. The office of the Governor General of Canada is constituted by the ancient Royal Prerogative of Her Majesty and is to be found in the letters patent constituting the Office of the Governor General of Canada, which I shall come to in a moment or two.

Honourable senators, I should like to cite and place on the record just some of the prerogatives that Bill C-6 involves, which will perhaps allow us to understand more clearly why the law of Parliament demands that Her Majesty's or the Governor General's agreement and consultation be obtained before the bill is considered and debated.

Bill C-6 will touch the prerogatives of Her Majesty, which can roughly be described as Her Majesty as the fountain of justice in Canada, and particularly all those matters that relate to the administration of justice. The first prerogatives affected, for example, would be what one would call the prerogatives in respect of pardons, mercy, clemency — there are many different words — also parole and remission. My dear friends, these powers exist not pursuant to the BNA Act but, rather, in the person of the Governor General, by virtue of the letters patent of the Governor General. In particular, I am looking at the 1947 letters patent and Article XII, grant of pardons. That is one set of the prerogatives in respect of those matters.

There are other aspects of the Royal Prerogative that this bill will also touch upon — for example, with respect to the administration of justice. These will be described as the prosecutorial powers, bringing and moving prosecutions along in the courts. Bill C-6 will also touch those powers, the Royal Prerogative, related to the granting of policing authorities, for example, the RCMP. These are prerogatives respecting Her Majesty's peace and her peace officers. These are huge sets of prerogative powers affected by this bill.

Maybe I should have said earlier when I was talking about the prosecutorial powers that we should remember that every single criminal prosecution in this country moves ahead in the name of Her Majesty.

Another important prerogative power that this bill touches has been dismissed as name only, as a name change, and I dispute that, and I repudiate that, and I say that it is patently wrong, and not only patently wrong but patently misleading and patently deceptive. This bill attempts to alter, jettison or abolish the position of the Solicitor General. You cannot do that. You cannot do that, old chaps. You simply cannot do that.

If you want to say something, Senator Mercer, be my guest. Let me continue.

[Senator Cools]

The Solicitor General of Canada is the second of the two law officers of the Crown. There are three, but for these purposes we are talking about the two law officers of the Crown. One is the Attorney General, known as the *attornatis regis*, the attorney of the king. Then there is the *attornatis secondarius*, which was the second or the junior law officer of the king. If honourable senators doubt me, they would discover, if they were to visit the U.K., that not only is there a Solicitor General in the U.K., but the Prince of Wales has his own Solicitor General.

What I am trying to say here, honourable senators, is that the Solicitor General is called the law officer of the Crown because the Solicitor General, like the Attorney General, is a permanent attachment to the office of the Crown, to the office of the Queen. We must understand that they are not officers because someone pulled the word "officer" out of the blue. They are officers because they are major officers, I would say, from the first positions of every government. I grew up in a colony. When governments were set up in colonies, more often than not the first positions that were set up were the Governor, then the Attorney General and then the Solicitor General.

Honourable senators, in times of crisis and in times of collapse of constitutional governments — many people believe that cannot happen, but it does happen, and we are having constitutional governments all over the world in many countries collapsing. In times of constitutional crisis, when government fails, the constitutional power that assumes full control of governance is none other than the Queen's representative, the Governor General, assisted by her law officers.

The Hon. the Speaker: Senator Cools, I do want to hear your point of order, but I am rising because 15 minutes have passed, and that would be the normal time that we would spend on a bill other than the first intervention. There are no limits in terms of what we do when we are dealing with a point of order, other than that the Speaker can rise to indicate, when he or she thinks they have heard sufficiently of the matter put in question, that they are in a position to decide. I am rising at 15 minutes just to draw attention to the fact that we have other business.

I would appeal to you, Senator Cools, to please, if you can, be concise and bring your point to a conclusion. I will give you an opportunity to speak in response after I have seen other senators, but in the interests of the general proceedings of this place and the time we spend on a point of order, I draw to your attention that some 15 minutes have expired. I am the only arbiter of when the matter can be brought to a conclusion. I will use that discretion, and I do not want to do it arbitrarily. I am asking you, if you could, please, come to your point. I will then see other senators who wish to speak, and then I will return to you and give you a decision as to whether I reserve or not.

Senator Cools: Your Honour, I would remind you that in this chamber you are Her Majesty's representative, and this particular chamber has not had a debate on either of the law officers of the Crown for maybe a century. I would encourage Your Honour to support assiduously a discussion and debate on these issues.

As a matter of fact, Your Honour, this is one of those questions that should compel you to contemplate leaving the chair and going to your seat to join in on the debate to defend the interests of Her Majesty. Of all the persons in this chamber, the one most charged with upholding and defending Her Majesty's interests and Her Majesty's prerogatives and the law of the prerogative and the law of Her Majesty is Your Honour.

Senator Mercer: Get to the point.

Senator Cools: You are a rude man. You work hard and you succeed at being obnoxious.

Senator Mercer: Thank you.

• (1500)

Senator Cools: The point, my dear —

Senator Mercer: I am not your dear.

Senator Cools: I know that. You have written to me. You remember what you said to me, right? I can talk about it right now, if you want.

An Hon. Senator: Order!

Senator Cools: He has taken his nasty pill today.

The Hon. the Speaker: Order! Honourable senators, I am eager to give Senator Cools the courtesy of a good hearing on her point of order. I am also eager that we do it in an efficient manner. I am in the position of having to weigh the time vis-à-vis other things that the Senate has before it today.

I would ask honourable senators to please listen to Senator Cools. I would like to hear her point of order. If I hear her without interruption, I am sure that will assist her in coming to her point more quickly.

Senator Cools: I have no problems making points, Your Honour. Some people having difficulty comprehending them, but I have no difficulty whatsoever in making them.

The position of the Solicitor General of Canada, the law officer of the Crown, is a part of the office of Her Majesty in Canada. Let us make no mistake about that. No deliberations and no debates on the floor of this chamber on any of these aspects of the law of the Royal Prerogative can move ahead without first having a discussion with Her Excellency the Governor General, and without getting her consent.

Honourable senators, I will reserve the rest of my material to be able to respond. However, in closing, Your Honour, I should like to say that we cannot allow in this chamber the continued shameless and shameful disfiguring of the Constitution and the disfiguring of the real role of the monarch in this country as the linchpin behind the system and as the source of all executive power. Some honourable senators may think that this is ridiculous. However, I feel great attachment, because I believe the system of governance that we have represents the finest and the highest jewel of constitutionalism all over the world. It is so sad and unfortunate that Senator Mercer does not think it is.

The Hon. the Speaker: Honourable senators, I will try to alternate. I want to give everyone who wishes to speak an opportunity to do so. However, please bear in mind that the clock is running and we do have other business today.

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, on the point of order, first, I want to quote from Beauchesne at page 97, which states:

> 321. A point of order against procedure must be raised promptly and before the question has passed to a stage at which the objection would be out of place.

This bill has gone through three stages in the other place, through most of the stages here, and we are at the final stage. The point of order before us is clearly in breach of Beauchesne, in that a point of order must be raised promptly and before the question is passed to a stage at which the objection would be out of place.

I have two points to make here. First, this is not the point at which to raise a point of order. Second, I want to quote from Marleau and Monpetit about the substance of Senator Cools' intervention. Page 643 of Marleau and Monpetit states:

> Royal Consent (which should not be confused with Royal Assent or Royal Recommendation) is taken from British practice and is part of the unwritten rules and customs of the House of Commons of Canada. Any legislation that affects the prerogatives, hereditary revenues, property or interests of the Crown requires Royal Consent, that is, the consent of the Governor General in his or her capacity as representative of the Sovereign.

This particular bill does not affect in any way hereditary revenues, property or interests of the Crown. This is a change in government departments, which we have acknowledged from time to time on both sides of the house is the prerogative of the advisors of Her Majesty. Clearly, the point of order should not have been made now; however, on the substance of it, there is no point of order.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I will be brief and succinct. I am looking at the sixth edition of Beauchesne on Royal Consent. I would refer His Honour to that edition, as I know he will refer to it.

We have here a unique situation. We have never been faced with a question as to the orderliness of a bill — that is, whether it needed Royal Consent — in the case of a bill that is affecting the office of the Crown. That is what is unique about this case.

One has to look at the provisions of the Constitution Act that describe the office of the Crown and the officers of the Crown. Honourable senators will find there are only two officers that are consistently referenced, one of which is the Solicitor General.

There is no question, in my mind at least, that the bill that is before us is attempting to abolish the office of Solicitor General. It was not necessary to do this for the government to achieve the objective that it is seeking. All the government had to do was to create this ministry, and leave in there "and Solicitor General." However, this was an attempt to expunge the ministry of the Solicitor General and, more important, the office of Solicitor General.

Honourable senators, I recognize that it is a prerogative of the Prime Minister to organize the machinery of government the way the Prime Minister of the day would like to organize the machinery of government. I also recognize that it is done under other provisions. This is why we have had, for example, the Department of Foreign Affairs and International Trade operating, even though there was no act to do this and that in the other place they had problems with that act.

What we have here is, quite frankly, an error that was made — not with the intent to organize this piece of machinery as far as the new ministry is concerned, but by saying they had to abolish the position of Solicitor General because the office of Solicitor General is attached, as mentioned in the Constitution, to the office of the Crown. My argument here is, *mutatis mutandis,* if a bill must have Royal Consent for anything, it must certainly have Royal Consent when it affects a royal office.

Hon. Tommy Banks: The point that Senator Cools has raised, and to which Senator Kinsella has referred, was debated at great length on both sides of the question in the committee. A majority of the members of the committee, which has reported the bill unamended for third reading, found that in its view the question of the attachment of the office of Solicitor General to the Crown, per se, and that something special attached itself to that office by virtue of that connection that has had a long continuity in this country, did not, in fact, obtain. That question was debated at length.

Taken into consideration, among other things, is the fact that there was an interregnum in this country when there was no Solicitor General. We have previously been without a Solicitor General. Things did not go to hell in a handbasket then. There is an absence of any evidence whatever to show that, if this bill before us now is to pass, we will go to hell in a handbasket. There is no evidence to suggest that any previous holder of that office has been, by virtue of having had that office and that name, imbued with a particular distinction.

The distinction that previous office-holders bearing that name have held has been because of the quality of the persons in that position, which will continue to be the case.

• (1510)

Senator Cools has referred to the majesty of the Crown and our system of government, which derives from the Westminster system. I agree with everything that she has said, and I happen to be an avid royalist. Senator Cools referred to the fact that continuity was given great respect in colonies. This country is not a colony. It is the will of Parliament, expressed in this bill, that an office, which was by act of this Parliament created in 1966 as a cabinet position and nothing more than a cabinet position, should be changed and, in fact, abolished.

Honourable senators, in the past in this place, in this Parliament, there were Ministers of the Interior and External Affairs. Those positions no longer exist. We have changed the names. The name that is given to the minister who is responsible under this bill correctly and clearly describes the office and what it is to do, which "Solicitor General" does not. If we wanted to continue with tradition, we could decide that it could be called the Lord Chamberlain, which would be an appropriate office, given some of the things that this bill refers to. We have decided in this country not to stick to that line. Parliament is deciding on the name of a member of the ministry and the name of the department that will carry out important work in the government. The connection between the majesty of the Crown and the office of the Solicitor General in Canada, which is vastly different from the office of the Solicitor General in the United Kingdom, then or now, has not been made. Therefore, there is no point of order.

The Hon. the Speaker: Before Senator Cools continues, are other senators wishing to participate? If not, I will go to Senator Cools for her final comments.

Senator Cools: Honourable senators, I would like to restate that I relied on His Honour's ruling of November 17. I did not raise this point of order earlier. I followed the ruling as laid out by His Honour.

I would like to take issue with Senator Banks' comments. First, the issue of Royal Consent was not raised in committee. I deliberately did not raise this issue because I was adhering to the Speaker's ruling. The role of the Solicitor General was discussed in committee. That is quite different. Royal Consent must accompany any bill of this nature. You say you are relying on Parliament, but the law of Parliament states that Royal Consent is needed for a bill touching the Royal Prerogatives. This has nothing to do with the substance of the debate in committee. The point of the Royal Consent was not raised in committee because I assiduously wanted to conform to His Honour's ruling.

Honourable senators, Senate precedents show that in a similar situation concerning what we called the Clarity Bill in the year 2000, Bill C-20, the Honourable J. Bernard Boudreau rose in this place — I think His Honour will remember that he at the time was the deputy leader — and gave the Royal Consent, which was the requirement for the Clarity Act to proceed. This is very important and I would like to put it on the record. On June 29, 2000, he said:

> Honourable senators, I have the honour to advise this house that Her Excellency the Governor General is pleased, in the Queen's name, to give consent, to the degree to which it may affect the prerogatives of Her Majesty, to the consideration by Parliament of a bill...

The Royal Consent is a thing that goes with the bill. Let us not confuse the issues.

I would also like to give more support for the Royal Consent. For example, section 41 of the Constitution Act, 1982, sets aside and demonstrates very clearly that the position of the office of the Queen is not only protected by the law of Parliament, but it is also protected by the Constitution.

Section 41 of the Constitution Act, 1982, reads:

> An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:
>
> (a) the office of The Queen, the Governor General and the Lieutenant Governor of a province.

Honourable senators, you cannot go around changing names. The Prime Minister cannot decide to change his name to King. The process does not work like that. We have a Constitution, and it is a thousand years long and probably just as wide. That is what I mean by constitutional authority. I am talking about the principles, the law, the concepts and the culture that has affected how we pass law so that we do not find ourselves in situations where a Department of Justice official says, "It is the law because we, the department, say it is so." It is not that way. We, in this chamber, are charged by Her Majesty under oath to take our work very seriously.

Honourable senators, I would like to offer another precedent. I am not going to the substance of the bill at all. Senator Carstairs, on October 4, 2001 rose in this chamber and signified a Royal Consent on Bill S-34. There have been two precedents in this chamber in the last several years. It is certainly indicative of a certain kind of paucity that this issue of the Royal Consent was not even raised in the House of Commons, particularly by a minister.

In closing, I would like to share with Senator Banks in particular a statement that was made in the other place by none other than the current Prime Minister's father, Paul Martin Sr.

In 1966, which is not so long ago, the Department of Justice was reorganized in a similar process with a similar bill, almost verbatim in many places, and divided into the Department of Justice and the Solicitor General. The Solicitor General was extended from the Department of Justice and was given a full department called the Department of the Solicitor General. We are not talking about a long time ago, I have searched the record. Mackenzie King did it. This is a characteristic of the Liberals today. They do not follow their ancestors or their own precedents.

However, I want His Honour to know, and he should heed some of this, whenever a major bill affecting the machinery or the reorganization of government was to be moved, before a bill even began, it was normal to bring a resolution to the chamber to have a debate on what they called the expediency of bringing the measure forward.

I want to go to a resolution dealt with by the current Prime Minister Paul Martin's father, Paul Martin Sr., whose funeral I attended. Mr. Martin Sr. was asking the House of Commons to go into Committee of the Whole to consider a resolution:

> That it is expedient to introduce a measure respecting the organization of the government of Canada to establish a Department of the Solicitor General —

— and other departments.

• (1520)

When Mr. Martin rose to move that the House go into committee at the next sitting to consider a resolution — not a bill, a resolution — he said, and I shall quote from Hansard of May 2, 1966:

> **Hon. Paul Martin (for the Prime Minister)** —

The Prime Minister was Mr. Pearson, if you please — and you are Liberals, right?

I shall continue the quote:

> **Hon. Paul Martin (for the Prime Minister)** moved that the house go into committee at the next sitting to consider the following resolution which has been recommended to the house by His Excellency.

Therefore, folks, learn your own history, and learn the grand history of parliamentary government in Canada. Thank you.

Senator Robichaud: What a waste of time!

Senator Cools: You are a waste of time!

The Hon. the Speaker: Thank you, honourable senators, for your interventions.

We will deal with this matter in two parts. As to the question of whether Royal Consent is required, I shall reserve my decision and bring it to the house as soon as possible.

To the extent that the question is in issue on proceeding with debate, I am ruling that the authorities are clear on that and clear in respect of the way in which they have been quoted. In other words, honourable senators, if Royal Consent is required — and this is consistent with past rulings I have made — that Royal Consent can be forthcoming at any time before the final disposition of the matter, that is, before voting on the matter at third reading. Accordingly, debate can continue.

As to the question of necessity of Royal Consent, as I said, honourable senators, I shall take it under consideration and bring back a ruling as soon as possible.

Senator Banks: Honourable senators, I first want to congratulate all honourable senators who have taken part in this debate as well as the Chairman of the Standing Senate Committee on National Security and Defence for their review and thoughtful consideration of this bill. As honourable senators

know, the Committee on National Security and Defence has been very instrumental in the formulation of the thrust and content that is contained in this bill, and in the formulation of this new department and in its mandate, all of which are reflected in the proposed legislation. During committee stage here in the Senate, the Honourable Anne McLellan, together with her departmental officials, appeared to speak to the bill and to participate in a very productive dialogue on a range of issues that are relevant to public security in Canada. The committee also heard testimony from Professor Wesley Pue of the University of British Columbia, at the suggestion of Senator Cools, as to the constitutional implications of not continuing the office of Solicitor General.

This issue, in fact, engendered considerable debate at the committee, led by Senator Cools. The concern focused on the argument that, by not continuing the office, we would be effectively abolishing an important historical and constitutional position of law officer of the Crown. This contention was countered, however, by Mr. Bill Pentney, Assistant Deputy Attorney General, Department of Justice, who stated there is no Canadian constitutional position of Solicitor General, that this position is strictly a statutory creation of Parliament by the Department of the Solicitor General Act of 1966. Mr. Pentney said that the position of Solicitor General is not entitled to any constitutional protection and can be eliminated or restructured. A majority of the honourable senators who were members of that committee accepted that view and agreed with it. Consequently, the bill is now before us for third reading, unamended, but having had the benefit of considerable review and debate by that committee.

In strict government parlance, as Senator Cools said, this is a machinery bill to create a new department, the Department of Public Safety and Emergency Preparedness. However, as previous debates here, in the other place and in committee have so clearly demonstrated, there is a larger story behind this proposed legislation. Bill C-6 is more than just housekeeping. It is more than just a measure to create a new government department. It is the latest step on a journey intended to safeguard a public trust — the most important public trust that government and Parliament hold, that is, the duty of the Government of Canada and of Parliament to ensure that all Canadians live in a safe and secure environment.

Therefore, the bill proposes the integration and coordination of very important, in fact, key national security functions in one department. It would clarify the national leadership role of that department's minister relating to public safety and emergency preparedness. It is precisely that consolidation and the placing of those responsibilities into the hand of one senior minister that was the thrust of the most important recommendation — in my view — of one of the reports of Senator Kenny's National Security and Defence Committee. In fact, it is practically word for word what those recommendations suggested.

This proposed new department is built upon a very substantial legacy that comes from different departments of the government. The Department of the Solicitor General has, over the past 40 years, since its creation in 1966, earned a solid reputation on matters relating to policing, law enforcement, corrections, conditional release and national security. The National Crime Prevention Centre is widely recognized for its critical role of keeping our communities safe. The Office of Critical Infrastructure Protection and Emergency Preparedness, fondly called OCIPEP, has evolved over the past decade to provide a vital capacity to prepare for and respond to all kinds of disasters, whether man-made or natural.

Honourable senators, it is not a small accomplishment to maintain safety and security in our environment in these dangerous and unstable times. Threats today take many forms, many of which are new to us — from natural disasters brought about by environmental degradation to random and strategic acts of terrorism.

Therefore, the time has come to take the next step on that journey, and this is that next step. We need to continue to build on those legacies that were in place by creating this proposed department — Public Safety and Emergency Preparedness — which amalgamates the Department of the Solicitor General, the National Crime Prevention Centre and the Office of Critical Infrastructure Protection and Emergency Preparedness. We take that step by supporting the proposed legislation that is before us, proposed legislation that creates a department and a minister whose job description is contained literally in their titles.

Bill C-6 creates the legal foundation for that new department. The key principles enshrined in the bill are neither novel nor complex, but they are essential to the effective functioning of that department. They are critical to preserving safety and security in Canada. These principles — national leadership, portfolio coordination, partnerships and information sharing — are at the heart of the kind of approach to security and emergency preparedness that we need in this country now.

Building on lessons learned from past experience, the proposed legislation embodies a truly integrated approach as opposed to a series of silos — with which we are all familiar — in the challenges that face us now, and they are very much at hand. It puts the new department at the epicentre of a portfolio of agencies and institutions designed to ensure our collective safety and security and to preserve, importantly, the rights and freedoms of Canadians. In a democracy there is no greater onus, no greater duty, no greater responsibility and no more daunting role of a government than that of protecting the safety and security of its citizens. It is a sacred public trust. Our approach must constantly evolve. We cannot rely upon the offices, let alone the methods, of yesterday, today.

• (1530)

We are at the cusp of the latest step of our journey, and I urge all honourable senators to help us move forward with confidence into the future by supporting Bill C-6 and its passage. By so doing, we can help to keep Canadians safe and secure in the most effective and certain way possible.

Senator Kinsella: Would the honourable senator answer questions for clarification?

Senator Banks: Yes.

Senator Kinsella: My understanding is that the honourable senator participated in the hearings of the Standing Senate Committee on National Security and Defence, which received the reference from the chamber to study this bill. I would like to have clarity shed on the issue. He mentioned that he heard from the minister and some of the witnesses. When the committee concluded its hearings, was there a break between the time at which evidence-taking ceased and clause-by-clause examination of the bill began? If so, how much time was it?

Senator Banks: My recollection is that clause-by-clause consideration was on a different day than was the final hearing of witnesses.

Senator Kinsella: As the clause-by-clause examination began, the honourable senator mentioned that there was great debate in committee. Was an opportunity given to debate each clause, as it was read, during the consideration?

Senator Banks: Honourable senators, I am reminded of a joke about an innkeeper and the use of the facilities at hand. The short answer to the question is, yes, and I say that with certainty. The usual process for clause-by-clause consideration was followed such that certain items were stood and each clause was considered separately. In each case, I was careful to be the first senator to say "agreed." In each of those cases, I allowed a silence of a few seconds to see if any other senator wished to speak before I said "agreed." Following my saying "agreed," some senators said other things, including "agreed," and some senators said "abstain." On a couple of occasions "opposed" was heard. All of that is contained in the complete transcript of those hearings.

The short answer to the question is yes, there was opportunity to debate each separate provision of the bill.

Senator Kinsella: I thank the honourable senator for the answer to those questions relating to process. In terms of substance, I accept the argument and my friend has outlined quite clearly, at least for me, the rationale for this new ministry. What is the compelling argument, at the same time, to not include "and Solicitor General"?

Senator Banks: I believe the reason is clarity, to avoid lexicographical circumlocution and to say plainly what the bill is about. If, for example, we were to say that the ministry and the minister are to be called "of public safety and emergency preparedness and Solicitor General," then we would have to make reference to all of those elements to which I referred in my remarks a few moments ago that are being folded into this brand new ministry. We would have to say that the continuance of the ministerial responsibilities that obtained with respect to all of those other agencies of government are also continued; and that does not make any sense in the view of the government. Rather, it makes sense in the view of the government to say of a new minister and a new ministry that this is what it is and this is what it does. It happens that it folds into itself and its effect was consolidation of a number of responsibilities that previously resided in other places. In short, the word is succinctness.

Hon. David Tkachuk: Honourable senators, I was interested in the honourable senator's comments at third reading and his concern for the safety and security of Canadians. Perhaps the honourable senator could explain to the house how the Office of the Solicitor General failed the safety and security of Canadians.

Senator Banks: Honourable senators, I do not think the Office of the Solicitor General failed or that any Solicitor General failed in matters having to do with the safety of Canadians. There may have been a case in the past where a particular Solicitor General fell short in that area, although I am not aware of any. I do not think that any such failure occurred.

Senator Cools: Honourable senators, when Senator Banks spoke at second reading he told us that the Standing Senate Committee on National Security and Defence had recommended the creation of this ministry and the rethinking of the organization of the machinery of government in respect of public safety. The honourable senator took credit for that, understandably, because it is to be considered. I believe that the report was entitled, *Canada's Coastline: The Longest Under-Defended Border in the World*. Could the honourable senator tell the Senate whether the Standing Senate Committee on National Security and Defence recommended in that report that the position of Solicitor General be jettisoned?

Senator Banks: I thank Senator Cools for her question. No, the committee did not recommend anything to do with the name of the new ministry or the name of the new minister.

Senator Cools: Honourable senators, it is my understanding from reading the report that the committee recommended an enlarged and greater role if necessary for the Office of the Solicitor General, and I could quote material in that respect. The committee also recommended a committee of cabinet ministers, which included the Solicitor General. That was my recollection from the report.

Senator Banks: Honourable senators, I do not have the report here but the thrust of the recommendation to which the honourable senator refers was that the responsibilities ought to be removed from the various "silos" and that the reins of these matters of public safety and emergency preparedness be placed in one hand. The recommendation also stated in respect of those aspects of these responsibilities, which then existed in the Office of the Solicitor General, very junior in the order of precedence in the ministry, that they should not be in the hands of a minister at that junior level but rather in the hands of a minister at a much higher level. I believe our report said that perhaps they should even be placed in the hands of the Deputy Prime Minister, an office that has never had constitutional or legislative basis and yet exists. These matters were of such importance that they needed to be consolidated and put in the hands of a minister higher up in the ministerial hierarchy.

• (1540)

We did not, so far as I know, suggest a name for the new ministry or a name for the new minister; nor did we know at the time who the members of the ministry might be and under whose aegis this would happen.

Senator Cools: Could Senator Banks tell this chamber where the initiative came from to jettison the Office of the Solicitor General, since it very clearly did not come from his committee? Whom did it come from? Whose idea was it, and what kind of study was it based on? What kind of constitutional authority did it rest on?

Senator Banks: Honourable senators, I will assume that Parliament has some kind of constitutional authority. It is from the constitutional authority that resides in Parliament and that is vested in Parliament that the government derives its authority. The government, therefore empowered, decided to name a ministry and a minister in the proposed legislation before us.

Senator Cools: My recollection, honourable senators, is that the authority to constitute that minister and that ministry did not come from Parliament. My understanding is that that ministry has been in existence for the past year and was called into existence by a plethora of Orders-in-Council. Am I not correct?

Senator Banks: My understanding is that from time to time governments employ Orders-in-Council to bring about measures that they deem to be the business of government. I also believe that government must be able to govern. That is what the government has done in this case. My honourable friend cannot look for a parliamentary authority that resides in a bill that is now before us.

Senator Cools: No one is looking for it. I was looking for the authority to take the initiative. This initiative was taken over a year ago. The honourable senator seems to be forgetting that point. As a matter of fact, there are some who could argue that this bill is not necessary at all; that is what we are talking about.

The honourable senator has told us with great pride that a lot of the aspects in the creation of this ministry flow from the good work of the committee — excellent work, I believe — under the chairmanship of Senator Kenny, but no one will tell us how this other dimension, this other element, made its way into the bill. When I questioned Minister Anne McLellan, she very quickly passed me on to one of her officials. Is that not true?

Senator Rompkey: Honourable senators, I wish to point out to the chamber that we have 15 minutes left in the day, and we have some business that we really should dispense with today.

I should further like to point out that although there is a question and answer period, there clearly is a difference of opinion on this matter and there is more time for debate at another time. I would suggest that we limit the discussion on this order of business and proceed to others.

The Hon. the Speaker: Honourable senators, there are about 20 minutes left of Senator Banks' time. That is our rule. Of course, Senator Banks is the author of his own use of the time. He can choose to not take questions. In any event, he has chosen to take questions and we do have the time. I am sorry, but I do not have any means of intervening without the agreement of the Senate.

Senator Cools: No, the Senate cannot agree to that. We could do this on a point of order, but what Senator Rompkey is asking is highly out of order. He is essentially asking His Honour or senators to truncate and to end or to terminate — whichever word we want to use — Senator Banks' intervention. I believe Senator Banks had 45 minutes. In asking questions, we were merely using the proper and constitutionally allocated time.

The Hon. the Speaker: Senator Cools, I accept that. I think it is your opportunity to put your question to Senator Banks.

Senator Banks: I move adjournment of the debate for the balance of my time.

On motion of Senator Banks, debate adjourned.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, before proceeding with the Orders of the Day under Government Business, I would seek leave to call Reports of Committees so that we could deal with items that should be dealt with today.

The Hon. the Speaker: Perhaps Senator Rompkey could tell the chamber which items he wishes to be called.

Senator Rompkey: I would like to call Order nos. 1, 2, 3 and 4 dealing with the Standing Senate Committee on Human Rights.

The Hon. the Speaker: Is leave granted, honourable senators, that we proceed to Reports of Committee in the order in which Senator Rompkey has referred?

Hon. Senators: Agreed.

HUMAN RIGHTS

REPORT TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Human Rights, (study on the rights and freedoms of children—extension of reporting date) presented in the Senate on February 22, 2005.—(*Honourable Senator Andreychuk*)

Hon. A. Raynell Andreychuk: I move the adoption of the report standing in my name. The report is simply an extension of the existing mandate. It is not a new mandate. The committee is simply asking for more time.

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

Motion agreed to and report adopted.

REPORT TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES RELATED TO NATIONAL AND INTERNATIONAL OBLIGATIONS ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on Human Rights, (study on human rights obligations—extension of reporting date) presented in the Senate on February 22, 2005.—(*Honourable Senator Andreychuk*)

Hon. A. Raynell Andreychuk moved the adoption of the report.

Motion agreed to and report adopted.

REPORT TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF CASES OF ALLEGED DISCRIMINATION IN HIRING AND PROMOTION PRACTICES AND EMPLOYMENT EQUITY FOR MINORITY GROUPS IN FEDERAL PUBLIC SERVICE ADOPTED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Human Rights, (study on the Federal Public Service—extension of reporting date) presented in the Senate on February 22, 2005.—(*Honourable Senator Andreychuk*)

Hon. A. Raynell Andreychuk moved the adoption of the report.

Motion agreed to and report adopted.

REPORT TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF LEGAL ISSUES AFFECTING ON-RESERVE MATRIMONIAL REAL PROPERTY ON BREAKDOWN OF MARRIAGE OR COMMON LAW RELATIONSHIP ADOPTED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Human Rights (study on an invitation to the Minister of Indian and Northern Affairs—extension of reporting date) presented in the Senate on February 22, 2005.—(*Honourable Senator Andreychuk*)

Hon. A. Raynell Andreychuk moved the adoption of the report

Motion agreed to and report adopted.

TELEFILM CANADA ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Chaput, seconded by the Honourable Senator Mercer, for the second reading of Bill C-18, to amend the Telefilm Canada Act and another Act.

Hon. David Tkachuk: Honourable senators, Bill C-18, to amend the Telefilm Canada Act, has been introduced almost like a housekeeping bill.

Originally established as an organization to promote the feature film industry in Canada, Telefilm Canada has spread its mandate far beyond what it was established to do. Its girth has spread into television, into audio recording and into what is known as new media.

Section 10 of the Telefilm Canada Act reads:

> 10. (1) The objects of the corporation are to foster and promote the development of a feature film industry in Canada...

Bill C-18 replaces this section with:

> 10. (1) The mandate of the Corporation is to foster and promote the development of the audio-visual industry in Canada...

In Bill C-18, the government is attempting to make a virtue out of a reality, but they do so at a rather late date. Those on the other side would have us believe that they are only reacting to the recommendation of the Auditor General that was made last November. However, as she made clear in her report, Telefilm has been expanding beyond its mandate since it was established in 1967.

Moreover, the need for catch-up legislation was first pointed out nearly 10 years ago by the Juneau commission. It stated in 1996 that the corporation's legislative framework should be broad enough to accommodate its activity.

• (1550)

I am concerned about introducing what amounts to retroactive legislation regarding Telefilm Canada. We are amending the bill to reflect what the corporation has been doing for the last 10 or 20 years without the consent of Parliament. Hence, rather than introducing a new bill to deal with a new entity that would do all of these things, which would give us an opportunity to talk about the whole subject of Telefilm Canada, the government wants to amend the act to conform with what Telefilm Canada has been doing outside the parameters of the legislation for the last 20 years.

It seems — there being no real legislative agenda in the other place to speak of — that the government is scrambling to find business, any business, to keep parliamentarians occupied. Therefore, the government introduces bills like Bill C-18, bills that formalize events that have already taken place, bills that follow events they should have preceded. This will set a precedent and this approach to legislation will become the norm rather than the exception.

We on this side will support Bill C-18, but not without commenting that it is a distraction from the real issue — that is, the value or lack thereof that Canada gets from organizations like Telefilm Canada.

As Senator Meighen so aptly put it earlier when speaking on another bill, where is the beef? Of what value is Telefilm Canada? What does it add to the life of Canadians? My own belief is that Telefilm Canada and its supporters claim far more for the

organization than they can demonstrate — which is why they invariably hang their defence of this dubious organization on the nebulous hook of cultural promotion. Judging by the words of the sponsor of this bill in the Senate, one would think Canadian culture would have all but withered and disappeared were it not for Telefilm Canada.

How does one measure the contribution that Telefilm Canada has made to our culture without knowing how Canadian culture would have fared in its absence? It is an argument of convenience, honourable senators, and one that could be made only because it is impervious to objective standards of proof.

In Telefilm Canada's 2003-04 annual report, the executive director pointed to the slowing of growth in the Canadian audiovisual industry, largely due to the popularity of domestic television programming in other countries. It has been nearly 10 years since the Juneau commission issued its mandated review of the CBC, the NFB and Telefilm Canada, and in that 10 years Telefilm Canada, a Crown corporation, by the way, has been spending money in areas for which it has no legislative mandate. It has a board of directors made up of government appointees, none of whose appointments or terms is subject to the review of Parliament.

It is time, honourable senators, that the mandate of Telefilm Canada be revisited, to see not only if Canadians are getting their money's worth now but if they have been getting their money's worth all along.

For too long, Crown corporations, as the Auditor General pointed out, have had their finances hidden from public scrutiny, and Telefilm Canada, as the House of Commons Committee on Canadian Heritage indicated in a 2003 report, is among these Crown corporations. Specifically, Telefilm Canada produced reports that did not meet the criteria and principles of either the Auditor General or the Treasury Board. The changes to the Financial Administration Act that are contemplated in Bill C-18 may take care of this, but that will be determined by the committee that receives the bill. In any event, Bill C-18 does not obviate the need for a fuller examination of Telefilm Canada and the value Canadian taxpayers are getting from an organization with a budget of some quarter of a billion dollars.

Honourable senators, sometimes mandates are rather frightening. In her rather descriptive and very supportive speech on Telefilm Canada, Senator Chaput talked about the new media fund that will be approved if this bill is passed. Under this provision, in addition to being involved in film, Telefilm Canada will be involved in the whole industry of audio, video, DVDs and everything else, and will be giving money to develop programs. Senator Chaput spoke about the new media fund being extremely beneficial to the way in which our children learn and socialize with each other and the world around them. For example, she said that since the Internet and interactive CD-ROMs are widely used in school curricula, the proposed new Canadian media fund will serve as an extremely important mechanism for Canadian content to be generated and brought to the attention of teachers and students alike, introducing Canada's youth to the extensive and dynamic array of Canadian content and presenting information from a Canadian point of view — I am sure a Canadian point of view with a board of directors made up of the Liberal Party of Canada.

A quarter of a billion dollars, honourable senators, to support, with very few exceptions — and this is statistically correct — films and television that few people watch.

The Hon. the Speaker: No other honourable senator rising, are honourable senators ready for the question?

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Chaput, bill referred to the Standing Senate Committee on Transport and Communications.

ANTI-TERRORISM ACT

SPECIAL COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. John Lynch-Staunton, for Senator Fairbairn, pursuant to notice of February 22, 2005, moved:

> That pursuant to rule 95(3)(a), the Special Senate Committee on the Anti-terrorism Act be authorized to meet during periods that the Senate stands adjourned for a period exceeding one week.

He said: Honourable senators, this motion is intended to give the Special Senate Committee on the Anti-terrorism Act the right to sit while the Senate is not sitting, that is, during adjournment weeks. There are two such weeks coming up. We are not intending to sit next week, but we would like to sit during the second adjournment. We are currently sitting on Mondays and we do not want to disrupt schedules that are already fixed during the rest of the week. If we can have authority to sit on those days when the Senate is not sitting, it would accelerate the work of the committee, which must report, and, it is hoped, will report, before the end of this year. The more we can get done by June, the less will have to be done, if necessary, when the Senate resumes in the fall.

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

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Thursday, February 24, 2005, at 1:30 p.m.

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