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**Wednesday, April 13, 2005**



THE HONOURABLE DANIEL HAYS  
SPEAKER

## CONTENTS

(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Wednesday, April 13, 2005

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

Prayers.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before we begin today, I have the great pleasure of drawing your attention to the presence in our gallery of a group of visitors from Malaysia. We have with us the Honourable Tan Sri Dato' Seri Dr. Abdul Hamid Pawanteh, the President of the Malaysian Senate. He is accompanied by his colleagues, the Honourable Senator Tuan Wong Foon Meng, Deputy President of the Senate; the Honourable Senator Dato' Benedict Bujan Tembak; the Honourable Senator Tuan Osman bin Bungsu; the Honourable Senator Puan Nosimah binti Hashim; the Honourable Datuk Zamani Sulaiman, Secretary of the Senate; and Encik Salleh bin Abas, Secretary of the Delegation.

I am also pleased to draw your attention to His Excellency Dennis Ignatius, Malaysia's High Commissioner to Canada.

Welcome to the Senate.

**Hon. Senators:** Hear, hear!

## SENATORS' STATEMENTS

### NATIONAL VOLUNTEER WEEK

**Hon. Terry M. Mercer:** Honourable senators, as Chair of the Association of Fundraising Professionals Foundation for Philanthropy in Canada, I am honoured that next week the federal government will celebrate National Volunteer Week. It is the occasion for all Canadians to honour their volunteers and to recognize that giving of ourselves helps to make our nation a better place.

Over 6.5 million Canadians are actively volunteering in their communities. All Canadians recognize that helping others in need is the backbone of a caring society. Volunteers help to shape the cultural landscape of our nation, but also gain many benefits from the social interactions that occur.

Honourable senators, collectively, volunteers give over 2 billion hours of their time annually — the equivalent of 1 million full-time jobs. This is a vital force that we must celebrate and encourage. However, this force of Canadian generosity cannot be taken for granted. We must promote the value of volunteering more and encourage more Canadians to participate.

National Volunteer Week provides the opportunity for all Canadians to recognize the importance of volunteering. However, we should not just celebrate it next week, but all weeks

throughout the year because clearly the story of volunteers is about how Canadians come together to build communities and to work for the benefit of the public. It is truly a story of how Canadians define themselves.

Honourable senators, I am sure you will join me in thanking and congratulating all of Canada's volunteers for their hard work and dedication.

### THE LATE POPE JOHN PAUL II

#### TRIBUTE

**Hon. John Buchanan:** Honourable senators, I rise to say a few words about the late Pope John Paul II.

I had the great honour and privilege of welcoming the Pope to Nova Scotia in 1984. Prior to the huge mass that was held at the Halifax Commons, I met him a second time. I also had the privilege of speaking to him as he left Halifax. We were able to say goodbye to him.

A few short stories are appropriate. Prior to the Pope arriving, Archbishop Hayes, the Archbishop of Halifax, had mentioned that Pope John Paul II was fluent in seven languages and conversant in three or four others. Therefore, as I had done on many occasions to visitors to Nova Scotia, I welcomed him when he came off the plane by simply saying, "Welcome to Nova Scotia, bienvenue en Nouvelle-Écosse, ciad mile failte." Senator Kirby will remember that that was my usual greeting.

Immediately His Holiness said, "First was English, second was French," and I thought he was going to ask what language the third was, but he said, "the third was Gaelic." He knew the Gaelic language. As I said to Steve Murphy on television last week, "Archbishop Hayes was absolutely right, but I do not think Archbishop Hayes thought that he knew Gaelic also."

The Pope met with us before a grand mass at the Halifax Commons, where over 100,000 people were in attendance, in the rain and the wind. My wife, Mavis, and I sat right in the front, before a massive altar that the Province of Nova Scotia had financed and helped to build. Just before the Pope ascended to the altar, he asked me, "How long have you been premier?" and I responded, "Your Holiness, I have been premier to this point for six years. I was elected in 1978." With that twinkle in his eye and a smile, he looked at me and said, "I have been Pope for six years and I was elected in 1978."

• (1340)

The Pope had a tremendous sense of humour. When the Pope was leaving, a number of us were lined up to say goodbye to him at Shearwater Airport. The Pope presented my wife with a beautiful pearl rosary, and I was given a pewter cross. I said, "I hope you enjoyed your short stay in Nova Scotia, Your Holiness." He started to move away after shaking hands, and then abruptly turned back to me and said, "Premier, the weather — all

the rain and wind — your responsibility or mine?” Immediately, I said, “Your Holiness, my responsibility.” The Pope boarded the plane and the late Bishop Power of Antigonish turned to me and said, “Thank heavens you gave him the right answer!”

[English]

[Translation]

### WORLD HEALTH DAY

**Hon. Rose-Marie Losier-Cool:** Honourable senators, April 7 was World Health Day. Its theme was “Make every mother and child count.” This theme reminds us that there are still too many preventable maternal and infant deaths on this planet. Ninety-nine per cent of maternal and infant deaths occur in sub-Saharan Africa and Asia, at the rate of one every minute.

Canada has its problems too. Our country has a good health care system and its population is generally educated and fairly well off. According to the Public Health Agency of Canada, the maternal and infant death rate has decreased considerably since 1920, but the rate of severe maternal illness is still high, at close to five women per 1,000 deliveries. More than five children in 1,000 still die in the first year of life, which represents 85 per cent of deaths in children under the age of five.

In 2002, the leading causes of infant death were perinatal conditions, sudden infant death syndrome, congenital anomalies and injuries. Injury death is caused by transport injuries, drowning and homicide. Smoking and alcohol consumption remain a concern. Fourteen per cent of Canadian mothers smoked in 2003; 14 per cent consumed alcohol during their pregnancy. Inequalities in social status affect 10 per cent of Canadian families, whose children are often born preterm and more likely to suffer injury.

Aboriginal Canadians face higher risks of adverse pregnancy and infant health outcomes. The infant mortality rate remains about twice as high among First Nations neonates as in the general population in Canada.

Fortunately, the news is good for our children, because improved and specialized health care has substantially reduced their mortality rate at birth and before the age of five years. Our women, however, continue to face problems. With mothers having children ever later, there are risks for their pregnancy. Increased use of means of assisted reproduction is leading to more multiple births and the resultant problems. Obesity has become endemic and affects a growing number of pregnancies. The rate of seropositivity in women is on the rise and increased from 12 per cent in 1985 to 25 per cent in 2002. So, there is some distance to go to in safeguarding the health of our mothers and children.

I invite you, therefore, to get involved in this matter, to become familiar with the ten very simple interventions proposed by the Public Health Agency of Canada in its recent report and to promote these interventions.

### BUDGET 2005

#### INQUIRY—COMMENT IN SPEECH BY SENATOR TKACHUK

**Hon. David Tkachuk:** Honourable senators, on March 22, in a speech in this chamber, I spoke about corruption. On March 23, the Leader of the Government in the Senate, whose party has more than a passing acquaintance with the subject, graciously pointed out an error that I had made.

This is the first opportunity I have had to respond to this subject in a statement, given the Senate recess and the tributes yesterday to the late Pope John Paul II.

Liberals know their corruption well, honourable senators. I humbly defer to them on all matters related to the practice of it. The mistake I made was an honest one. I misread a newspaper headline that said: “Sponsorship scandal leaves Canada 12th on list of 146 most corrupt countries.”

Given the daily reports coming out of the Gomery inquiry, I naturally assumed that what the headline meant was that Canada was ranked twelfth worst. I should have known better. I should have known that there are many countries around the world with cruel and despotic rulers to whom this Liberal government can favourably compare itself. It is only too bad this government cannot do so with reference to other rich democracies, such as Finland, New Zealand, Denmark, Iceland, Sweden, Switzerland, Norway, the Netherlands, Australia or the United Kingdom, all of which were ranked above us in that report.

To the people of Canada, I apologize for what I said. It does seem that on this subject I was most prescient. I will let long-time and now former Liberal MP David Kilgour speak for me. As a one-time Secretary of State for Latin America and Africa, Mr. Kilgour knows something about Third World corruption. Here is what he said last week in response to the recent revelations coming out of the Gomery inquiry:

...the Liberal party was now seen “as looking on the public trust as a vulture looks on a dying calf.” ... “Here we are, a G7 country, acting like a northern banana republic. What country is seen as more politically corrupt than us at the moment?”

What country indeed? Still, I should have looked more deeply into the report from which the newspaper got its headline. In that spirit, and with the appropriate measure of contrition that my misinterpretation calls for, let me read from a section of the report that refers to Canada.

2003-04 will be remembered primarily for the shockwaves sent out by the most damning auditor general’s report ever, which detailed massive misappropriations and misuse of public funds in the Department of Public Works.

The report continues:

Sheila Fraser found little evidence to justify most of the expenditures and concluded that as much as C\$100 million (US\$77.4 million) was siphoned off to advertising firms — some with political connections to the government — through schemes involving overbilling, artificial invoices, fictitious contracts and other forms of abuse and mismanagement.

Honourable senators, Ms. Fraser did not know the half of it.

## PRINCE EDWARD ISLAND

### CHARLOTTETOWN— ONE HUNDRED FIFTIETH ANNIVERSARY

**Hon. Percy Downe:** Honourable senators, I rise today to congratulate the city of Charlottetown on the one hundred fiftieth anniversary of its incorporation.

The great small city of Charlottetown has a long and fascinating history, from its naming after Queen Charlotte to its designation as the capital city of Prince Edward Island by Captain Samuel Holland in 1765. Charlottetown was officially incorporated in 1855, 150 years ago.

The city of Charlottetown has many rich and interesting stories, from the American pirates who invaded in 1775 and stole the great seal of Prince Edward Island, never to be recovered, to the famous Prince Edward Island writer Lucy Maud Montgomery, who attended city schools.

Charlottetown is also well known for hosting visitors over the years, everyone from the Irish writer Oscar Wilde to, in more recent years, Prince Charles and his first wife, Princess Diana.

However, without a doubt, the most famous visitors to Charlottetown were the Fathers of Confederation, who, as Canadian historians have noted, walked up Great George Street in Charlottetown and into the pages of Canadian history.

The founding principles of our country were established at the Charlottetown Conference, in 1864, and formalized at the Quebec Conference. Our two founding cities, Charlottetown and Quebec, hosted the meetings that created Canada.

As our country expanded over the years, the significance of the Charlottetown Conference has been recognized in many ways. Province House in Charlottetown, where the Fathers of Confederation met, is now a national historic site. Every year, visitors from all over the world come to view the very location where Canada was founded.

• (1350)

Next door is the Confederation Centre of the Arts and the National Memorial to the Fathers of Confederation. Charlottetown is also the home to Founders' Hall, an interactive museum that explores the important role of the Charlottetown Conference in the formation of Canada.

Canadians are sometimes critical of other countries, but we can learn valuable and important lessons, such as their celebration and regard for significant historical cities.

There is a wonderful opportunity for the Government of Canada to give Canadians and visitors alike a better understanding of the founding of Canada. I would recommend that Charlottetown and Quebec City be included in an expanded mandate for the National Capital Commission. The NCC should be given new responsibilities to promote Ottawa, Charlottetown and Quebec City as our national capital and founding city commissions. This expanded commission would not only promote these three important historical cities; it would also teach lessons to Canadians and to visitors about our country.

The one hundred fiftieth anniversary of Charlottetown would be a wonderful opportunity for the Government of Canada to explore this option for the promotion of Canadian unity. I will be communicating this suggestion directly to the Prime Minister and responsible ministers.

In conclusion, I would like to extend congratulations to Charlottetown Mayor Clifford Lee, city councillors and the citizens of Charlottetown on the one hundred fiftieth anniversary of the incorporation of their city.

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## ROUTINE PROCEEDINGS

### INTERIM COMMITTEE OF PARLIAMENTARIANS ON NATIONAL SECURITY

#### NEWS RELEASE AND BACKGROUNDER TO REPORT TABLED

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour to table a copy, in both official languages, of the news release entitled "Deputy Prime Minister details proposed model for National Security Committee of Parliamentarians" and the accompanying backgrounder on *The Report of the Interim Committee of Parliamentarians on National Security*.

### PARLIAMENT OF CANADA ACT SALARIES ACT

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-30, to amend the Parliament of Canada Act and the Salaries Act and to make consequential amendments to other acts.

Bill read first time.

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

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 57(1)(f), I move that the bill be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

Would you explain, please, Senator Rompkey? A request has been made.

**Senator Rompkey:** Honourable senators, the two sides talked about this bill this morning and decided that this was probably the best course of action. My understanding is that there is an agreement between the two sides that we proceed in this fashion.

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

**Hon. Senators:** Agreed.

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

Motion agreed to.

#### CANADA-JAPAN INTERPARLIAMENTARY GROUP

ELEVENTH ASIA-PACIFIC PARLIAMENTARIANS'  
CONFERENCE ON ENVIRONMENT AND  
DEVELOPMENT, AUGUST 17-20, 2004—REPORT TABLED

**Hon. Marie-P. Poulin:** Honourable senators, I have the honour to table, in both official languages, the report of the Canada-Japan Interparliamentary Group following the Eleventh Asia-Pacific Parliamentarians' Conference on Environment and Development, held in Korolevu, Fiji, from August 17 to 20, 2004.

ASEAN INTERPARLIAMENTARY  
ORGANIZATION—TWENTY-FIFTH GENERAL  
ASSEMBLY, SEPTEMBER 12-17, 2004—REPORT TABLED

**Hon. Marie-P. Poulin:** Honourable senators, I have the honour to table, in both official languages, the report of the Canada-Japan Interparliamentary Group following the Twenty-fifth General Assembly of the ASEAN Inter-Parliamentary Organization, held in Phnom Penh, Cambodia, from September 12 to 17, 2004.

#### SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

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

**Hon. Michael Kirby:** Honourable senators, I give notice that, at the next sitting of the Senate, I shall move:

That, pursuant to rule 95(3)(a), the Standing Senate Committee on Social Affairs, Science and Technology be authorized to meet Monday, April 25, and Tuesday, April 26, 2005 as part of its study of issues concerning mental health and mental illness, even though the Senate may then be adjourned for a period exceeding one week.

## QUESTION PERIOD

### JUSTICE

FREEDOM OF RELIGION—ALBERTA HUMAN RIGHTS  
COMMISSION—SAME-SEX MARRIAGE—  
ADVOCACY OF COERCIVE POWER

**Hon. Gerry St. Germain:** Honourable senators, my question is to the Leader of the Government in the Senate. Calgary Roman Catholic Bishop Fred Henry faces investigation by the Alberta Human Rights Commission for having advocated in a letter to his flock that the state "use its coercive power to proscribe" homosexuality in society's interests.

He said in a statement to *The Globe and Mail*:

If the Human Rights Commission is successful, it will prevent me from expressing my views and the position of the Roman Catholic Church.

I raised this matter before in this place to the Honourable Leader of the Government in the Senate, and he gave me assurances of grandeur that the freedom of religion was not in jeopardy. Is this a promise made and a promise broken?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, Senator St. Germain must have taken some time to compose that particular question.

The situation, as he well knows, is that there is a proceeding before a competent tribunal in the province of Alberta to determine whether advocating the use of coercive power is an abuse of our democratic system. I do not know whether the answer is yes or no. I do not know the facts and I will not join a lynch mob in dealing with this particular proceeding. I will leave lynch mob leadership to Senator Tkachuk.

**Senator St. Germain:** Honourable senators, Senator Tkachuk told us something that Pope John Paul taught the world. Tell the truth. You guys are corrupt.

**Some Hon. Senators:** Oh, oh!

**Senator St. Germain:** I will stand by that statement: The Liberal government is corrupt.

**Hon. Jeremiah S. Grafstein:** Point of order.

**The Hon. the Speaker:** Order, honourable senators, please.

**Senator Grafstein:** Is the honourable senator accusing me of corruption? Withdraw!

**The Hon. the Speaker:** Just to remind honourable senators, a point of order, which would be what I think Senator Grafstein is raising, is properly brought at the end of Routine Proceedings and before Orders of the Day. We are in Question Period. I believe Senator Austin had the floor in responding to a question from Senator St. Germain.

**Senator Grafstein:** Point of order.

**The Hon. the Speaker:** Senator Grafstein, under our rules, points of order are not permitted. If you have a point of order, it should be raised at the end of Routine Proceedings and before Orders of the Day.

**Senator Austin:** Honourable senators, we have just heard Senator St. Germain pointing at this side and saying: "You guys are corrupt." That is unparliamentary language and is probably a breach of the privileges of this chamber. As this is my first opportunity to deal with it, I would ask His Honour to review this question and to determine whether this is within the order of debate in this chamber and whether this is an abuse of the privileges of senators by Senator St. Germain.

I want to make this answer to him.

• (1400)

We have the Gomery inquiry, the purpose of which is to find the facts and report those facts to Canadians. The Prime Minister commissioned this proceeding. The Prime Minister said that he wanted this proceeding to get to the bottom of things. The Prime Minister said that if anyone has committed a crime against the Government of Canada, against the people of Canada, they will be charged and prosecuted.

The Prime Minister has put in place a police investigation with respect to this matter. The Prime Minister has put in place the recovery of funds improperly taken.

Senator St. Germain is obviously over the top when he wants to join a lynch mob that wants to hang the accused before the judge has made a determination as to what took place. This may well be, in his opinion, in the interests of the Conservative Party. If it is, go for it.

**Senator St. Germain:** Honourable senators, let us be clear. He started it, I did not, by claiming that there is a lynch mob mentality. There is no lynch mob mentality in this country. There is deep-seated corruption in government in the country and we have to get to the bottom of it, but this does not relate to my question. You did not answer my question, which had to do with the freedom of religion in this country. You chose to go to Senator Tkachuk's statement, which I think grossly takes away from your integrity and your past record, sir.

**Senator Austin:** Honourable senators —

**Senator St. Germain:** I still have the floor.

**Senator Austin:** Talk away. It is good for us.

**Senator St. Germain:** Honourable senators, my supplementary question relates to the question that I asked about Bishop Henry. Bishop Henry feels that his freedom of religion or his freedom to express his religious views is in jeopardy. I have talked in this place before about the slippery slope in regard to jeopardizing the freedom of religion by virtue of what is taking place in the provinces right now.

The federal government has chosen to follow provincial court decisions regarding same-sex marriage. The Prime Minister, not a year and a half ago, clearly stated that marriage was a union between one man and one woman. All of a sudden, driven by judicial activism at the provincial level, the freedom of religious expression is in jeopardy. That is what I want an answer to, not to what Senator Tkachuk brought up.

**Senator Austin:** Certainly you do not want me to refer to Senator Tkachuk's outrageous statements. Senators' Statements are supposed to be statements of fact, not statements of political argument.

However, I will tell you about Bishop Henry. He has the full protection of the Charter of Rights and no one can take that away from him. The notwithstanding clause will not take it away from him because no political party in this country will remove the rights of Canadian citizens, whether the right of freedom of religion or the right of equality of treatment.

To come back to the comment that I intervened with an extraneous argument, Senator Tkachuk is the one who began with the question of corruption and the debate on corruption in this chamber. I feel somewhat ashamed that in front of delegates from Malaysia we have to have these false statements and this ridiculous portrayal of Canada, for this is an honest country, one that is admired throughout the world for its integrity.

**Senator Tkachuk:** Poor you. Please!

**The Hon. the Speaker:** Order, please.

It might be timely for me to remind honourable senators of our rules. Question Period is an opportunity for questions to be put to the Leader of the Government, a minister or chairs of committees with a brief preamble and to be responded to with a brief preamble. It is not a time for debate.

## CITIZENSHIP AND IMMIGRATION

### DELAY IN FOREIGN CREDENTIAL RECOGNITION PROCESS

**Hon. Consiglio Di Nino:** Honourable senators, I am afraid to rise. This is an interesting debate, but I will ask a question to change the pace.

Honourable senators, Statistics Canada reported last month that in 2017, just 12 years from now, visible minorities will comprise the majority of the population in our biggest cities, mainly as a result of immigration. It has been repeatedly stressed in this place and the other place that immigrants to our country often are not able to use their education and training here because of the slow pace and complexity of our foreign credential recognition process. Although this is a complex problem, recent numbers from Stats Canada illustrate the need to seriously address the situation and to do it now. What truly is the federal government's plan to improve the recognition process for foreign professionals and educational credentials?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the government has launched an investigation leading toward changes with respect to the acceptance of credentials of foreign-trained professionals. We have a parliamentary secretary whose responsibility is specifically that subject, and we are in



dialogue with the provinces and with professional associations to come to an agreement on the way in which to accelerate both training and acceptance of credentials.

**Senator Di Nino:** With all due respect, honourable senators, we have been hearing about this matter for a long time. It is an issue I have been involved with for many years.

The media has reported that the announcement of a plan to accelerate this process has been repeatedly delayed by the government. These delays have occurred despite the fact that the last two throne speeches promised swift action to speed up the process.

Will the government leader please send a message of hope to the thousands of people out there who are waiting to get a job and make a meaningful contribution to Canada by having their credentials recognized? When can they expect action from the government that is meaningful rather than just words?

**Senator Austin:** Honourable senators, I want to thank Senator Di Nino for his support of this policy. We look forward to his additional support in dealing with the provincial governments, who have jurisdiction in terms of credentials, and with certain professional associations, who also have jurisdiction in this field by virtue of provincial legislation.

However, there is consensus as to the principle, which is a major advance. This government has shown leadership in achieving this advance. I want to report further to honourable senators that there is leadership from the community that will be affected by the improvement in the process of accepting and improving credentials. As far as I am aware, they seem to believe that serious progress is being made.

## FISHERIES AND OCEANS

### MEETING OF DEPUTY MINISTERS TO DISCUSS AGENDA FOR UPCOMING MINISTERS MEETING— DISAGREEMENT WITH P.E.I. REPRESENTATIVES

**Hon. Gerald J. Comeau:** Honourable senators, my question is for the Leader of the Government in the Senate. Last week, provincial deputy ministers of fisheries were in Ottawa to meet to discuss the agenda for an end-of-the-month meeting with the fisheries ministers. We have now learned that deputy ministers from P.E.I. were kicked out of the meeting, the excuse apparently being that there is a court action between P.E.I. and Fisheries and Oceans Canada. Would the minister not agree that this action is quite irresponsible and only serves to aggravate rather than improve federal-provincial relations?

• (1410)

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I know nothing of the matter to which Senator Comeau has just referred. I will certainly make inquiries to determine what took place, why it took place and, indeed, if it did take place, as the honourable senator says it did, what position other provinces took with respect to the matter. I assure Senator Comeau that I will report as soon as I can.

**Senator Comeau:** I will send the minister a copy of the April 7 *Charlottetown Guardian*. After the government leader reads the article, I would be pleased to know whether he agrees with me that disputes and disagreements are quite common between federal and provincial officials, and happen quite regularly. Does the minister agree that, rather than resorting to bullying and intimidation, the federal government should get involved at the executive level, rather than at the bureaucrat level, and advise these bureaucrats to no longer use the tactics of bullying and intimidation, especially with regard to Canada's smallest province, which is trying its best, without proper Conservative representation from P.E.I., to get its point across here in Ottawa?

**Senator Austin:** Honourable senators, I can only repeat my undertaking to look into the matters that have been raised by Senator Comeau. I am curious about the phrase "without proper Conservative representation from P.E.I." Perhaps my investigation will tell me what that really means.

## CANADA-UNITED STATES RELATIONS

### INTERNATIONAL JOINT COMMISSION— MANITOBA—EFFECT OF OPENING OF DEVILS LAKE OUTLET IN NORTH DAKOTA

**Hon. Janis G. Johnson:** Honourable senators, it is now less than 90 days before the scheduled opening of the Devils Lake outlet in North Dakota. When this outlet opens, polluted water with a great many unknown biota will begin to be pumped northward into Manitoba from North Dakota, ending up in Lake Winnipeg.

Could the Leader of the Government in the Senate update us as to the efforts the government is engaged in to force an international review of this project by the International Joint Commission? I have spoken about this matter previously in the Senate. North Dakota has resisted this for many years and has also said that it will not respect any IJC recommendations when they come in.

**Hon. Jack Austin (Leader of the Government):** I thank Senator Johnson for what I believe is a very important question, not only as it affects the province of Manitoba and as it affects Canada and our relations with the United States, but also as it affects the validity of the International Joint Commission.

As honourable senators may know, the State of North Dakota has undertaken, on its own and at its own expense, to build an outlet ditch that, when it is completed — and it is expected that it will be completed about July — will allow water from Devils Lake to flow northward into the Saskatchewan system through the Red River.

The problem is that there are species in Devils Lake and in the state of North Dakota that are foreign to species that are in the Manitoba water system and, as such, can be quite damaging to existing species.

The Government of Canada has requested the United States to agree to an order of reference to the International Joint Commission. If the United States, through its state department, would agree to that order of reference, it would vest jurisdiction in this binational body, which was set up under the Boundary Waters Treaty of, 1909. I know honourable senators are familiar with a number of cases that have been adjudicated by the International Joint Commission.

The state department has not yet responded, but we have made repeated requests, including the Prime Minister, at the Crawford ranch, raising the matter and asking the President of the United States to deal with this expeditiously. I believe the matter is under the most urgent review in the United States.

If the United States does not accept a reference to the International Joint Commission, and if the waters are allowed to flow northward, then Canada will make a claim against the United States for any damages that are caused to Canada as a result of this unilateral action by the State of North Dakota.

**Senator Johnson:** I know Canada has worked hard with respect to this matter; Ambassador McKenna himself has called me on the issue. We have been working on it for 15 years in Manitoba. Representatives from our province and the Premier have been to Washington as well.

What position will we be in? Time is running out. If this proceeds without an IJC reference, which is what North Dakota is saying they will do, this will break the precedent and risk the very existence of the 1909 Boundary Waters Treaty. Does the government leader have any further information?

As well, if all these avenues that the government is pursuing are exhausted, does the Leader of the Government in the Senate have any idea what options we are left with to prevent this water from being diverted, because North Dakota is refusing to honour these treaties? The risk is huge to my part of the world and to Canada.

There are other precedents. There is a situation in British Columbia as well, which is the reverse. Where will we be headed when all the options run out? Will we simply be left to deal with this water? It affects transference of water from basins all over North America.

**Senator Austin:** To supplement the first answer I gave, honourable senators, it is our view that the United States will respond positively. In the event of a positive response with respect to reference to the International Joint Commission, the federal court would then receive an application for an injunction against North Dakota continuing its work until the matter is settled under the Boundary Waters Treaty of 1909.

Should the United States not provide a reference, and if the United States is determined on a course that is unilateral and permits this diversion ditch to be completed and water to flow north of the boundary, then the remedy that is available to us is one in international law — that is, a claim, state to state, for damages incurred by Canada. That procedure would likely be one that we would want to refer to an international tribunal.

**Hon. Pat Carney:** I wish to ask a supplementary question on this issue, in which we have a shared interest. Could the government leader elaborate under what authority Canada could claim and collect damages in terms of this International Joint Commission issue? It is my understanding that the U.S. does not normally respond positively to claims for damages. Under what authority would this take place? Diplomatic notes will not solve the problem.

**Senator Austin:** I thank the honourable senator for that question. The International Joint Commission can make an award, if it has a joint reference. If there is no reference and the United States proceeds unilaterally, then there is a body of international law with respect to the rights of states to non-interference by their neighbours. There is a body of international law with respect to riparian rights and responsibilities.

For example, with respect to the St. Lawrence Seaway, in the 1920s the United States claimed that a wing dam created on the Canadian side was diverting the flow of water and damaging pier facilities and private property on their side. Canada accepted that particular claim because it was their obligation to do so under international law, and compensation was paid.

• (1420)

As Senator Carney will well know, in an analogous situation, the United States claimed damage to orchards and other property in the state of Washington from air pollution originating at the Trail, B.C., smelter. The arbitration became quite famous. Canada accepted arbitration in that case under similar principles to those administered by the International Joint Commission. There are other illustrations, but, certainly, Canada would not do nothing.

**Senator Carney:** The honourable leader has made the point that Canada has honoured its international obligations in this issue. I am asking him what evidence exists that the Americans would do the same. It is not a hypothetical question. The leader said that, according to the provisions of the International Joint Commission, it requires a joint reference, which may not occur. In what forum, in which country and under what authority would Canada seek an injunction against this project?

**Senator Austin:** With respect to the first part of the honourable senator's question, the United States made claims and Canada responded to those claims. In that case, the precedent of the United States claiming entitlement worked in both directions. When Sir Wilfrid Laurier was Prime Minister of Canada and the proposed Boundary Waters Treaty of 1909 was before Parliament, he said that, if the United States insisted on its right to divert waters from Lake Michigan through the Chicago drainage canal into the Mississippi River system, then Canada would have the same rights on the Canadian side. The action would be reciprocal. That has been the principle on which the two countries have dealt with such issues.

An injunction would not be sought in Canada because no Canadian court could issue an injunction in respect of any entity within the jurisdiction of the United States. However, there could be an application to a federal court that had jurisdiction over the State of North Dakota.

**PUBLIC WORKS AND GOVERNMENT SERVICES****SPONSORSHIP PROGRAM—  
INVOLVEMENT OF MINISTERS**

**Hon. Marcel Prud'homme:** My question is for the Leader of the Government in the Senate. Would the leader assure the house that no ministers were aware of or a part of the activity that is currently the subject of the Gomery inquiry?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the Prime Minister has ensured, in the process of examining the entitlement of parliamentarians to become members of the ministry, that no minister who reported in that process participated in the events to which Senator Prud'homme refers.

**Senator Prud'homme:** Does the honourable leader know whether any minister was aware of the activities that led to this inquiry?

**Senator Austin:** I can assure the honourable senator that no minister of this government was aware of any acts of fraud or any crimes that are alleged to have taken place.

**JUSTICE****AIR INDIA BOMBING—  
JUDICIAL INQUIRY INTO INVESTIGATION**

**Hon. A. Raynell Andreychuk:** Honourable senators, last night members in the other place voted in favour of an opposition motion calling for a judicial inquiry into the investigation of the Air India bombing of June 23, 1985. This was the largest mass murder in Canadian history. The families and friends of the victims and all Canadians deserve answers. We know that this government does not always adhere to the will of the House of Commons but surely, in this case, the will of the people, as expressed through the majority vote in the other place, should be respected.

My question for the Leader of the Government in the Senate is: Will the government do the right thing and establish a judicial inquiry into the investigation of the Air India bombing? Not only do we need to know about the details of the Air India disaster, but we also need to learn lessons from it. All CSIS, RCMP and judicial officers involved in the Air India inquiry deserve to know whether their practices and procedures were adequate or whether something else should be done or demanded of the government either by way of legislation, policy or practice. The time for an inquiry is now.

**Hon. Jack Austin (Leader of the Government):** Senator Andreychuk poses good and valid questions. The government has noted the vote in the other place and is proceeding in a regular and systemized way to determine the questions on which we do not have public information and disclosure.

The Deputy Prime Minister announced that an eminent person will be chosen to examine the content of the public record, what is not known, and the questions to which an inquiry might respond that are not now on the public record. As soon as that process has taken place, we will have the answer as to whether a public inquiry will be launched.

**Senator Andreychuk:** An eminent person would be an adequate response in a different situation. However, in this case, government cannot appoint someone to look into the issues and report back to the government. That would not be good enough. That would fall short of what the families want. They want an independent inquiry. They do not want necessarily to be informed again that there was wrongdoing, but they do want someone to have a fresh look at the case. They want people to know that best practices are in place because, as some of the victims have said, they do not want another Canadian to be in their shoes. To appoint an eminent person for the purposes described by the honourable leader would be of no value. It is merely a delaying tactic. We need to get on with the inquiry.

**Senator Austin:** Honourable senators, on the face of it, Senator Andreychuk and I have a disagreement about the process that should be launched in this matter. Inquiries must be shown to have the opportunity to be useful to public knowledge. There can be no serious objection to having a professional, analytical look at what an inquiry might produce. In other words, there must be a prima facie case for an inquiry because of what remains to be known.

It is an interesting issue. The Air India disaster occurred in 1985. The work by security agencies and police that took place between 1985 and 1993 was under the authority of a previous government.

[Translation]

**DELAYED ANSWERS TO ORAL QUESTIONS**

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour of presenting three delayed answers to oral questions. The first response is to a question raised in the Senate by Senator Comeau on March 9, 2005, regarding RCMP Forensic Laboratory Services.

[English]

I have a second response to an oral question raised in the Senate on March 23, 2005, by Senator Atkins regarding criminal activity in mortgage fraud and identity theft. I have a third response to oral questions raised in the Senate on March 22, 2005, by Senator Carney concerning the CFIA's report on Avian influenza (jurisdictional problems and bio-security issues.)

**ROYAL CANADIAN MOUNTED POLICE****CLOSURE OF EDMONTON FORENSIC LABORATORY**

*(Response to question raised by Hon. Gerald J. Comeau on March 9, 2005)*

*How will these labs cope with the increased workload when they are already operating under a backlog? How will they cope when the Edmonton laboratory is closed?*

There are no backlogs in the processing of crime scene DNA samples at the Forensic Laboratory Services (FLS), or convicted offender samples processed by the National DNA Data Bank.

The FLS processes all urgent cases within 15 days, and response times for all non-urgent cases are negotiated between the Case Receipt Unit and the investigator.

*Closure of the Forensic Laboratory Services Edmonton site:*

The FLS workload will not increase as a result of the closing of the FLS Edmonton site.

Closing the Edmonton site will not reduce the number or types of services provided to Canadian law enforcement. The services currently delivered at the Edmonton site will be transferred to the other five FLS sites across Canada. The staff and equipment will be transferred to other FLS sites.

The FLS is a national service; regardless of where cases are submitted, the Case Receipt Unit at each site receives all cases and distributes them to the FLS site where they can be most efficiently analyzed. The FLS has committed to maintain the Case Receipt Unit in Edmonton (at a different location), and will open another one in Calgary. This will enhance the case submission process in Alberta.

The Edmonton site provides trace evidence analysis, document examinations, breath test program services and biology reporting. The Edmonton site does not perform biology analysis (which includes the scientific processing of crime scene samples to derive DNA profiles), which is currently offered out of Vancouver and Ottawa.

*Is it the intention of the government to deliver results in a timely fashion by relying on private labs to do the work that was done by government labs in the past?*

The RCMP Forensic Laboratory Services (FLS) has a standing offer arrangement with an accredited private laboratory for analysis of biology cases. This contracting mechanism is used at the discretion of the FLS to manage unpredictable casework fluctuations that exceed our ability to provide timely responses to investigators.

The FLS audits the quality of services provided by the contractor.

The Government of Canada does not intend to dismantle the FLS in favour of private laboratories.

## JUSTICE

### CRIMINAL ACTIVITY IN MORTGAGE FRAUD AND IDENTITY THEFT

*(Response to question raised by Hon. Norman K. Atkins on March 23, 2005)*

The *Criminal Code* currently contains provisions to protect individuals from mortgage fraud through identity theft. A person who fraudulently represents himself or herself as another person, living or dead, with intent to gain an advantage for himself/herself or for another person commits the offence of personation. Securing a mortgage to

which the individual would not otherwise be entitled constitutes a legally protected "advantage". Further, a person who by deceit, falsehood or other fraudulent means defrauds the public or another person of any property, money or valuable security or service may be found guilty of fraud. If a mortgage takeover by impersonating another person involves knowingly using forged documents to convince the bank that the perpetrator of the crime is someone else, the elements of uttering a forged document may also be applicable. Persons convicted of any of these crimes on indictment (provided that in the instance of fraud the amount of the fraud exceeds five thousand dollars) are subject to a maximum penalty of imprisonment of ten years.

The Department of Justice has been examining the current *Criminal Code* provisions to assess whether there are limitations in the current law to deal with identity theft and has formulated various options to address those limitations. The work that the Department is doing has been informed by input received from other federal departments, provincial and territorial officials, law enforcement and from stakeholders. All of this work will assist the Department in formulating any changes that are needed to ensure that individuals are protected from mortgage fraud through identity theft.

Compensation for legal costs for victims of crime is not within the legislative jurisdiction of the federal government. The Senator may wish to direct his concerns about such compensation to the appropriate provincial or territorial authorities that are responsible for the administration of justice in that jurisdiction.

## HEALTH

### CANADIAN FOOD INSPECTION AGENCY— BRITISH COLUMBIA AVIAN FLU OUTBREAK— JURISDICTIONAL PROBLEMS

*(Response to question raised by Hon. Pat Carney on March 22, 2005)*

Agriculture and Agri-Food Canada is working with the British Columbia Ministry of Agriculture, Food and Fisheries and with the British Columbia Poultry Committee to develop and implement bio-security protocols that apply to poultry farms and those who have business with them. These protocols are intended to minimize the risk of virus infecting any farm and of a spread of infection to other farms as occurred in the Abbotsford area in 2004.

Upon declaration that a farm is an infected premise and placed under quarantine, CFIA occupational safety and health obligations under the Canada Labour Code are triggered. The Agency ensures that its employees as well as any contracted labour are provided with training, safe work procedures, hygiene practices and personal protective equipment. This is done on the basis of advice received from Health Canada which is the department responsible for advising on public service health matters. In the case of

the 2004 Avian Influenza outbreak, appropriate use of all personal protective equipment was monitored by safety and health professionals on site.

The Agency also provided community education sessions to producers to increase awareness of the risks and appropriate bio-security measures required.

Producers are responsible under provincial jurisdiction and applicable labour codes for families and farm employees on their premises.

CFIA emergency plans now incorporate the requirements for personal protective equipment that will be consistent for both CFIA staff and members of the public employed on a short-term, temporary basis by the Agency. Additionally, development of Foreign Animal Diseases Emergency Support (FADES) Plans with provinces will also address bio-security issues. Bio-security measures being developed and implemented by industry, under CFIA guidance, will include guidance on appropriate safety precautions to be taken by all people who may potentially contact an infected premises. As the FADES plans are agreed to province by province, it will be for the relevant provincial authorities to consider CFIA technical advice, as well as that of their public health authorities, in deciding what steps should be taken to protect farm families and employees.

**The Hon. the Speaker:** Honourable senators, Senator Grafstein wishes to raise a point of order.

### POINT OF ORDER

**Hon. Jeremiah S. Grafstein:** Honourable senators, I want to raise a matter of privilege. I hope that I misheard the Honourable Senator St. Germain. My understanding is that he referred to senators on this side by saying, "You guys are corrupt." I heard that verbally.

• (1430)

If I turn to the rules, rule 43(1) states:

The preservation of the privileges of the Senate is the duty of every Senator.

I will not read the entire rule, but it goes on to say that a question of privilege should be raised at the earliest opportunity.

I apologize if I misheard the honourable senator. I am turning quickly to my references because I have not had adequate time to research this matter, but referring to *House of Commons Procedures and Practices* edited by Robert Marleau and Camille Montpetit, on page 522 we see the title "Reflections on the House and the Senate." I hope I am not taking this out of context, but it is a quick response. I quote —

**The Hon. the Speaker:** I am sorry to interrupt, Senator Grafstein. I do not know whether other senators have noticed, but the sound is not very good. Perhaps you could try another microphone.

**Hon. Noël A. Kinsella (Leader of the Opposition):** Leave will have to be granted to allow the honourable senator to speak from a place other than his assigned seat.

**The Hon. the Speaker:** Let us do an experiment to see if we can hear you better at another microphone.

**Senator Grafstein:** I refer honourable senators to page 522, which states:

Disrespectful reflections on Parliament as a whole, or on the House and the Senate as component parts of Parliament are not permitted. Members of the House and the Senate are also protected by this rule.

It goes on to say:

...and it is out of order to question a Senator's integrity, honesty or character.

I know that my honourable friend is an honourable gentleman. I would hope that if, in the heat of the debate he misspoke, he would withdraw his comment and that would be the end of this matter. Failing that, my hope is that His Honour will deal with my intervention as a question of order and a question of privilege.

**The Hon. the Speaker:** To remind honourable senators, on points of order, we come back to the person who raised the point of order as the last intervener. I hope we can restrict our interventions to one per senator. I will now see other senators and then, at the end, go back to Senator Grafstein. I normally would alternate sides.

As the point of order has come from the government side, I will go to the opposition side first and then to the government side. If Senator Austin had raised the point of order, I would have seen him first as Leader of the Government, but the Leader of the Opposition is rising. I have heard a government member and I will now hear an opposition member.

**Senator Kinsella:** Honourable senators, I would like to have some clarity on whether the house is dealing with a point of order or with a question of privilege. If that issue is clarified, then I will know to which part of the procedural literature I should address myself.

**The Hon. the Speaker:** That is a fair question at this stage, without having to rule.

We have a specific procedure under our rules requiring three hours' notice to deal with a question of privilege. Perhaps it would be helpful to refer to Beauchesne, sixth edition, page 142, section 485. Under the heading "Unparliamentary Language," it states:

Unparliamentary words may be brought to the attention of the House either by the Speaker or by any member. When the question is raised by a Member it must be as a point of order and not as a question of privilege.

Sometimes there are blurs and difficulties in knowing exactly where we are in our proceedings. I hope that this information is helpful to honourable senators.

**Senator Kinsella:** I thank His Honour for that clarification.

I do not believe that our colleague Senator Grafstein has laid out a point of order. I simply recall the attention of the house to the fact that we had a very long inquiry a few months ago on the culture of corruption, so that the term “corruption” in and by itself is hardly unparliamentary. There has been a long debate in this house on the subject matter of a culture of corruption, a debate in which many honourable senators participated. I would argue that the proposition that the term “corruption” in and of itself constitutes a breach of order is not sustainable.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, with respect to the argument that Senator Kinsella has just made, the phrase was, “You are corrupt.” It was not a “culture of corruption” in Parliament, but a direct address to the members on this side with respect to our integrity.

In addition, Senator St. Germain made a personal reflection on my integrity, and I do not know whether it constitutes a point of order or a question of privilege. He questioned my integrity. I do not have the exact words, so I will not try to quote them. However, he questioned my integrity, and I am asking him to withdraw that remark.

**Hon. Gerry St. Germain:** Given the respect I have for this institution, honourable senators, I am prepared to give consideration to the request. The Leader of the Government in the Senate and minister of the Crown made reference to us as having a lynch mob mentality. That is clearly what he said. He said there was a lynch mob mentality. He attacked Senator Tkachuk and made the inference that we on this side have a lynch mob mentality. If he is prepared to withdraw that comment, I am prepared to withdraw the word “corrupt.”

**Senator Austin:** Not at all, honourable senators. Political attack is one thing, but a personal attack on the integrity of a senator is quite another.

**The Hon. the Speaker:** We are discussing a point of order. A point of order is to deal with whether we are respecting the rules and whether we are within the practices of parliamentary procedure that we accept in the texts and by virtue of our rules. It is not a time for debate. I remind honourable senators that we are here to determine, and I am the determiner, whether there has been a breach of any of the rules of the Senate or any of our practices as are prescribed by our custom, which we usually do by reference to texts, as I have already done. Engaging in a back-and-forth debate is not helpful in determining whether a point of order has been raised by Senator Grafstein.

**Hon. Tommy Banks:** Honourable senators, His Honour just referred to the *Rules of the Senate*, and I would like us all to refer to rules 51, 52 and 53.

Rule 51 says that all personal, sharp or taxing speeches are forbidden. Rule 52 says that a senator considering himself or herself offended — as I do, I say parenthetically, by having been referred to in terms of “You guys are all corrupt,” — in a committee room or in any of the rooms belonging to the Senate, may appeal to the Senate, which I now do, for redress. Rule 52(2) says that a senator who has used exceptionable words, meaning

words to which one might take exception, and does not explain or retract the same or offer apologies therefore to the satisfaction of the Senate, shall be dealt with as the Senate sees fit.

Honourable senators, I think it would be a good idea to refer to those three rules in respect of the present debate.

**Hon. Terry Stratton (Deputy Leader of the Opposition):** In considering this point of order, perhaps His Honour should review Hansard from the beginning of today’s sitting. Senator Tkachuk made a statement. We went to Question Period and Senator Austin attacked that statement. I would ask His Honour to read what Senator Austin said with respect to personal attacks on Senator Tkachuk.

• (1440)

**Senator Austin:** There was no personal attack on Senator Tkachuk.

**Hon. Marcel Prud’homme:** Today may be the wrong time for Senator Austin to ask Senator St. Germain to withdraw what he is perceived to have said about Senator Austin since Senator Austin cannot quote the exact word which he wants Senator St. Germain to withdraw. If he wants a general withdrawal, I am at a loss to know exactly what Senator St. Germain is being asked to withdraw.

Perhaps Senator Austin would like to put this matter over until tomorrow when we can read the offensive words that he wants Senator St. Germain to withdraw. That would be clearer than saying, to paraphrase Senator Austin, “I do not exactly know what word Senator St. Germain said.” It is usually a word or an accusation that is an insult that one asks to be withdrawn. A general statement of withdrawal would not be appropriate at this time.

I hope that I have contributed to your reflections, Your Honour.

**Senator Austin:** Honourable senators, to explain to Senator Prud’homme, I am speaking of the phrase that Senator St. Germain used in referring to my integrity and its diminishment.

**The Hon. the Speaker:** No other senator rising, I will recognize Senator Grafstein for a final comment.

**Senator Grafstein:** Referring to my earlier quote from page 522 of Marleau, it is out of order to question someone’s integrity, honesty or character.

Honourable senators, I have been in this house for over two decades, so I understand the heat of the moment, but, having said that, I have tried never to question the personal integrity of any senator in the heat of debate. If I have been excessive, I have withdrawn.

I hope that the Honourable Senator St. Germain will think about this again. I am not speaking of the comments made to Senator Austin, because he has to protect his own interest. It was a general comment that reflected on all senators on this side, and I hope he will think about that and withdraw.

**The Hon. the Speaker:** Honourable senators, there have been a number of interventions, for which I thank honourable senators. I will review the transcript of the subject matter of Senator Grafstein's point of order, review the authorities, and return as soon as possible with a ruling or comment, as appropriate, on the matter raised by Senator Grafstein.

**Hon. J. Michael Forrestall:** Honourable senators, I rise on another point of order. I would not want His Honour and honourable senators to leave the chamber today without the distinguished senator from Prince Edward Island being absolutely certain of the commendable comments and observations he made with respect to the founding of our nation. He is quite correct: The esteemed founding fathers did meet here in Ottawa. As most of us know, they had discussions for years. However, that group also assembled in Halifax, in the province of Nova Scotia, as I am sure everyone here understands. The decision to move to Confederation was taken in the Queen Hotel in Halifax.

Honourable senators, my point of order is simply that that was the birthplace of our nation. The meetings moved to Prince Edward Island simply because the authorities of the Queen Hotel could not stand the noise. They were sent to Prince Edward Island, where they tidied matters up. They eventually went to Quebec City, the second heart of our great nation, and put it all together.

I concur that Prince Edward Island should be recognized for its role. Most of us realize that Prince Edward Island needs all the help it can get. Over the years it has been my desire to help Prince Edward Island, but I cannot let the record stand uncorrected.

**The Hon. the Speaker:** Senator Forrestall's intervention is more in the nature of a request to correct the record than a point of order with regard to our rules. His intervention goes a long way toward addressing any differences that may exist between him and Senator Downe.

We will now proceed to Orders of the Day.

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## ORDERS OF THE DAY

### STATISTICS ACT

#### BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Losier-Cool, for the third reading of Bill S-18, to amend the Statistics Act.

**Hon. Wilfred P. Moore:** Honourable senators, it is my pleasure to speak today to Bill S-18, to amend the Statistics Act.

I understand the desire of the government to pass this bill, but I also feel the need to express my thoughts and add to the debate. As we have heard, this amendment has been on the agenda since

October 27, 1998. However, activities surrounding this issue since then have not resolved the doubts raised in this chamber.

The purpose of the census is to provide an accurate picture of a country and its people at a point in time, thus the five-year frequency. The population's characteristics are analyzed. The more practical uses of a census to a country like Canada are to establish electoral boundaries and to ensure the accuracy of transfer payments.

In 1666, Jean Talon, the Governor of New France, conducted the first census this continent has known. Prior to Confederation, the governments of British North America also conducted censuses. Post-Confederation, Canada had a census every 10 years until 1956 when the frequency was changed to every five years.

There is a long tradition of conducting censuses in Canada. The essential element of that tradition is the promise of the Government of Canada that the information provided will not be given to anyone outside Statistics Canada. In other words, other than the Statistics Canada exception, the information provided will be kept secret and the right of citizens to the privacy of the information they have provided will be honoured.

This long tradition is brought into question with this amendment. The issue at hand is the public release of post-1901 census records. The census data from 1891 and 1901 was released for public use in 1983 and 1993 respectively. The 1906 census data was released in 2003. This was done because this particular census pertained to the Prairie provinces and was deemed to contain less sensitive data.

In support of that secrecy, in 1985 the Department of Justice provided a legal opinion stating that the censuses of 1911 and beyond occurred after legislative changes had been made that provide for a guarantee of confidentiality regarding the data collected.

In 1999, the Honourable John Manley appointed the Expert Panel on Access to Historical Census Records to determine what might be done to resolve this issue. The panel did not hold public meetings. Interested groups were asked to contribute of their own accord. However, 3,555 letters, faxes and emails were received by the panel over the seven months of its study, and some 95 submissions from genealogical, historical and archival associations were also received. As our colleague Senator Milne, a member of the panel, can attest, an extensive study was conducted.

After their deliberations, the panel came to the conclusion that the census records in question should be released. Its report states:

The Panel is firmly convinced of the benefits of the release of historical census records. The Panel is of the view that with the passage of time, the privacy implications of the release of the information diminishes and that the passage of 92 years is sufficient to deal with such concerns. We are persuaded that a guarantee of perpetual confidentiality was not intended to apply to the census. We believe that the indication of transfer to the National Archives also implied an intention that the census records would

eventually become public and we would not view any legislation deemed necessary to do so as a breaking of a promise to respondents. We view the historical and international precedents as fully supportive of this position. The Panel is equally convinced of the value of the census and other work of Statistics Canada and is unwilling to make any recommendation which it believes will jeopardize this work. It is for that reason that we recommend release of the pre-1918 Census records and post-2001 records on a 92-year cycle, while advising some caution regarding any legislative steps that might be thought necessary to effect the release of those census records for the period 1921 to 2001.

• (1450)

The debate should not focus upon the level of sensitivity contained in this information. Rather, the question is whether a government should be held to a higher standard, that is, once a government has given a promise to its citizens, should that promise be broken by those who come later?

We have heard that there has never been any provision restricting the release of census material. I would draw your attention to two sections of the 1918 Statistics Act:

15(1) No individual return, and no part of an individual return, made, and no answer to any question put, for the purposes of the Act, except as hereinafter set forth, shall without the previous consent in writing of the person or the owner for the time being of the undertaking in relation to which the return or answer was made or given, be published, nor, except for the purposes of a prosecution under this Act, shall any person not engaged in connection with the census be permitted to see any such individual return or any part of any individual return.

(2) No report, summary or statistics or other publication under this Act, except as aforesaid, shall contain any of the particulars comprised in any individual return, so arranged as to enable any person to identify any particulars so published as being particulars relating to any individual person or business.

It appears to me, honourable senators, that with the inclusion of those provisions in the Statistics Act, there is a clear intent of Parliament to legislate an assurance to those filling out their census forms that the information they provide will not be shared with or divulged to anyone not dealing with the data through Statistics Canada.

Our colleague Senator Lynch-Staunton quoted commitments of confidentiality in 1918, 1948, 1971 and 1981. It is difficult to understand how these commitments made on so many occasions might be interpreted today to mean less than their clear intention. There is no mention of perpetuity specifically, but there is certainly no mention of releasing this information to the general public at any point. Erring on the side of caution is certainly the term which applies in this situation.

[ Senator Moore ]

There were also dissenting opinions held by the Manley panel. No less than the Privacy Commissioner at the time, Mr. Bruce Phillips, stated in no uncertain terms that he opposed the release of the census information in question. The former Privacy Commissioner argued that a 1905 legislative commitment to confidentiality is the impediment to the release of the data in question. He said, "Release of the information collected through the census violates the principle that information collected for one purpose should not be used for another without consent." That is the privacy issue at stake here. How is it possible to obtain the consent of those who have passed on? It is not possible. That should be the end of the argument.

Statistics Canada also made a submission to the Manley panel which outlined a concern that the participation rate would decline if there were a drop in the level of public confidence in the agency's ability to maintain confidentiality of census returns. The panel dismissed this concern. It quoted a U.S. congressional committee which looked into the matter, and asserted that no evidence existed to connect the release of census data and diminishing census participation. However, to use that same United States as an example in assuring us that rates will not drop may be less helpful than one might think. According to Statistics Canada, 96 per cent of Canadians filled out their census forms in 1991 and 1996, compared to 63 per cent in the United States census of 1990. These numbers have to be mentioned within the context of this argument.

The issue we are dealing with is no less than the breaking of faith between the government and its citizens. We, as the current government, must uphold a promise made to the citizens of this country by another government, no matter the length of time that has passed. This notion that somehow a covenant made between citizens and their government may be struck null and void because a period of time has gone by is a troubling precedent to be set. As Senator Plamondon mentioned, we are putting ourselves in a position where Canadian citizens will not trust us. We cannot expect them to, no matter how innocuous the effect of the proposed action is perceived to be.

In Canadian political tradition, retroactivity has never been the favoured course. It is a controversial method of dealing with issues. Those who filled out their census forms during the years in question were not of the impression that a change would be made at a later date. That the confidentiality provisions under which citizens filled out their census forms would be altered by a future government was not expressed to them either in legislation at the time or at the door.

The complete turnaround proposed by this amendment is alarming. We should take more care in considering what the effects of our actions might be, hence the history in Canada to shy away from the use of retroactive legislation. As Senator Plamondon mentioned, we are looked at as being one of the higher-ranked countries in the world. Our society is based on the rule of law and the stability of that law. That stability has not been gained and recognized by a practice of retroactive legislation. Changing these rules midstream detracts from this solid international reputation and erodes a tradition we have established domestically, which has served our society so well.



It is the belief of those attempting to rescind this promise — a promise which to my mind was made in no uncertain terms in the Statistics Act of 1918 — that doing so would not compromise any of those involved. I would submit that there is a very real danger of compromising both parties involved. The first is the citizens to whom the commitment was made, the commitment being the promise to maintain the secrecy of participation in a government census. A census in which the same citizens are compelled to partake would be torn apart. That promise would be broken.

Second, the government of this country would also be compromised. At the heart of the relationship between the people and the government is trust — trust that the government will treat its citizens equally and honestly and that, once a government has made a commitment to its citizens, that commitment will be upheld. This is not a matter of taxation. It is not a matter of changing circumstances. The circumstance of change can have no effect on this commitment. I ask you: How could the passing of 92 years make the breaking of a promise made a justifiable act?

Let me quote the Honourable David Emerson, Minister of Industry and responsible for Statistics Canada, from the department's press release dated November 2, 2004 upon introduction of this bill: He said:

Informed consent about the use of one's own personal information is a matter of fundamental privacy protection. Canadians should have the right to decide for themselves if they want their personal census records to be made publicly available in the future...

There is no argument about the active consent provision in this bill. It is an admirable feature of this amendment. Allowing Canadians to choose whether their census information will be released publicly after 92 years is fair and well conceived.

• (1500)

The message from the minister speaks of fundamental rights of privacy, allowing Canadians to choose for themselves on this issue. There is the mention of a fundamental right to privacy again. Who qualifies for this right? Did we put a prerequisite of being alive as the key qualification?

What is it about our particular generation that makes us believe we possess the wisdom that somehow eluded the governments that came before us? Do we honestly believe that these governments did not weigh carefully the issues involved, that their commitment to the privacy of the citizens of the day was somehow less serious than our commitment? I do not believe so. Moreover, is the minister's statement in support of privacy protection any less applicable or meaningful today than in the past? I do not think so.

What of those who filled out their census forms from 1906 onward? Who will speak for them? Their voices are silent. It is impossible for them to express their position. I believe that, so long as these Canadians took part under the belief that their privacy rights would be protected, so long as their personal

information was entrusted to a government that made a promise to these citizens of Canada to maintain the secrecy of this information, we have no right to speak contrarily for them or the government that made that commitment.

I understand that some 77,000 Canadians alive today will be directly affected by the passage of this bill and the proposed release of census records from 1906 and 1911. I assume that they will be consulted if and when their census information is released, or will this bill simply allow for the public release of census data without notice to them and their prior consent having been obtained? That is a very serious question.

Will we be left with a situation where the Government of Canada will force these citizens to take some legal action against their own government in order to have their census data kept private? What about the anxiety this would cause for those surviving elderly citizens and their families and for the families of deceased census participants? Who will pay the legal bills that they might be forced to incur? I am sure that these respondents who would be affected by this legislation would like to know, and indeed have a right to know.

**The Hon. the Speaker *pro tempore*:** Honourable Senator Moore, your time has expired. Are you asking leave to continue your presentation?

**Senator Moore:** I would request leave to continue, please.

**Senator Rompkey:** Our usual practice is five minutes.

**Hon. Senators:** Agreed.

**Senator Moore:** I will be finished within that time, honourable senators.

Another legal opinion states that, due to the lack of specificity regarding the length of time these documents would be kept secret, combined with the act of transferring this data to the National Archives, the justification is provided for the release of these records to the public. I have read the debates involved and I understand there is no specific mention of perpetuity. However, I also notice there is specific mention of not sharing this information with a party not involved with gathering data and the census and that this information would not be released to the public. This seems a clearer message than attempting to second-guess the intentions of the government that passed the original legislation.

Honourable senators, at the heart of this matter is the need to maintain the high standard of trust between a government and its citizens. The argument that there comes a point in this relationship when, due to the passage of time, a promise made by a government can be broken can lead to the setting of a very dangerous precedent.

We, honourable senators, are entrusted by the people of Canada to defend the rights of all citizens of this country. It is my contention that this also includes those who have gone before us. If we break faith with our forefathers and foremothers, what does this say of us and of the trust placed by them in us?

The matter of releasing these census records has been portrayed as innocuous. We are being told that there is a point where the combination of the level of sensitivity of the data involved, plus the passage of time — 92 years — results in the removal of any privacy issue. This is the point where we as legislators must be very careful. Is it the data itself which should be the focus of the debate, or is it the quality of our stewardship of that data? We must realize that this legislation necessitates the breaking of an agreement made between our great-grandparents, grandparents or parents and the government of the day. I do not think that is wise, nor do I think it is within the scope of our power or mandate.

I ask you to remember who you are, the office you hold and your role as upholder of the rights of Canadians. If the decision is made to overturn this agreement, then let us at least be aware of the severe implications of such an act, and let us realize we can expect no more from those who will sit in this chamber after us.

**Hon. Gerald J. Comeau:** Would the senator entertain two very brief questions?

**Senator Moore:** Yes.

**Senator Comeau:** Is the senator aware that, in an application for the release of historical census records, the Federal Court, in 2004, ruled that the care and control of the 1911 census, and subsequent censuses of course, rests with the Chief Statistician and therefore any move to release the census would require legislation? In other words, up until that point the argument had been made that the Chief Statistician did not have an obligation to keep the data but that, in fact, the Federal Court did rule that he was the custodian of the record.

My second question relates to the fact that an argument has been made that the census records provide extremely valuable information in order to trace one's health ancestry; in other words, to try to identify diseases or medical problems that might be in the family. Therefore, it would be valuable to get all of this information on the record so that people can research their family medical backgrounds. However, that is in fact a double-edged sword. If individuals are allowed to investigate their medical background, be it mental or physical, insurance companies will be allowed to do exactly the same thing. If insurance companies start digging around in our health history, that could impact on the kind of insurance we could obtain.

**Senator Moore:** I will attempt to answer those questions.

With regard to the first question, I was not aware of that Federal Court decision, but it is clear to me that it is consistent with the provisions in the Statistics Act of 1918. There has been nothing put on the legislative books contrary to the provision of that law.

The honourable senator mentioned the possibility of others using this personal information for personal gain. All of that simply points out the absolute need to maintain the secrecy. There is a situation going on now in the United States — and this was reported in the *Montreal Gazette* on April 9 — where such information is being gleaned from government records by the Mormon Church with regard to Jewish citizens in the United

States. That church is conducting proxy baptisms of those good people who are deceased who were victims of the various concentration camps. That is an extreme situation, but that is what could happen.

On motion of Senator Lynch-Staunton, debate adjourned.

• (1510)

## PATENT ACT

### BILL TO AMEND—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Banking, Trade and Commerce (Bill C-29, to amend the Patent Act, with amendments) presented in the Senate on April 12, 2005.

**Hon. Jeremiah S. Grafstein** moved the adoption of the report.

He said: Yesterday, honourable senators, I had the honour of presenting the eighth report of the Standing Senate Committee on Banking, Trade and Commerce that deals with Bill C-29, to amend the Patent Act. During the committee's study of this bill, it became apparent that two serious technical amendments were required to remedy a drafting error that had occurred in previous legislation. Pursuant to rule 99, I will now provide a brief explanation of the committee's amendments.

The first amendment would add four schedules to the Patent Act, as was originally intended in An Act to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa), being chapter 23 of the Statutes of Canada 2004. As previously stated, the purpose of this amendment is to remedy a drafting error that occurred in previous legislation and ensure that the schedules are now part of the Patent Act.

This amendment relates to that part of the Patent Act that deals with the use of patents for international humanitarian purposes to address public health concerns. This part provides the framework for how this is to be accomplished. The schedules are an integral part of this framework, and the amendments ensure that they are now legally part of the Patent Act.

The second amendment deals with the coming into force of the respective clauses in Bill C-29. The two clauses that relate to an Act to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa) would come into force when that act comes into force.

The other clause, dealing with patent fees in order to provide relief to patent holders and applicants affected by the 2003 decision of the Federal Court of Appeal in *Dutch Industries Ltd. v. The Commissioner of Patents, Barton No-Till Disk Inc. and Flexi-Coil Ltd.*, would have come into force on a day to be fixed by order of the Governor-in-Council.

Honourable senators, these amendments are technical in nature and are intended to ensure that an initiative that is supported by all parties, which it was in committee, can be implemented as planned. I would urge all senators to support these amendments so that the bill can be returned quickly to the other place.

**The Hon. the Speaker:** With no other senator rising to speak, are honourable senators ready for the question?

[*Translation*]

**Hon. Senators:** Question!

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

Motion agreed to and report adopted.

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

**Senator Grafstein:** Now.

**The Hon. the Speaker:** Is there any debate?

**Hon. Terry Stratton (Deputy Leader of the Opposition):** Is there a particular urgency to this bill? Could it not wait until the next sitting of the Senate? Is this a normal procedure?

**Senator Grafstein:** It could, honourable senators. In light of what is going on in the other place, it strikes me that it might be appropriate to move this bill forward as quickly as possible. The rationale for this bill is the humanitarian aid that is desperately needed in Africa. It is appropriate that we move as quickly as possible.

There was a technical glitch. The remedy has been approved by all parties. It has been approved by the committee unanimously. There were technical objections, but I see no reason why the bill should not proceed.

**Senator Stratton:** In extenuating circumstances, we on this side always try to cooperate. However, we are surmising what will happen in the other place. For that reason, I would ask that the bill be given third reading tomorrow. There must be exceptional circumstances whereby the normal procedures of this place cannot take place.

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

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

## QUARANTINE BILL

### REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Social Affairs, Science and Technology (Bill C-12, to prevent the introduction and spread of communicable diseases, with amendments) presented in the Senate on April 12, 2005.

**Hon. Wilbert J. Keon:** Honourable senators, I move the adoption of the report.

**The Hon. the Speaker:** Do you wish to speak, Senator Keon?

**Senator Keon:** No.

**Hon. Lucie Pépin:** Honourable senators, during the clause-by-clause study of Bill C-12 on March 23, I proposed some amendments to the bill. By mistake, the French version of one of the proposed amendments omitted a change required in the English version of the bill. I therefore propose correcting this omission with the following motion.

### MOTION IN AMENDMENT

**Hon. Lucie Pépin:** Honourable senators, I move, seconded by Senator Keon:

That the Eleventh Report of the Standing Senate Committee on Social Affairs, Science and Technology be not now adopted but that it be amended at amendment No. 2, by adding after the words “clause 62.2:” the following:

“(a) replace, in the English version, line 15 with the following:

[*English*]

“being laid before each House of Parliament if the”; and

(b)”.

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

**Hon. Senators:** Question!

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

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** We are now on the report on the bill, as amended. Does anyone wish to speak?

**Hon. Senators:** Question!

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

Motion agreed to and report adopted.

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

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

• (1520)

[Translation]

## CRIMINAL CODE

### BILL TO AMEND—REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-11, to amend the Criminal Code (lottery schemes), with amendments and observations) presented to the Senate on April 12, 2005.—(*Honourable Lise Bacon*)

**Hon. Lise Bacon:** Honourable senators, I move the adoption of the report.

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

[English]

**Hon. Terry Stratton (Deputy Leader of the Opposition):** Is the Honourable Senator Bacon speaking today?

**Senator Bacon:** Yes.

[Translation]

**Senator Bacon:** Honourable senators, the sixth report of the Standing Senate Committee on Legal and Constitutional Affairs recommends various amendments to Bill S-11. This bill amends provisions of the Criminal Code relating to the use of video lottery terminals. The bill also seeks to limit the locations at which VLTs can be installed to racetracks, casinos and premises dedicated to gaming. At present, every province except Ontario and British Columbia, and one territory, the Yukon, allows VLTs in bars and other locations.

Bill S-11, sponsored by Senator Lapointe, would terminate this practice. After having heard from numerous witnesses, the members of your committee reached the following conclusion, on division, because one member of the committee disagreed: We find the objective of the bill to be legitimate and that the advantages of the proposed measures outweigh the disadvantages associated with their implementation. Therefore, your committee has decided to report the bill back to this chamber with amendments to minimize the problems associated with its implementation.

First, we made technical amendments, which in no way reduce the scope of the bill and which avoid any confusion. We made the first clause clearer, in response to comments from the Department of Justice. The bill no longer refers to a game, proposal, scheme, means, device, contrivance or operation, but simply games operated on or through a video lottery terminal or slot machine. The purpose of the bill is in no way altered by these purely technical amendments.

Clause 2 of the bill is replaced by a different provision. The bill was to come into force 180 days after receiving Royal Assent. Under the amendment adopted by the committee, the bill will come into force on a date fixed by Order-in-Council no later than three years after receiving Royal Assent.

The Government of Canada must, moreover, offer provincial and territorial governments the opportunity to take part in consultations on the implementation of this legislation. This precaution is an important one, because we are dealing with two federal-provincial agreements, in 1979 and 1985 respectively, setting out Canadian policy on gambling. Bill S-11 deviates from those agreements but, given the federal Parliament's full jurisdiction over the Criminal Code, we have the constitutional legitimacy to proceed. In order to avoid any sudden changes or surprises, however, consultation of the provinces and territories seems unavoidable.

As you are no doubt aware, the 1999 Social Union Framework Agreement set out in its fourth component that when a major change in policy would substantially affect another government the governments agree to give one another advance notice and to consult prior to implementation. These are, therefore, the reasons the committee accepted the suggested amendments.

We are of the opinion that a period of three years allows sufficient time for consultations between governments and that, should there be a desire to proceed more quickly, the coming into force can take place on a date set by Order-in-Council.

We felt it was appropriate to append to the report some observations dealing mainly with the frame of mind of the committee at the time it studied the matter. The majority of the members felt that the major social damage and psychological distress caused to too many Canadians by VLTs outweighed any other aspects. The majority of stakeholders who appeared before the committee indicated that the harmful effects of VLTs far outweighed the potential benefits.

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

[English]

## BUDGET 2005

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Kinsella calling the attention of the Senate to the budget presented by the Minister of Finance in the House of Commons on February 23, 2005.—(*Honourable Senator Di Nino*)

**Hon. Consiglio Di Nino:** Honourable senators, I am pleased to join the debate on Senator Kinsella's motion on the budget brought down by the Minister of Finance on February 23.

The budget lays out an ambitious program for spending growth, with outlays on various programs expected to climb by \$36 billion over the next five years, fuelled by a \$42-billion revenue surge. Despite a modest tax cut, the government expects that in 2009 it will collect 35 per cent more from personal income taxes than it did last year. Revenues from personal income taxes are rising faster than any other revenue category.

With such a revenue windfall, are Canadians to believe that a tax cut of \$16 per month, 53 cents a day, which today will not even buy a cup of coffee, is the best tax relief this government can deliver?

The second-fastest-growing revenue category is the GST, where net collections are expected to grow by \$8 billion, some 27 per cent over the next five years. Did I say the GST? Did the Liberals not promise to scrap it?

Honourable senators, of all the measures undertaken by the former Progressive Conservative government, the GST was perhaps the most controversial, and the Liberals wanted nothing to do with it. Jean Chrétien said that he would replace it with a fairer system that generated equivalent revenue within two years. He was going to axe the tax. Paul Martin, as a candidate for the leadership of his party, promised to scrap it. However, they soon found that making such a promise was much easier than honouring it — that is a familiar story — and that the GST actually made sense. The GST replaced the former hidden federal sales tax, also widely referred to as the manufacturer's sales tax, which was overly complex and full of flaws that made it a drag on the economy and made our exports uncompetitive. Replacing the FST with the GST cut the cost of capital investment and eliminated the biases against goods made in Canada, which not only helped to make Canada more competitive but also made the revenue base more stable. I suspect the Liberals knew all of this very well but, to win an election, they told Canadians otherwise.

• (1530)

I will provide honourable senators with examples of their opposition to the GST. At the time, in the other place, future senators Callbeck, Harb, Maheu, Robichaud and Rompkey all spoke against the GST. In the Senate on November 29, 1990, Senator Corbin stood and said: "The GST is just an act of panic, highway robbery, and digging deep into the pockets of Canadian taxpayers." Senator Kirby spoke at great length to argue that the GST was unfair to low-income earners, unfair to Atlantic Canada and said: "There are alternative ways of doing what needs to be done in terms of eliminating the MST and raising the revenue." We are still waiting for Senator Kirby's alternatives. Senator Watt said that the GST would hurt the North. Senator Grafstein said he could not agree with the evidence presented in support of the GST. Senators Austin and Kenny tabled petitions to hold up debate. Senator Fairbairn was deeply concerned that the GST should not apply to books. She told the Senate on October 30, 1990, that the GST: "...will introduce punitive taxation on materials fundamental to our future progress, materials that must be made more accessible rather than less accessible." She went on and said: "The GST, applied without relief to Canadian cultural products, including printed materials, may well make them so inaccessible that Canadians once again may lose sight of their own creative expression." Senator Fairbairn was speaking to a Liberal amendment to the proposed GST legislation that sought to add an exemption to reading materials. Why then did she and the rest of her colleagues vote against Bill S-10, which proposed to do what they had called for? Why did senators on the other side vote against Senator Oliver's proposed amendment to Bill C-70, the proposed GST harmonization legislation that sought to exempt books from

the harmonized sales tax or HST? A 7 per cent tax on books was too much when the Liberals were in opposition, but they had no problem with a 15 per cent harmonized tax.

Honourable senators, the design of the GST included a broad base but with exemptions for many key items including groceries, rent, health and education. As well, universities, schools and libraries were exempted from charging GST on their services. Also included was a tax credit for lower-income Canadians, providing them with more resources to pay for such things as books. However, the door was left open for the GST to be changed at a future date. Senator Fairbairn acknowledged this, in the same GST debate I mentioned a minute ago, when she quoted then Prime Minister Mulroney: "When the tax has been applied across the board for a while the government will want to look at its impact, perhaps review it, and revise it later after it has been in place." The former government made it clear that it would monitor the impact of the GST in a number of areas, including reading materials.

Literacy is a serious problem in Canada, especially among lower-income Canadians. During the committee hearings on the bill to remove the GST from reading materials, we were repeatedly told by eminent Canadians, students, book retailers, publishers, librarians and many others, who formed the Don't Tax Reading Coalition, that this part of the GST is very destructive to literacy in Canada. Yet, our colleagues opposite all voted against the later bills.

Removing the GST from reading materials would be of great help to students who face ever increasing student costs, and it is unfortunate that the government has once again missed an opportunity to keep one of their promises. Perhaps it is time to introduce a bill to exempt reading materials from the GST, and maybe this time senators opposite will support it. Senator Fairbairn, a respected champion of literacy, well knows that the presence of reading materials in the home is critical to children's intellectual development. This area needs change because the Liberals forgot everything they believed in when they sat in opposition.

Sales tax reform was but one of several measures taken to make Canada a more dynamic and competitive place to do business. In 1980 the Liberals introduced the National Energy Program and, in the process, poisoned the relationship between East and West and brought energy development and the economy of Western Canada to a standstill. Senator Carney, then Minister of Energy in the first term of the Conservative government, dismantled the NEP, one of the many measures taken to restore investor confidence.

It is not hard to understand why many in Western Canada viewed the Kyoto Protocol with alarm, given they went down a similar road one quarter century ago. The budget offers no real plan to meet the government's Kyoto objectives, yet devotes an entire chapter to a discussion called "A Framework for Evaluation of Environmental Tax Proposals." We should ask Mr. Dithers if there will be a carbon tax.

The Liberals also created the Foreign Investment Review Agency, erecting barriers to foreign investment in Canada that prevented the creation of new jobs and opportunities. The previous government brought down those barriers by turning FIRA into Investment Canada, an agency charged with encouraging foreign investment; and it worked. Our corporate tax system was not competitive before the budget and, after taking into account everything from depreciation rules to provincial sales tax on business inputs, it is still uncompetitive. This budget does little to help Canadian business. We need to do more to encourage Canadians to invest in Canada and then, hopefully, the recent news that Canadians have directly invested some \$88 billion in offshore tax havens will serve as a wake-up call for this government. We are a trading nation that relies upon secure access to markets. Senator Kelleher and Senator Carney both played key roles in bringing about the Free Trade Agreement with the United States. The same folks who battled the GST did the same with the FTA, as they fought many of the same policies that they now embrace. Most of the criticism of the Canada-U.S. Free Trade Agreement, and later NAFTA, proved to be false. The border has not been erased. There has been no massive outsourcing of jobs to Mexico and, indeed, some Americans complain that jobs are outsourced to Canada. If medicare is in jeopardy, it is because of Prime Minister Paul Martin's cuts to health care and not because of NAFTA. Canadian culture is as alive as ever. The Great Lakes have not been drained to provide water to thirsty Americans. Instead of withering on the vine, what is now an award-winning Canadian wine industry has adapted and is thriving. We are as sovereign as ever. NAFTA has resulted in an enormous increase in our trade with the United States and Mexico, and most decisions in disputes have been in our favour. Yes, we still have problems with BSE and softwood lumber, but more than 80 per cent of our trade is "friction free," and, thank God, I do not hear any of my friends opposite calling to tear up NAFTA. Yet, when you analyze this budget, you find that precious little is being directed towards strengthening our export ability.

Honourable senators, to their credit, the Liberals have kept many of the policies of the former government, which have helped to generate the economic growth that, in turn, has generated a rapid rise in government revenues.

When it introduced the GST, the Progressive Conservative government promised Canadians that this tax would only be used to service and reduce the debt. Paul Martin and Jean Chrétien said that they would get rid of it instead. They did not get rid of it. It is still here, it raises almost twice what it raised in 1993, and it still applies. By 2010 it will raise \$8 billion more than it raised this year and will generate \$23 billion more than it raised when the Liberals were elected.

In his pre-budget inquiry, Senator Kinsella suggested that the government plan its budget with a view to directing two sevenths of the net GST revenue to debt reduction. That would total about \$9 billion per year. There must be a more rapid reduction in the level of government debt if Canada is to have the fiscal flexibility that will be essential to meet the needs of an aging population in the years ahead.

[ Senator Di Nino ]

Honourable senators, this government is reaping the benefits of the efforts of the previous Progressive Conservative government's introduction of the GST and the negotiation of the FTA and NAFTA. The enormous increase in revenue has provided an opportunity for this government to introduce a tax break to help those many Canadians who are struggling with the everyday cost of living. It has presented them with an opportunity to help those students whose education costs keep skyrocketing. It has given them an occasion to reduce the debt, which is a mortgage on all of our grandchildren's future. It has offered them the chance to keep their promise to eliminate the GST on reading materials. Yet, they did none of these. So much for caring about the average Canadian. A real opportunity missed, is the way I would describe this year's budget.

On motion of Senator LeBreton, debate adjourned.

• (1540)

## THE SENATE

### MOTION TO AMEND RULE 32— SPEAKING IN THE SENATE—DEBATE ADJOURNED

**Hon. Eymard G. Corbin**, pursuant to notice of February 24, 2005, moved:

That the *Rules of the Senate* be amended by replacing rule 32 with the following:

"32. (1) A Senator desiring to speak in the Senate shall rise in the place where that Senator normally sits and address the rest of the Senators.

(2) Any Senator who speaks in the Senate shall do so in one of the official languages.

(3) Notwithstanding subsection (2), a Senator desiring to address the Senate in Inuktitut shall so inform the Clerk of the Senate at least four hours before the start of that sitting of the Senate.

(4) The Clerk of the Senate shall make the necessary arrangements to provide interpretation of remarks made in Inuktitut into the two official languages.

(5) Remarks made in Inuktitut shall be published in the *Debates of the Senate* in the two official languages, with a note in the *Journals of the Senate* explaining that they were delivered in Inuktitut."

He said: Honourable senators, even though our colleagues Senator Watt, Senator Adams and Senator Sibbeston are absent today, I have decided to proceed with this motion at this time.

I should like to begin by apologizing to my colleagues who sought dispensation of the reading of the motion, but I thought it would be useful for the chamber to be acquainted with the purpose I am trying to achieve, and that would have required me to read it myself. Honourable senators will find the text of that motion on page 11 of today's Order Paper.

The operative paragraphs of the motion are to change the rules. The changes to the *Rules of the Senate* contained in this amendment are in paragraphs 3, 4 and 5. Those are the operative paragraphs, that is, what I am seeking to accomplish.

It has been my intention to proceed with this motion for many years, and I have had numerous discussions with our colleagues who represent the great North of this country, namely, Senator Watt and Senator Adams. Earlier I mentioned Senator Sibbeston's name because he comes from an area of this country where they have not only two official languages. I forget the precise number, but their assembly is conducted in seven or eight official languages.

You have all been witnesses, honourable senators, to the fact that Senator Adams, on a number of occasions, rose in this house and did indeed speak in Inuktitut. His colleague sitting next to him, Senator Watt, translated Senator Adams' remarks into English, and then the interpretation system of the Senate translated the English into French. In my opinion, that is a cumbersome way of proceeding.

We are talking about the language of one of the peoples who first occupied and still occupy this land called Canada. I have always been impressed that the first missionaries to enter into those vast northern spaces imposed upon themselves the discipline of learning the language of the people of the land. They did not immediately impose French or English or any other language on these people. They took it upon themselves to learn the language of the people they presumably wanted to bring into Christianity. In the very early days of the French regime, the same also occurred, whether it was Champlain, Frontenac or La Tour. They did not impose their language on the native inhabitants of this country. They learned their language. They signed treaties with them. They negotiated treaties with them in terms that the native people could understand.

I believe that Inuktitut is a world treasure that deserves to be preserved. Many languages have already been lost in innumerable countries across the world, and the phenomenon continues today.

Surely, if an Inuit senator is called to this chamber, he is expected to make a contribution to the chamber and represent the people of his territory, the land he lives on, the customs and culture of this people, and how he can best do that by using his or her own language. That is what this is all about. I have had occasion to speak many times with Senator Watt, who is very fluent in Inuktitut, as you all know. He tells me that it is extremely difficult for him to speak English in this place, and we know Senator Adams has even greater difficulty. In a sense, they are deprived of the fluency of their thoughts, their emotions and their beliefs in bringing to the attention of the rest of us their preoccupations.

The purpose of this motion is simple. There may be even simpler ways of going about what I am trying to do, which is to allow those people to express themselves in their mother tongue. We owe them that basic decency. If nothing else, it is a matter of basic decency. They are called to this place. They can best express themselves and communicate in their native language, and I think we ought to provide the facilities for them to do just that. After all, we have occasionally provided facilities to senators who were

unable to hear or who could not express themselves. I will not cite those incidents, but it has happened. As we have provided tools for those of us who speak either French or English, I think that we owe it to our northern colleagues to be even more expedient in providing them with the tools they need to do a proper job in this place.

• (1550)

I know that Senators Watt, Adams and Sibbeston will want to speak to this motion. I am not trying to pressure anyone into adopting this proposal blindly or hurriedly. If the only effect of my thoughts is to foster further reflection, that would be progress indeed. However, I should like colleagues on both sides of the house to give this matter serious thought. It would enhance the quality of the exchanges in this house. Again, I do not want to single out any one of my colleagues, but I am sure all honourable senators have had their own personal experiences with regard to what I am talking about.

Honourable senators, the motion is on the table. I know that other senators wish to speak to it. I apologize that I am moving ahead with this today in the absence of Senators Watt, Adams and Sibbeston, but I am sure they will understand that I cannot in good conscience hold back any longer, and I would like this matter to proceed in whichever way the Senate decides it should.

**Hon. Jack Austin (Leader of the Government):** May I ask Senator Corbin a question?

**Senator Corbin:** Certainly.

**Senator Austin:** Is this proposal intended to apply to a senator who is fluent in neither of our official languages, or to a senator who is fluent in a third language of Canada and wishes to speak in that language?

**Senator Corbin:** I believe that the gist of Senator Austin's question is whether, if we were to proceed in this instance, we would also proceed in other instances with respect to Canadian native languages. I am not talking about adding European languages to the scroll. I am only attempting to recognize, in a basic, decent way, the Aboriginal right of senators who come to this place to express themselves in their mother tongue.

I could have added that I have discussed this matter in the past with the late Senator Twinn and my very good friend the retired Senator Marchand. I asked them if their people would want to enjoy the advantage that I am proposing with respect to Inuktitut. They said that most of their people express themselves in English and French and feel comfortable with it. In addition, there would be a difficulty because the idiom varies tremendously from one coast to the other, and it would be problematic to attempt to satisfy all those needs.

That is why I have concentrated on Inuktitut. It is special. I do not deny that other languages deserve to be preserved. Of course they do. However, if we do not take an initial step, how can we build? I simply suggest that we recognize what I think was an oversight of the B and B commission. They did consider this matter, but they made no specific recommendations. That is where the matter stands today.

**Senator Austin:** Senator Corbin referred to Senator Adams and Senator Watt. That raised in my mind the question of whether he is trying to ameliorate the situation of a particular senator. He later spoke about the desirability of preserving native languages, so I am not sure how far he wants to extend this particular objective.

I did not refer to languages outside Canada and am not asking about them. Is the purpose of this motion to open the door to allowing Aboriginal peoples who become senators to speak in their particular language, or does it deal only with the circumstances of one senator?

**Senator Corbin:** In this instance, I am speaking about two senators, and perhaps a third will raise arguments and stimulate debate later. I have an open mind with respect to the recognition and respect due to Canadian Aboriginal native languages. If at some future date the Prime Minister of the day, or the electorate, for that matter, wishes to send to this place a member of a First Nation who is fluent in and wishes to use his or her mother tongue, why not allow that? The Senate could set a valuable example and foster openness to other cultures.

We say so often that Canada embraces all cultures, that we have opened our doors to immigration and what have you. Let us not forget the first inhabitants of this country. We have pushed them aside and crushed their rights for too long. That is what this is all about. It is coming too late, as far as I am concerned, but there is always the first step. I think we could constructively build on this initiative, if we set our minds and hearts to it with goodwill.

[Translation]

**Hon. Fernand Robichaud:** Honourable senators, I would like to support Senator Corbin's motion, but I move that the debate be adjourned to the next sitting of the Senate.

On motion of Senator Robichaud, debate adjourned.

## LEGAL AND CONSTITUTIONAL AFFAIRS

### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF BILINGUAL STATUS OF THE CITY OF OTTAWA

**Hon. Lise Bacon,** pursuant to notice of April 12, 2005, moved:

That, notwithstanding the Order of the Senate adopted on Thursday, December 2, 2004, the date for the presentation of the final report of the Standing Senate Committee on Legal and Constitutional Affairs on the petitions tabled during the Third Session of the Thirty-seventh Parliament, calling on the Senate to declare the City of Ottawa a bilingual city and to consider the merits of amending section 16 of the Constitution Act, 1867, be extended from April 30, 2005, to October 27, 2005.

Motion agreed to.

[English]

**The Hon. the Speaker:** Time has overtaken the adjournment motion.

It being four o'clock, pursuant to the order adopted on November 2, 2004, I declare the Senate adjourned.

The Senate adjourned until Thursday, April 14, 2005, at 1:30 p.m.

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## CONTENTS

Wednesday, April 13, 2005

	PAGE		PAGE
<b>Visitors in the Gallery</b>		<b>Fisheries and Oceans</b>	
The Hon. the Speaker . . . . .	1016	Meeting of Deputy Ministers to Discuss Agenda for Upcoming Ministers Meeting—Disagreement with P.E.I. Representatives.	
<hr/>		Hon. Gerald J. Comeau . . . . .	1021
<b>SENATORS' STATEMENTS</b>		Hon. Jack Austin . . . . .	1021
<b>National Volunteer Week</b>		<b>Canada-United States Relations</b>	
Hon. Terry M. Mercer . . . . .	1016	International Joint Commission—Manitoba— Effect of Opening of Devils Lake Outlet in North Dakota.	
<b>The Late Pope John Paul II</b>		Hon. Janis G. Johnson . . . . .	1021
Tribute.		Hon. Jack Austin . . . . .	1021
Hon. John Buchanan . . . . .	1016	Hon. Pat Carney . . . . .	1022
<b>World Health Day</b>		<b>Public Works and Government Services</b>	
Hon. Rose-Marie Losier-Cool . . . . .	1017	Sponsorship Program—Involvement of Ministers.	
<b>Budget 2005</b>		Hon. Marcel Prud'homme . . . . .	1023
Inquiry—Comment in Speech by Senator Tkachuk.		Hon. Jack Austin . . . . .	1023
Hon. David Tkachuk . . . . .	1017	<b>Justice</b>	
<b>Prince Edward Island</b>		Air India Bombing—Judicial Inquiry into Investigation.	
Charlottetown—One Hundred Fiftieth Anniversary.		Hon. A. Raynell Andreychuk . . . . .	1023
Hon. Percy Downe . . . . .	1018	Hon. Jack Austin . . . . .	1023
<hr/>		<b>Delayed Answers to Oral Questions</b>	
<b>ROUTINE PROCEEDINGS</b>		Hon. Bill Rompkey . . . . .	1023
<b>Interim Committee of Parliamentarians on National Security</b>		<b>Royal Canadian Mounted Police</b>	
News Release and Backgrounder to Report Tabled.		Closure of Edmonton Forensic Laboratory.	
Hon. Bill Rompkey . . . . .	1018	Question by Senator Comeau.	
<b>Parliament of Canada Act</b>		Hon. Bill Rompkey (Delayed Answer) . . . . .	1023
<b>Salaries Act (Bill C-30)</b>		<b>Justice</b>	
Bill to Amend—First Reading.		Criminal Activity in Mortgage Fraud and Identity Theft.	
Hon. Bill Rompkey . . . . .	1019	Question by Senator Atkins.	
<b>Canada-Japan Interparliamentary Group</b>		Hon. Bill Rompkey (Delayed Answer) . . . . .	1024
Eleventh Asia-Pacific Parliamentarians' Conference on Environment and Development, August 17-20, 2004—Report Tabled.		<b>Health</b>	
Hon. Marie-P. Poulin . . . . .	1019	Canadian Food Inspection Agency—British Columbia Avian Flu Outbreak—Jurisdictional Problems.	
ASEAN Interparliamentary Organization—Twenty-fifth General Assembly, September 12-17, 2004—Report Tabled.		Question by Senator Carney.	
Hon. Marie-P. Poulin . . . . .	1019	Hon. Bill Rompkey (Delayed Answer) . . . . .	1024
<b>Social Affairs, Science and Technology</b>		<b>Point of Order</b>	
Notice of Motion to Authorize Committee to Meet During Adjournment of the Senate.		Hon. Jerahmiel S. Grafstein . . . . .	1025
Hon. Michael Kirby . . . . .	1019	Hon. Noël A. Kinsella . . . . .	1025
<hr/>		Hon. Jack Austin . . . . .	1026
<b>QUESTION PERIOD</b>		Hon. Gerry St. Germain . . . . .	1026
<b>Justice</b>		Hon. Tommy Banks . . . . .	1026
Freedom of Religion—Alberta Human Rights Commission— Same-sex Marriage—Advocacy of Coercive Power.		Hon. Terry Stratton . . . . .	1026
Hon. Gerry St. Germain . . . . .	1019	Hon. Marcel Prud'homme . . . . .	1026
Hon. Jack Austin . . . . .	1019	Hon. J. Michael Forrestall . . . . .	1027
Hon. Jerahmiel S. Grafstein . . . . .	1019	<b>ORDERS OF THE DAY</b>	
<b>Citizenship and Immigration</b>		<b>Statistics Act (Bill S-18)</b>	
Delay in Foreign Credential Recognition Process.		Bill to Amend—Third Reading—Debate Continued.	
Hon. Consiglio Di Nino . . . . .	1020	Hon. Wilfred P. Moore . . . . .	1027
Hon. Jack Austin . . . . .	1020	Hon. Gerald J. Comeau . . . . .	1030
		<b>Patent Act (Bill C-29)</b>	
		Bill to Amend—Report of Committee Adopted.	
		Hon. Jerahmiel S. Grafstein . . . . .	1030
		Hon. Terry Stratton . . . . .	1031

	PAGE
<b>Quarantine Bill (Bill C-12)</b>	
Report of Committee Adopted.	
Hon. Wilbert J. Keon . . . . .	1031
Hon. Lucie Pépin . . . . .	1031
Motion in Amendment.	
Hon. Lucie Pépin . . . . .	1031
<b>Criminal Code (Bill S-11)</b>	
Bill to Amend—Report of Committee—Debate Adjourned.	
Hon. Lise Bacon . . . . .	1032
Hon. Terry Stratton . . . . .	1032

	PAGE
<b>Budget 2005</b>	
Inquiry—Debate Continued.	
Hon. Consiglio Di Nino . . . . .	1032
<b>The Senate</b>	
Motion to Amend Rule 32—Speaking in the Senate—	
Debate Adjourned.	
Hon. Eymard G. Corbin . . . . .	1034
Hon. Jack Austin . . . . .	1035
Hon. Fernand Robichaud . . . . .	1036
<b>Legal and Constitutional Affairs</b>	
Committee Authorized to Extend Date of Final Report on	
Study of Bilingual Status of the City of Ottawa.	
Hon. Lise Bacon . . . . .	1036





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