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THE HONOURABLE DANIEL HAYS
SPEAKER

CONTENTS

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THE SENATE

Tuesday, May 10, 2005

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

Prayers.

SENATORS' STATEMENTS

HOLOCAUST MEMORIAL DAY

Hon. Jerahmiel S. Grafstein: Honourable senators, May 5 was Holocaust Memorial Day in Canada. Honourable senators will recall the turbulent debate that occupied this house last year, leading to the passage of Bill C-459. In the result, I co-authored a book with Richard Marceau, MP, a co-sponsor of the bill, entitled *The Passage Through Parliament to Establish Holocaust Memorial Day in Canada*, to document the debate for students of the parliamentary process.

Honourable senators, what are we to do when we witness the rising tide of anti-Semitism in Canada 60 years after the Holocaust scorched its horrible lesson on public opinion forever? Or so we thought.

Just two weeks ago, at a prestigious secondary school in the heart of Toronto, students expropriated morbid scenes from the Holocaust to distribute obscene messages of hate on their Internet site. Horrified female students at a sister school responded, urging them to desist. In turn, these female students were threatened and vilified for their objections via the Internet. The offending students were quickly expelled.

It now appears, however, that this activity had been going on for some months. Why? Why? Why? Why in Toronto in the year 2005? Why in the heart of middle class Toronto? Why in the tolerant city of Toronto? What went wrong? Have we failed to learn the lessons of the Holocaust? Have we failed to learn the lessons of history? Was this just a prank of youth revolting against the "taboo" of the Holocaust, as one journalist observed, or have we, as parents, teachers, educators, community and political leaders, failed our children?

Celebrants of Passover are admonished to consider that ancient flight for freedom and equality as if each one of us personally experienced that event. We are taught that we must remember that fight for freedom and equality as if it were a struggle to be personally experienced anew by each generation, and so it is.

Elie Wiesel, the sombre witness of the "Shoah," last year, at a conference on anti-Semitism convened in Berlin attended by parliamentarians from 55 countries, argued that the Holocaust would not be repeated if young children were taught to love rather than to hate, to respect rather than to denigrate "the other."

The proclamation "Never Again" is hollow. It is certainly hollow in my ears and in that of our generation if each school at every level of education from primary to post-secondary is not taught the simple but complex lesson that to hate "the other" is

contrary to the Charter and contrary to the essence of Canadianism. When hate is inflated, freedom of religion and equality of rights under the Charter of Rights are diluted.

Regrettably, when we fail to integrate this lesson of mutual respect into our educational systems, in our civic society and in our homes, hate of "the other" still resonates as an acceptable part of the private lexicon of Canada.

Could political leaders do more? The Standing Senate Committee on Human Rights could complete its study of the egregious roots of hate buried within the Canadian psyche and consider how to excise discrimination and irrational hate from the body politic.

The Hon. the Speaker *pro tempore*: Honourable Senator Grafstein, I regret to advise that your time has expired.

CANADA-UNITED STATES RELATIONS

NORTH DAKOTA—DEVILS LAKE DIVERSION

Hon. Janis G. Johnson: Honourable senators, allow me to apprise you of the situation with regard to the Devils Lake diversion. As you know, the state of North Dakota is planning to dump excess water from Devils Lake into the Sheyenne River, which flows into the Red River and Lake Winnipeg. The U.S. Environmental Protection Agency has identified harmful parasites that live in Devils Lake, and the water is highly saline. Devils Lake has been separated from the Lake Winnipeg basin for thousands of years, and there is no telling how great an impact linking them will have.

Lake Winnipeg is an important cultural and economic landmark in Manitoba and is already in trouble. Hydro regulation of the lake has contributed to flooding and shoreline erosion. Nutrient loading from sewage runoff is creating enormous blooms of algae in the summertime, robbing the lake of oxygen and threatening its fish species. We do not need these extra stressors on the lake, particularly when it is virtually impossible to remove invasive species once they have become established, a lesson we have learned in spades from the Great Lakes.

A wide group of politicians and environmentalists on both sides of the border have been working energetically to stop this project until it gets a proper environmental review. Since the Devils Lake project involves the transfer of water from one country to the other, the dispute clearly comes under the Boundary Waters Treaty of 1909 and should therefore be settled by the International Joint Commission.

Prime Minister Martin has raised the issue several times with President Bush and has asked that the matter be referred to the IJC. The President has only agreed to consider the matter. Treasury Board President Reg Alcock met with the state of North Dakota's two democratic senators last week. They listened to his argument but are not willing to delay the project.

Earlier this week, Premier Doer met with Wisconsin Governor Jim Doyle to brief him on his concerns about the project and seek the same level of support that the state of Minnesota has offered. Premier Doer's government is part of a growing international coalition that includes the governments of Ontario, Quebec, Canada and Minnesota as well as the Great Lakes Commission, the Assembly of First Nations and environmental groups on both sides of the border.

The IJC cannot adjudicate matters unless both parties agree to participate. North Dakota has refused to send the dispute to the IJC, so the matter has moved up to the desk of Secretary of State Condoleezza Rice. Her decision will likely be announced in the next several weeks.

Throughout this dispute, coalition members have insisted that they are sympathetic to the plight of North Dakotans who have been affected by flooding, but there is no threat of flooding in the area this year, so there is enough time for the IJC to review the project's risks and explore the alternatives.

Aside from the environmental risk posed by this project, we are also concerned that unilateral action by North Dakota sets a dangerous precedent for future relations between our two countries. In coming years, water will be an even more important resource, and it is crucial that we move forward with respect to the treaty that has served both our countries so well for almost a century. Manitoba has made a commitment to abide by the decision of the IJC, whatever that may be.

The Hon. the Speaker pro tempore: Honourable Senator Johnson, I regret to advise that your time has expired.

• (1410)

REBUILDING OF SOUTHEAST ASIA AFTER TSUNAMI

Hon. Lorna Milne: Honourable senators, I rise to complete my remarks about Canada's aid to the victims of the tsunami in Southeast Asia. I wish there was a way to tell all Canadians what their generous donations of money are doing to help in Aceh. It is important that we realize results will not be seen immediately. Houses cannot be rebuilt when there are no materials with which to build them, no roads, ships or docks to transport the materials, and no builders to do the construction. All are gone. Children will not be able to go to school for a long time because over 4,500 schools have been destroyed, as well as many teachers lost. Hospitals have to be built anew, staffed and supplied. Local opinions must be both sought out and respected in how this is to happen.

Thousands of Canadians, from children to seniors groups, raised much money to give aid to the surviving victims of the tsunami. We came together with open hearts and hands like no other time in our recent history. I hope that all Canadians realize how massive the rebuilding effort will be and how long it will take. The international aid organizations that have received this money will not be able to use all of it immediately, and should not use it immediately. The rebuilding will take a long time if it is to be properly planned and done, now that the immediate needs are being met.

The elements of a civil society and local governance must also be rebuilt. CIDA's effort will help as they take a long-term approach to the problem. Canada will be there to support all stages of reconstruction, as we have been for the last 50 years. However, we must be patient. It will be years before Aceh can support itself in harmony and dignity. Not only have the physical structures been swept away but also the people who plan, build and operate those structures are gone — dead and swept away from the land by those horrendous walls of water like chaff in the wind. Honourable senators, weep for the victims; weep for Indonesia.

RACIAL DISCRIMINATION

QUEBEC HUMAN RIGHTS TRIBUNAL— CENTRE MARAÎCHER EUGÈNE GUINOIS

Hon. Donald H. Oliver: Honourable senators, I rise to call the attention of honourable senators to what *The Globe and Mail* has called "one of the worst cases of outright discrimination in recent history." The article concerns the Centre Maraîcher Eugène Guinois, one of Canada's largest commercial vegetable farms, located about 40 minutes southwest of Montreal. Between 2000 and 2001, the farm employed hundreds of Black workers to pick and process vegetables. The workers were bused to and from the farm as day labourers, particularly during harvest time. According to the final report of the Quebec Human Rights Tribunal, the Black labourers suffered from "some of the worst racial discrimination in Quebec's history."

In her 32-page report, Judge Michèle Pauzé said that she was "stunned, even scandalized by what happened at Centre Maraîcher Eugène Guinois." She prefaced her decision with the phrase, "The events you are about to read happened here, in Quebec, during the years 2000 and 2001."

During the tribunal's hearings into the case, four workers testified to conditions on the Quebec vegetable farm that "wouldn't seem out of place in the segregation era of the United States." According to a copy of the court transcript obtained by *The Globe and Mail*, one of the victims, Celissa Michel, testified that he and "roughly 100 others were ordered to use the blacks-only cafeteria that lacked heat, running water, proper toilets, refrigeration and many other amenities." He further added, "the black workers were verbally and physically abused on several occasions, and were targets of graffiti that read: 'here are our monkeys' and 'blacks are pigs.'" One witness, Ronald Champagne, said that when he tried to sit at the picnic tables near the cafeteria, Denise Guinois, wife of the farm's owner, told him that the tables were for Quebecers only, and directed him to the tables near the toilets. According to the judge's ruling, the "blacks-only cafeteria did not have a sink, soap or even running water, but it did have several hoses outside that the workers could use." The workers said that they stayed at the farm because they could not find work elsewhere.

Honourable senators, this is a sad day in our country's quest for equality.

YUKON

CONTRIBUTION TO WORLD WAR II

Hon. Ione Christensen: Honourable senators, today the Yukon often seems far away but in 1939, when the Second World War was declared, it truly, was another world. It took a minimum of 10 days to travel to Vancouver, the only Canadian city with a commercial connection. There were no recruitment centres and, with a small population of 2,500, every able-bodied man was expected to stay in the North to work in the mines, on the trap-lines or at the trading posts.

During the First World War, Jo Boyle put together his machine gun troop and George Black recruited more than 200 men from Dawson City to go overseas. With similar determination, from 1940 to 1945, young Yukoners, as they reached the age of enlistment, packed a duffle bag and headed to Vancouver to sign up. Three sons of the Van Bibber family, Dan, Archie and Alex, who lived up the Pelly River, had to go to great lengths to enlist, first floating down the Pelly River by raft, then up the Yukon by steamer to Whitehorse and on to Vancouver. Charlie Isaac, from Dawson, joined in 1939 and served until 1945. His medals included the 39-45 Star; Italy Star; France and Germany Star; Defense Medal and Volunteer Service Medal and Clasp.

Jimmy Profeit, at only 16 years of age, left Mayo and became a dispatch rider in Africa and in Italy — a hazardous assignment. Staff Sergeant James Ballentine joined in 1941 and that November went to Italy. He was with the Royal Canadian Engineers and was awarded the British Empire Medal for leading the construction of the Birmingham Assault Bridge. Later, in Normandy as they pushed on to Holland, he contracted diphtheria and spent the last months of the war in an English hospital before being sent home in the summer of 1945.

Honourable senators, the list goes on: Ralph Zaccarelli, John Gould, Roy Butterworth, Jimmy Drugan, Wes Buyck, Percy Dewolfe, Helmer Samuelson, Kip Fisher, Lomer Cyr, Lawrence Seely, Pete Sidney, John Adamson, and so many more young Yukoners, leaving the Yukon for the first time, for many, and travelling thousands of miles to serve their country.

I was six years old when war was declared. We were living in the small settlement of Fort Selkirk. We had an old radio powered by a large wet-cell battery and I vividly remember hearing the news from London, with Big Ben chiming in the background. We knitted wool socks, gloves and scarves to make up care packages. We collected scrap iron and bought war savings stamps. Each night, we listened to that radio to try to follow the battles where our Yukon boys might be fighting.

That was 60 years ago — six decades — and yet, in each one of those decades there has been a need for young soldiers to risk their lives to bring peace to some part of the world — a peace that, when all the fighting is done, is accomplished through negotiations and treaties. With the recent opening of our wonderful new War Museum, let us hope that it inspires us to learn from history.

SOVIET OCCUPATION OF EUROPEAN COUNTRIES

Hon. A. Raynell Andreychuk: Honourable senators, we have all joined in observing the sixtieth anniversary of the defeat of the Nazi tyranny. We also remember with pride the accomplishments

of Canadians who made the ultimate sacrifice, those who came home as veterans, and the families and friends for their personal and collective sacrifices. The Nazi tyranny, which brought with it the horrors of the Holocaust, was defeated, and a significant part of Europe received its freedom.

However, we must remember that the end of the Nazi tyranny also marked the beginning of one half century of occupying Soviet communist terror for millions who lost their freedom as the Iron Curtain descended across Europe. Hundreds of thousands were systematically murdered or sent to almost certain death in Siberian concentration camps. Others were tortured. Millions lost their freedom. Indeed, the Baltic nations of Estonia, Latvia and Lithuania suffered de facto annexation. Millions of others were systematically deported to other regions of the Soviet Union, losing their identity and culture. Only recently are they recovering from this tyranny. As we mark the anniversary of VE-Day, let us not forget the millions for whom freedom will remain a dream for another half century.

[Translation]

ROUTINE PROCEEDINGS

TREATIES ENTERED INTO FORCE IN 2002, 2003 AND 2004

TABLED

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, a document entitled “Treaties entered into force for Canada in the years 2002, 2003 and 2004.”

• (1420)

LEGAL AND CONSTITUTIONAL AFFAIRS

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF INCLUDING IN LEGISLATION NON-DEROGATION CLAUSES RELATING TO ABORIGINAL TREATY RIGHTS PRESENTED

Hon. Lise Bacon, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, May 10, 2005

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

SEVENTH REPORT

Your Committee, which was authorized by the Senate on Wednesday, November 3, 2004 to examine and report on the implications of including, in legislation, non-derogation clauses relating to existing aboriginal and treaty rights on the aboriginal peoples of Canada under s.35 of the

Constitutional Act, 1982, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, for the purpose of such study.

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

Respectfully submitted,

LISE BACON
Chair

(For text of budget, see today's Journals of the Senate, Appendix A, p. 876.)

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

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

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF BILINGUAL STATUS OF CITY OF OTTAWA

Hon. Lise Bacon, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, May 10, 2005

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

EIGHTH REPORT

Your Committee, which was authorized by the Senate on Thursday, December 2, 2004 to examine and report on the study on declaring Ottawa to be a bilingual city, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, for the purpose of such study.

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

Respectfully submitted,

LISE BACON
Chair

(For text of budget, see today's Journals of the Senate, Appendix B, p. 881.)

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

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

[English]

STUDY ON LEGAL ISSUES AFFECTING ON-RESERVE MATRIMONIAL REAL PROPERTY ON BREAKDOWN OF MARRIAGE OR COMMON LAW RELATIONSHIP

INTERIM REPORT OF THE STANDING SENATE COMMITTEE ON HUMAN RIGHTS TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the seventeenth report of the Standing Senate Committee on Human Rights, an interim report which deals with serious concerns relating to the issue of on-reserve matrimonial real property.

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

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

CANADIAN FORCES MEMBERS AND VETERANS RE-ESTABLISHMENT AND COMPENSATION BILL

FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-45, to provide services, assistance and compensation to or in respect of Canadian Forces members and veterans and to make amendments to certain Acts.

Bill read first time.

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

[Translation]

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, with leave of the Senate, at the next sitting of the Senate.

[English]

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

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, on behalf of Her Majesty's opposition in the Senate, my Conservative colleagues, and given that in the last few days Canadians and others around the world have marked the sixtieth anniversary of VE-Day and the tribute that all Canadians wish to express to our heroic veterans, I suggest that the house agree that second reading on this important bill affecting veterans can commence later this day.

[Translation]

Senator Robichaud: Honourable senators, Senator Dallaire is the sponsor of this bill. He should be here in a few minutes. He will then be able to speak at second reading. We are prepared to proceed in this manner.

[English]

The Hon. the Speaker *pro tempore*: Is leave granted to commence second reading later this day?

Hon. Senators: Agreed.

Hon. John Lynch-Staunton: Honourable senators, I am all in favour of the procedure as long as we do not move too hastily. Perhaps all senators could have a copy of the bill before we begin second reading later this day.

The Hon. the Speaker *pro tempore*: We will make photocopies.

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading later this day.

[Translation]

BANKRUPTCY AND INSOLVENCY ACT

BILL TO AMEND—FIRST READING

Hon. Michel Biron presented Bill S-30, to amend the Bankruptcy and Insolvency Act (RRSP and RESP).

Bill read first time.

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

On motion of Senator Biron, bill placed on the Orders of the Day for second reading two days hence.

[English]

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Peter A. Stollery: Honourable senators, I ask for leave to move a motion now. I am prepared to explain the situation, honourable senators. The Standing Senate Committee on Foreign Affairs has been made aware of the attendance of the President of the Republic of Mali with four ministers tomorrow at three o'clock. As the committee was just notified on the weekend, I was unable to alert the Senate last week. Therefore, I am asking for leave now to move the motion.

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

Hon. Senators: Agreed.

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

That the Standing Senate Committee on Foreign Affairs have power to sit at 3:05 p.m. tomorrow, Wednesday, May 11, 2005, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

• (1430)

Hon. Marcel Prud'homme: Senator Stollery tried to reach me, but I was busy with the delegation of parliamentarians from Kuwait, who will be our guests tomorrow. Even though I am a member of the committee, I am reluctant to grant leave. Eventually we will miss a major debate in the chamber because we will be attending to committee duties.

I will say yes to this motion at this time, but I would hope that there will not be many more motions of this kind in the future because some day we may not have quorum in the chamber.

If every committee requests permission to sit, to which does one say yes and to which does one say no? That makes life difficult for the whips. It makes life difficult for senators interested in certain debates. A number of items on the Order Paper stand in my name and I do not know when I will debate them.

I want to be on record as stating that I will reluctantly agree to this motion, but we must show more discipline in these requests.

Senator Comeau: How about the National Security and Defence Committee?

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

Motion agreed to.

[Translation]

OFFICIAL LANGUAGES

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

Hon. Eymard G. Corbin: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Committee on Official Languages be empowered to meet on Monday, May 16, 2005, from 9:30 a.m. to 5:30 p.m. to consider a draft report.

[English]

QUESTION PERIOD

FINANCE

BUDGET IMPLEMENTATION BILL, 2004, NO. 2— CLARIFICATION OF GENERAL ANTI-AVOIDANCE RULE

Hon. Serge Joyal: Honourable senators, I would like to address my question to the Leader of the Government in the Senate. Last Thursday afternoon, during debate on third reading of Bill C-33, Senator Murray and I made interventions on the interpretation of

sections 52 and 60 of Bill C-33, the so-called GAAR section. We suggested that the government leader seek from the Minister of Finance, through either a comfort letter or an information circular that the Department of Finance publishes regularly, some reassurance on the interpretation and the scope of section 52, in particular its retroactive effect.

If I understood correctly, the government leader, following those two interventions, undertook to express our views and concerns to the Minister of Finance and to report to this house.

Considering that we will vote this afternoon on Bill C-33 at third reading, is the government leader in a position to report on the position that the Minister of Finance has taken following that request?

Hon. Jack Austin (Leader of the Government): Honourable senators, I want to thank Senator Joyal for his question and for the opportunity to continue the dialogue that we had in this chamber Thursday afternoon.

Following my undertaking to the chamber to seek a further explanation from the Minister of Finance, I approached the minister, who provided me with a letter dated May 10, 2005, which reads as follows:

Dear Senator Austin:

Further to third reading by the Senate of Bill C-33, I am writing to you in response to the concerns expressed by some members of the Senate about the effect of certain amendments in Bill C-33 to the *Income Tax Act* and to the *Income Tax Conventions Interpretation Act*.

As I have said recently in my testimony before the committee on this topic, these amendments relating to the general anti-avoidance rule, or "GAAR", are considered to simply confirm the effect of the current law. I am happy to reiterate this point here: we do consider these changes as simply clarifying in nature and not to have changed the effect of the law nor a change in how the law will be applied by the Canada Revenue Agency.

I have also noted in my testimony that, even if these amendments were found to have retroactively changed the law, we believe that they would nonetheless satisfy the guidelines for such changes.

I note that the concern of at least some, at a practical level, is that the Canada Revenue Agency (CRA) may attempt to use the clarified rule to apply GAAR in respect of completed transactions that it had found not to be subject to challenge under GAAR in the past. If that were the case, I might have concerns of my own. However, I wish to assure Honourable senators that I have satisfied myself that CRA does not intend to change its current assessing practice in regard to

tax treaties. While CRA as well as my own Department have always considered abusive tax treaty avoidance transactions to be subject to GAAR, CRA does not and will not challenge every transaction involving a tax treaty. The amendments simply seek to provide certainty that CRA has the authority to challenge, as has been its practice, tax avoidance transactions that result in an abuse of the tax system — whether such abusive avoidance involves Canada's tax treaties or some other aspect of our tax system.

In order to make this clear, and to provide greater comfort to the tax community, we have suggested that a new information circular discussing the application of GAAR to tax treaties be produced, and both CRA and the tax practitioners with whom this has been discussed support this proposal.

In closing, I trust this response will provide you with the comfort that this measure only seeks to clarify that abusive tax avoidance transactions cannot hide behind a tax treaty and argue that it is not caught within the ambit of the GAAR provision.

Yours sincerely,
Ralph Goodale

Honourable senators, I believe that the Minister of Finance has given an assurance that no concluded transactions are to be reopened. If the file has been closed by the Canada Revenue Agency, it will remain closed. He has given assurances that he will consult with tax practitioners regarding an interpretation bulletin.

Hon. Noël A. Kinsella (Leader of the Opposition): Would the Honourable Leader of the Government in the Senate not agree that the *Rules of the Senate* provide that we ought not to be anticipating Orders of the Day during Question Period?

Senator Austin: I had the opportunity to ask that very same question. I was told that the precedents establish otherwise.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I have the honour of presenting four delayed answers to oral questions raised in the Senate. The first response is to a question raised in the Senate on February 24, 2005, by Senator Nolin, regarding Budget 2005, renewal of Canada-community agreements.

The three others are responses to oral questions raised by Senator Keon regarding a meeting with the United States Secretary of Health and Human Services; the sale of prescription drugs, the handling of Cox-2 inhibitors, the availability of heart medication Inderal LA; and compensation to hepatitis C victims. These questions were raised on March 8, March 21 and April 20, 2005, respectively.

FINANCE

BUDGET 2005— RENEWAL OF CANADA-COMMUNITY AGREEMENTS

(Response to question raised by Hon. Pierre Claude Nolin on February 24, 2005)

The Government has directly supported the vitality and development of official language minority communities for more than forty years. The Department of Canadian Heritage provides financial support for community and cultural activities offered by minority official-language communities to enhance their development, ensure long-term continuity and reinforce social cohesion in Canada. It supports diverse community activities such as advocacy, sensitization and networking, and equips the communities with the infrastructure necessary to provide life experiences in their language through, for example, community centres, community radio, theatre, etc.

In the context of the discussions for the renewal of the Canada-community agreements, the Department of Canadian Heritage has offered a 10 per cent increase in program funding to the representatives of the official language minority communities. There was no need to include this funding in the 2005 Budget as it was approved as part of the *Action Plan for Official Languages* and is provided for in existing departmental reference levels.

The Minister of Canadian Heritage is aiming at renewing the community collaboration mechanisms in the spring for the four-year cycle of the program (2005-06 to 2008-09).

Separate from these agreements, Budget 2005 included an additional \$41 million over the next three years for the *Support Fund for Official Language Minority Communities*. This fund assists minority official language communities with economic development, community capacity building and human resource development initiatives.

This investment builds on the government's *Action Plan for Official Languages*, a \$751 million strategy designed to enhance the well-being of minority language communities and individuals across the country in areas such as education, health services, child care, literacy, and economic development.

HEALTH

AVAILABILITY OF HEART MEDICATION IN DERAL LA

(Response to question raised by Hon. Wilbert J. Keon on March 8, 2005)

The drug is a marketed product and therefore Health Canada's Special Access Program (SAP) is not really the first point of contact. It is listed on the Drug Product Database and the Department has not had any inquiries about this thus far. The company confirmed that Inderal LA was backordered a month ago or so but that the inventory

situation has since been solved. The company indicated that there were many inquiries about this from the public but that the supply has been stable for the last couple of weeks and they do not forecast any additional interruptions in the foreseeable future.

MEETING WITH UNITED STATES SECRETARY OF HEALTH AND HUMAN SERVICES— SALE OF PRESCRIPTION DRUGS— HANDLING OF COX-2 INHIBITORS

(Response to question raised by Hon. Wilbert J. Keon on March 21, 2005)

Health Canada will strive to create a balance between speedier approval and appropriate safety surveillance for products used in real-world setting. Budget 2003 provided \$190 million over five years to improve the timeliness of Health Canada's regulatory process with respect to human drugs. Consistent with the government's approach on Smart Regulations, Budget 2005 builds on that commitment by providing an additional \$170 million over five years to implement a series of targeted measures to enhance the safety and effectiveness of drugs and other therapeutic products, including:

- Strengthening the capacity to review clinical trial applications and monitor and respond to adverse event reports.
- Developing and implementing regulations in order to improve safety monitoring of therapeutic products.
- Increasing the compliance and enforcement of therapeutic products by strengthening oversight on: adverse drug event reporting by manufacturers; research of subject safety and data integrity in clinical trials; and post-market compliance verification.
- Implementing a regulatory framework for the safety, efficacy and quality of blood, cells, tissues and organs intended for transfusion/transplantation.

Minister Dosanjh has already indicated some of the specific areas which will require further investigation including clinical trials registries and disclosure, mandatory adverse reaction reporting, and conditional licensing.

Health Canada is also developing options for a drug safety monitoring board to increase openness and transparency, and promote government accountability to the public. Health Canada will build on international best practices from comparable regulatory agencies in developing these options. In looking at these options, Health Canada is taking additional steps to improve transparency, openness and accountability.

COMPENSATION TO HEPATITIS C VICTIMS

(Response to question raised by Hon. Wilbert J. Keon on April 20, 2005)

The Government of Canada is sympathetic to the plight of Canadians infected with hepatitis C through the blood system, and recognizes the burden it places on them and their families.

As such, on November 22, 2004, the Minister of Health announced that all available options will be explored to provide compensation to those people infected with hepatitis C through the blood system before January 1, 1986 and after July 1, 1990.

On April 20, 2005, the Minister of Health reaffirmed the Government of Canada's commitment to these discussions, and indicated that all parties are working in good faith to provide the necessary information upon which to base a compensation framework.

The Minister also said that compensation can only be provided once the appropriate information is available and the discussions are concluded.

The discussions began immediately after the November announcement and have been proceeding since then. The most recent discussions took place on April 21, 2005.

All parties have agreed that, while discussions are ongoing, their substance will be kept between the parties involved.

The Government of Canada is working to bring this matter to a satisfactory conclusion as quickly as possible.

(a) in clause 52, on page 66, by replacing lines 9 to 15, with the following:

“(4) Subsections (1) to (3) apply with respect to transactions entered into after March 22, 2004.”;

(b) in clause 53, on page 66, by replacing lines 21 and 22, with the following:

“(2) Subsection (1) applies to taxation years and fiscal periods that begin after 2004.”; and

(c) in clause 60, on page 73, by replacing lines 1 to 3, with the following:

“(2) Subsection (1) applies with respect to transactions entered into after March 22, 2004.”.

Hon. Wilfred P. Moore: Honourable senators, I rise today to lend my voice to the debate regarding Bill C-33. As we know, this bill also contains an amendment to the Income Tax Act which, in the words of the minister, seeks to clarify legislation passed in 1988. This so-called clarification would address an apparent misunderstanding of the original legislation and presumably allow the Government of Canada to seek redress in cases where the Crown feels that tax laws have been broken in the past.

The government seeks to amend the Income Tax Act by broadening the scope of the general anti-avoidance rule, GAAR, in subsection 245 of the act. As Senator Oliver so ably explained to this chamber, under the current wording of the act, GAAR can only be used in the instance of a transaction that results in a misuse of the provisions of the act read as a whole. If this legislation is passed, however, GAAR would apply if there were a misuse or abuse of the act, the income tax regulations, the income tax application rules and any bilateral tax treaties. Not only would the scope of the legislation change but also the changes would apply from the time the original legislation passed in 1988 — 16 years before the subject budget.

Honourable senators, the problem with the Income Tax Act amendment proposed herein is not the idea of “clarification.” Making any law, especially tax law, easier to understand is a very worthy goal. However, the aspects of this bill that deal with GAAR — sections 52 and 60 — seem to go further than clarification. We are in danger of allowing the government to retroactively tax citizens under the guise of clarification. I say this because the Department of Finance has not stated its case clearly. The department has had opportunity in the past to clarify the intention of the GAAR but has chosen not to do so. The department has no court ruling that upholds its proposed use of the GAAR. In fact, there exist two cases wherein the Tax Court ruled that the GAAR does not apply to the income tax regulations. They are the 2001 cases of *Rousseau-Houle* and *Fredette*. I will quote from the Tax Court's decision in *Fredette* which states:

It is clear in administrative law that an act and regulations, although both enactments, are very different in nature. An act is passed by Parliament or a provincial legislative assembly, whereas regulations are most often adopted by a government (the executive) under the authority of an act. In my view, since subsection 245(4) of

• (1440)

[English]

ORDERS OF THE DAY

BUDGET IMPLEMENTATION BILL, 2004, NO. 2

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Dallaire, for the third reading of Bill C-33, a second Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004;

And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator McCoy, that Bill C-33 be not now read a third time but that it be amended:

the Act does not say “the Act and Regulations read as a whole”, one must not take into account the rules adopted by the government in the Regulations. If Parliament had wanted them to be considered, it would have clearly so stated in subsection 245(4) of the Act, as it had done in a number of other provisions of the Act.

It is my belief that where there is clarification such as this, the proper action for the Department of Finance would be to appeal its decision and seek clarification through the courts, as any citizen would be forced to do. However, the department has made no such attempt and, in fact, merely characterized the decisions as surprising. I fail to see how expressing surprise might be the proper response by a department that, in light of this legislation, seems to regard the situation as quite pressing.

The fact that no appeal was made muddies the waters as far as seeing this bill as a clarification to the use of the GAAR. If the government believes the legislation is clearly meant to operate as written, that the intention was clear, then why not pursue the issue through the courts? It truly leads one to believe that the courts would continue to decide against the department and, hence, the legislative approach we are now considering.

Where does this leave us? Once again, we must contemplate whether we are dealing with a case of retroactivity. Retroactivity has been discussed in this chamber recently with regard to Bill S-18, the amendments to the Census Act. At that time it was my contention that our government should not be approaching legislative changes from the perspective of retroactivity, that we have no right now to amend laws and give those laws a meaning different from that promised to the citizens of Canada when they were originally passed, that is, without a grandfathering provision for those citizens who now find themselves impacted by the new law. I believe strongly in that.

Every so often in this chamber we have an opportunity — and I say “opportunity” because difficult decisions are the privilege of the people in our positions — to uphold the laws of this country. As legislators, it is our responsibility to ensure that the strong traditions of our legal system are not ignored or abused and to provide wisdom in such circumstances. Do honourable senators think that our predecessors would have done otherwise? I think not.

In fact, I need only remind honourable senators of the so-called Pearson Airport case of 1994 wherein the legislation proposed would have denied Canadian citizens the right to be heard in court. I will quote our esteemed colleague, the Honourable Michael Kirby, with regard to the implications of the use of retroactivity. He said:

In some 30 years around government, I have never known policies to be applied retroactively. Traditionally, we grandfather everything if we are in the queue. If they change the label on cigarette packages, all the packages that are out there in the marketplace can still be sold. All of Canadian history and public policy precedent is on your side on the retroactivity point.

Senator Kirby is right. We should never rely on retroactivity to correct legislative mistakes made in the past. The tax system in

our country is based on trust between the government and its citizens, a trust founded on the rule of law. Taxpayers pay their taxes according to how a law is understood to work. If there is a disagreement, such as there appears to be in this case, they expect an avenue of recourse to be available to settle the dispute. This legislation takes away that right of legal recourse for those who participated under this tax law regime for the past 17 years.

The letter tabled today gives no comfort to those people. Their legal rights will be trampled.

Despite the fact that there have been decisions countering the government’s claim on how this legislation will function, if passed, this bill will take away the right of individuals to use these arguments in court. The cases that are pending will not be decided by jurisprudence but by a piece of retroactive legislation. We would be forcing taxpayers to commence litigation against their own government to preserve their right of recourse under our legal system.

That, honourable senators, is a shameful precedent. That is not how our system of government works, nor is it how our civil society expects it to work. We as senators must recognize this and protect the rights of our citizens. We cannot allow ourselves to bypass the judicial component of our government and rule society through the manner proposed in this legislation. If we make the correct policy decisions at the executive level, and if we write the laws clearly and according to the rules of the other place and of this chamber, and if the courts interpret them reasonably and fairly, we are enabling our system of government, based on the rule of law, to work as it was meant to by the Fathers of Confederation. That does not seem to be too much to ask.

On Tuesday of last week, we learned in the Standing Senate Committee on National Finance, from a former parliamentarian, the Honourable Marc Lalonde, that this legislation is not up to the standards by which we should be measuring legislation. He said:

Any reasonable person who has respect for the rule of law would conclude, in my view, that the amendment that has been introduced before you is extreme, goes beyond what is necessary and, on the basis of the arguments of the department, it is superfluous to say the least.

If this proposed amendment to the Income Tax Act has merit, one might ask why it was not brought before us in a separate bill. Why was it not made to stand on its own? Why this surreptitious, buried approach? The obvious answer is that the law is weak and subject to challenge. Simply put, honourable senators, this is bad law. To put this bad law in with a budget bill is mischievous, to be extremely charitable. More accurately, it was wrong and inappropriate of the bureaucrats and officials to include this proposed law in this bill.

We are all very well aware of the fact that this is a time of minority government. That is all the more reason for us to be more sensitive to that precarious situation when preparing draft legislation for consideration by both Houses of Parliament. The subject bureaucrats and officials are attempting to make the Senate an accomplice to this regressive legislation. I, for one, will not join in that legislative underhandedness.

• (1450)

There is more to this, as well. Senator Plamondon touched on our role internationally during the census bill debates. We have an international reputation second to none, one based on stable rule of law void of retroactivity. If we pass this bill unamended, that reputation will undoubtedly suffer. This bill does not affect only Canadian citizens but citizens of other countries as well.

I am not advocating this bill be defeated. To the contrary, we can make it better and fairer to those involved. The simple way of doing so is to adopt the amendment of Senator Murray to cancel the retroactive aspects of the legislation. We have not only the ability but also the responsibility to do so. If we merely allow for the amendment proposed to take effect from the March 22, 2004 date of the budget onward, we would be making this a much better bill. Quite frankly, that is what we are charged to do.

Honourable senators, I ask you not to minimize what the issue is here: the truth. We are not dealing with a matter of clarification. We are looking at another instance of retroactivity. We must invoke the tradition that exists in this place. We need only look to the past to understand what we must do to protect the future. The past will tell us that we cannot reach back and trample the rights of citizens. I would ask honourable senators to have the courage to change this legislation by supporting the amendment before us.

Just two days ago, Canada celebrated Victory in Europe Day marking the end of World War II. We gave thanks to our veterans who made the supreme sacrifice and to those who served and came home. We are grateful for the freedoms that those men and women fought to preserve. Yet, here we are, for the second time in two months, proposing to adopt legislation that takes away the rights of our citizens — the right of privacy and the right to due process under our law. We must not give up those hard-fought freedoms.

Honourable senators, please remember the feelings of humility and honour you experienced when you first walked through these doors and were sworn in as a senator. You took an oath making you one of 105 legislators who occupy this chamber. You became a member of the chamber of sober second thought and were charged with thinking independently and acting as a guardian of the rights of Canadians. The integrity of this chamber is paramount. I ask you to think of this as you vote on this amendment and this bill.

Hon. W. David Angus: Honourable senators, I agree with Senator Moore. I could not have said it better. His speech has put the issue before us.

I rise to support the amendment we will be asked to vote on. If Bill C-33 is adopted in its present form, the amendments it proposes will take effect from September 13, 1988 — yes, honourable senators, almost 17 years ago. We need to pay special attention to these amendments given their retroactive nature. It is for these reasons that I believe Senator Murray's amendment must be supported. We can make Bill C-33 into good law from the bad law it is presently.

The general anti-avoidance rule, GAAR, is an extraordinary taxing power of government. It gives the Minister of National Revenue the power to assess taxpayers even if they have conformed to all applicable requirements of the Income Tax Act.

A minister is justified in using the GAAR when he or she can show that the underlying tax planning in question was abusive notwithstanding a taxpayer's compliance with the income tax rules. This abuse standard is so vague that the courts have developed an interpretation principle that the GAAR power can only be invoked if the minister can show to the court's satisfaction that the alleged abuse is clear and unambiguous. This is almost the same burden or onus that exists in criminal law, where the Crown must show guilt beyond a reasonable doubt.

We are talking about extraordinary taxation powers of the fisc in a society where we have a time-honoured rule that the taxpayer is entitled to arrange his or her affairs in a way that the fisc puts the smallest shovel into his or her assets. This legislation runs counter to that principle.

It is precisely this extraordinary feature of the GAAR which dictates that we must pause before approving retroactive amendments to it going back 17 years. Indeed, in its 2004 budget, the Department of Finance itself launched these proposals on the express basis that they were not retroactive but were merely of a housekeeping or clarifying nature. I am not sure what the difference is supposed to be. Apparently, the Department of Finance thought it could persuade legislators, including ourselves, that there was no substantive change to the GAAR intended by these proposals. This is on the contrary, honourable senators.

Clarification involving no change to the existing law? Why, Bill C-33 would add 111 words to the GAAR, words which tax practitioners should have known were supposed to have been in the text but were not. Tax law is sufficiently complicated as it is that we should not be writing it using invisible ink.

The evidence heard by the Standing Senate Committee on National Finance clearly demonstrated that the proposed changes are not just for clarification. There is a big controversy as to whether or not the GAAR applies in the case of tax treaties and regulations.

One merely needs to review the submission prepared by the Joint Committee of the Canadian Bar Association and the Canadian Institute of Chartered Accountants to realize that many practitioners and academics have written learned treatises on these subjects and issues. They have advanced cogent and detailed arguments as to why the GAAR does not work in the way the Department of Finance and the Canadian Revenue Agency might like it to work.

The courts have been divided on these issues, with judgments and decisions going both ways. Obviously there needs to be clarification, but that clarification should occur on a forward basis only and not back 17 years to 1988.

The Minister of Finance appeared to change gears on the issue of clarification and retroactivity in his recent testimony before the Standing Senate Committee on National Finance. The minister

now seeks to justify the amendments on the basis that they satisfy the published guidelines the Department of Finance issued in 1995 indicating circumstances in which retroactivity may be justifiable.

I respectfully suggest that the letter read to us by the Leader of the Government from the Minister of Finance does nothing to alleviate the problem with Bill C-33 that we are accentuating.

To summarize these guidelines, the Department of Finance suggests that retroactivity is justifiable in circumstances where two conditions are satisfied simultaneously. The first criterion is that retroactivity deal with a well-established policy of the Department of Finance and the CRA. The second criterion is that policy will be well accepted by tax practitioners. Looking at the testimony given before the Standing Senate Committee on National Finance, I submit it is obvious to anyone who is not wilfully closing his or her eyes to the truth that neither criterion is satisfied through the provisions of Bill C-33.

The position of the government on this issue was never clear. Retroactivity in the area of taxation law is especially odious because taxpayers make very important economic, business and family decisions based upon advice they receive — at great expense, I might add — from tax practitioners such as accountants, lawyers, financial planners and other advisers as to the fiscal consequences of their decisions. The Parliament of Canada should not be involved in rubber-stamping the dictates of bureaucrats who would like to see the law read other than the way it does, on a retroactive basis.

The officials who testified before the National Finance Committee were repeatedly asked by Senator Massicotte why these changes had not been made previously. Why had they not been made when eminent tax practitioners raised the issue back in 1988 and 1989 or when these issues began to be litigated before the courts in the early 1990s? Why not when the Auditor General issued her report raising the issue in 2001?

• (1500)

These questions have never been answered by the officials, honourable senators, nor were they answered by the committee when raised by our colleague Senator Massicotte. There are pending cases that will be affected by this proposed change, and looking at the testimony before the committee, it is obvious that the government's real intent is to give itself a leg up in the pending litigation. It is trying to take arguments away from taxpayers and their counsel that may have been crucial on prior decisions made on tax planning issues. It is not the Canadian way of doing business and of treating our citizens. It is not our system. We must let the courts decide this issue for the past.

I again emphasize the critical importance of stability in our taxation system, honourable senators. We live today in a globalized world, and we are competing with other countries for international investment. We need a stable tax system where taxpayers know their rights and are permitted their regular recourses to the courts when questions of doubt arise.

These issues are not without complexity. Indeed, it has been brought to my attention that in several recent Supreme Court of Canada cases the issues have been so difficult that the courts themselves have been greatly divided on them over the course of

the same litigation. For example, taxpayers have lost in lower courts only to succeed ultimately at the level of the Supreme Court on a number of occasions. That has not happened only once but in many recent cases. It is for this reason that we should let this complicated issue of the GAAR and tax treaties and regulations in regard to the GAAR be decided by the courts that are specialized in such matters, and not by this Bill C-33, which, as Senator Moore has said, if passed, will be bad law.

We, the members of this honourable chamber, should not be unwitting accomplices, as suggested by Senator Moore, of an out-of-control, overzealous, tax-grabbing group of officials in the Department of Finance. When we vote later this afternoon, I urge honourable senators to support the very excellent amendment being advanced by Senator Murray.

Hon. Joseph A. Day: Honourable senators, I have already spoken to the bill in third reading, but I have not spoken on the amendment, and it is to the amendment that I would like to direct my comments at this time.

I will urge honourable senators, in my remarks, to consider the effect of the amendment proposed by my honourable colleague, Senator Murray, and to consider the impact of that proposed amendment.

Honourable senators, the issue of the amendment is not new. Honourable Senator Murray brought it up during the appearance of the Minister of Finance before us in committee. I will read the comments made by the Honourable Ralph Goodale at that time. Mr. Murray asked the question about not having the amendment effective as of the date of the 2004 budget, and Mr. Goodale stated:

For the simple reason, Senator Murray, that to take the position that you describe might lead others, including lawyers and the courts, to conclude that we are implying a change here. Our point is that this is not a change. This is the way the law has been since 1988. If we were to say that this is a change going forward, then, by implication, you leave the impression that there was something different in place from 1988 until now, which is not our position. Our position is that this has always been the state of the law.

That position is important, honourable senators, if we understand that if the amendment was affected by 2004, and if, therefore, the courts and lawyers would urge that things have changed, then what about all those thousands of taxpayers who took advice from their tax advisers based on the position that they knew the government was taking since 1988, and followed that government position? What about all those taxpayers?

If we accept this amendment, all those taxpayers would be disadvantaged.

The important point, honourable senators, throughout this debate has been the knowledge that was in existence in the industry. It is important for honourable senators to have in mind that we are talking about a fairly complicated area, general anti-avoidance rules, particularly in respect to international treaties and general avoidance rules that might apply to an abusive situation where the tax rules have been abused. For that reason, it is a pretty restricted area, and the people who would use

this type of vehicle would be taking advice, and the people who would be advising would know the government's position. The knowledge is there. That, honourable senators, has satisfied me that if the knowledge was there throughout the period, then the minister is correct on this issue, that it is clarifying the position. The clarification is necessary because of two cases that came forward with respect to regulations. Several witnesses have told us that it was a surprising decision.

Honourable Senator Moore has referred to those two cases with respect to the regulations, stating that the regulations did not apply to the general anti-avoidance rules. The two cases were decided, and the judgment came down the same day, March 23, 2001, from the same judge. For that reason, it is hardly helpful for us to say "two cases."

We have had comments from witnesses to the effect that these two cases decided by that same judge on that same day were brought into question. Judge Archambault had decided these two earlier cases and his judgment was questioned. His comment was questioned because the judgment did not turn on that particular interpretation. One of the cases was *Her Majesty the Queen v. Canada Trustco Mortgage Company*, and another case in the Court of Appeal also specifically rejected Judge Archambault's position. The two cases were under appeal, but because the taxpayer had won on several other points, there was no guarantee that the issue would be clarified in the Court of Appeal.

In November of 2003, the appeal was withdrawn by the government, and in March 2004, the clarification appeared in the budget. Honourable senators, it is important for us to have those two cases in mind.

We talked at length in our hearings before the Standing Senate Committee on National Finance with respect to this general anti-avoidance rule. Unfortunately, the debate has turned around retroactivity versus clarification. We bring one witness in, and he suggests we call it "retrospective." There are many different terms that you can use. Is it the fact that this piece of legislation speaks retrospectively, and some people say, "That is retroactive and we therefore raise a red flag, and, my goodness, we cannot have retroactive legislation"?

My honourable colleague referred to our veterans. Honourable senators, I personally participated here sponsoring two pieces of legislation that were retroactive with respect to our veterans. One of them was the Bruce Henwood legislation that went back for decades to cover people injured in war zones. If we had not had retroactive legislation, we would not have been able to clarify that clearly wrong situation. Also, with respect to the Veterans Independence Program —

• (1510)

Hon. Anne C. Cools: Honourable senators, I have a point of order. Honourable senators, I am very much aware that the time is ticking away, and that at 3:15 Her Honour will rise and set the bells ringing. It seems to me that Senator Day has already spoken, and may be, perhaps, "talking out the clock." I wonder if I could appeal to Senator Day to enquire if there are other senators who might wish to speak, since these kinds of motions are at the initiative of the government.

It is in quite in order. Senator Day has spoken.

Senator Smith, we are all waiting to hear from you on Mr. Lalonde.

The Hon. the Speaker pro tempore: I am sorry, Senator Cools, but when Senator Day started speaking, he told us he was speaking to the amendment and that he had already spoken to the main motion.

Senator Cools: Honourable senators, there are still unsettled and unanswered questions. Perhaps honourable senators would like a shot at them. For example, I was hoping to hear Senator Smith say something about the question of the debate.

The Hon. the Speaker pro tempore: I am sorry, Senator Cools, it is not a point of order.

Senator Day, please continue.

Senator Day: Honourable senators, thank you for your support and understanding on this matter.

It has been a very complicated debate. It is important for honourable senators to know that this matter, if one analyzes it, comes down to a matter of whether there was proper knowledge and, therefore, that the test of fairness to the taxpayer has been met. That is one of the tests. If this legislation were considered to be retroactive, that is one of the tests.

In respect to this wording of retroactivity, let me refer to the evidence of Mr. Scott Wilkie, who appeared before us. He is a very senior tax practitioner who served on the joint committee, although he is not now a member. He did not appear as part of the joint committee, but as a senior tax practitioner. He said:

What needs to be said is that tax legislation is very commonly passed retroactively. You honourable senators will have the benefit, subject to events, to consider a mind-numbing bill coming, with respect to the foreign affiliate rules, that has retrospective amendments of a relieving nature requested by taxpayers dating back to 1994.

Honourable senators, he goes on to state:

It is very common, particularly where they are relieving, for tax bills to be retroactive.

Honourable senators, it is common, therefore, for us to have tax legislation and legislation generally that is retroactive, retrospective, whatever words one wants to use, but the five tests that the Standing Committee on Public Accounts recommended in 1995 were put in to ensure fairness. One of those is the test of what the general knowledge was in the industry. That was the point I was making earlier, that the industry here consists of very sophisticated taxpayers who are participating more and more in international matters. They knew about this from the beginning, and their advisers knew what the government's position was from the beginning.

Honourable senators, if accepted, this amendment would create two classes: those who followed the rules before 2004 and those afterward. I urge honourable senators to reject the amendment and support this very worthwhile legislation without amendment.

The Hon. the Speaker *pro tempore*: It being 3:15 p.m., pursuant to the order adopted by the Senate on May 5, 2005, I must interrupt the proceedings for the purpose of putting the question on the amendment of the Honourable Senator Murray, P.C., to Bill C-33. The question on the amendment is as follows — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker *pro tempore*: All those in favour of the amendment will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: All those opposed to the amendment will please say “nay.”

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Pursuant to the order made on May 5, the bells will ring for 15 minutes. Call in the senators.

• (1530)

Motion in amendment negated on the following division:

YEAS
THE HONOURABLE SENATORS

Angus
Atkins
Buchanan
Comeau
Cools
Di Nino
Doody
Keon
Kinsella
LeBreton
Moore

Murray
Nancy Ruth
Oliver
Plamondon
Prud’homme
Rivest
Spivak
St. Germain
Stratton
Tkachuk—21

NAYS
THE HONOURABLE SENATORS

Adams
Austin
Bacon
Baker
Banks
Biron
Callbeck
Carstairs
Chaput
Christensen
Corbin
Cowan
Dallaire
Day
Dyck
Eggleton

Harb
Hubley
Jaffer
Joyal
Lapointe
Lavigne
Léger
Losier-Cool
Maheu
Mahovlich
Milne
Mitchell
Pearson
Peterson
Phalen
Pitfield

Fairbairn
Ferretti Barth
Finnerty
Fitzpatrick
Fraser
Furey
Gill
Grafstein

Poulin
Robichaud
Sibbeston
Smith
Stollery
Tardif
Trenholme Counsell—47

ABSTENTIONS
HONOURABLE SENATORS

Andreychuk
De Bané
Johnson

Lynch-Staunton
Massicotte
Ringette—6

The Hon. the Speaker: Honourable senators, the question is now on the main motion.

It was moved by the Honourable Senator Day, seconded by the Honourable Senator Dallaire, that the bill be read the third time now.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion will please say “yea.”

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

Senator Kinsella: On division.

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

• (1540)

[*Translation*]

CANADIAN FORCES MEMBERS AND VETERANS
RE-ESTABLISHMENT AND COMPENSATION BILL

SECOND READING

Hon. Roméo Antonius Dallaire moved second reading of Bill C-45, to provide services, assistance and compensation to or in respect of Canadian Forces members and veterans and to make amendments to certain Acts.

He said: Honourable senators, it is with great anticipation that I am speaking to Bill C-45, which proposes to modernize our veterans' assistance and compensation program, and it is my hope that this legislation will be passed without amendment by this chamber.

[*English*]

Bill C-45 is proposed as a modernization and, in fact, a new social contract between the people of Canada and our veterans, both past and present. This new proposal is ultimately seen as a means of enhancing the operational capability of the Canadian Forces in conducting many of the very complex duties that they are called upon by the government to do around the world and, as such, to come in support of those who are veterans of these operations, be they veterans who are injured or deceased, and also their families who, unlike in World War II and even Korea, live the missions with us as, through the media, they constantly see the operations and the impact of them on their family members — spouses, fathers and so on who are committed to these complex missions of today.

The government essentially maximized the capabilities of the old veteran charter in attempting, over the last years, to meet the new challenges of today and the demands of the modern veterans and their families as they seek not only compensation but also attempts to be rehabilitated into a thriving portion of the Canadian society. As such, we are faced today with a near-revolutionary piece of legislation in regards to meeting those modern demands of those veterans and their families.

Some of the evidential material that I wish to propose or present to you is in the following: First, Veterans Affairs has seen an unprecedented increase in the number of veterans requiring support in regards to both compensation and also rehabilitation into Canadian society. Between 2001 and 2004, we have seen in the order of a 58 per cent increase in veterans as a direct result of the number of commitments and the high tempo of operational commitment of our armed forces around the world.

Second, although the current programs have been successful in meeting the needs of traditional veterans, it is a system that can perpetuate unwellness, as evidenced by the number of Canadian Forces clients who return to the department in an attempt to have their existing disability pension rates raised. It is simply not meeting the requirement.

We are in no way, shape or form affecting the compensation packages and the support of the old Veterans Charter committed to our traditional veterans of World War II and Korea. Those packages remain intact and will continue to support the veterans of our traditional wars. However, those packages were not meeting the demands of the new generation of veterans, in particular those who have served since Korea and, more specifically, in the new era of the post-Cold War time frame.

Traditional disability pensions have served our war veterans quite well, especially when coupled with comprehensive re-establishment support which was available at the time most of those veterans were released from the military. One must

remember that the original Veterans Charter responded to the needs of over a million young Canadians coming back from those operations. Today, we are in need of a charter to meet the new generation of young veterans coming back from these operational theatres.

The third piece of evidence points to the need for change. A significant number of veterans are simply not successfully making the transition from military life to civilian life. A large proportion continues to suffer. Those seeking relief from their disabilities find it most difficult to reintegrate into Canadian society with the programs that have been offered up until now. As such, there is a need for this revamping, and ultimately the rearticulating, of the Veterans Charter to meet these new demands.

Fourth, there are so many service providers that many are lost in the administrative struggles in attempting to seek the proper compensation and support that, in fact, the old charter was providing. Today, with the new demands, the administrative processes have simply not kept up with the needs and, as such, have rendered it nearly impossible for some to meet the challenges.

Those who have suffered from disabilities due to depression or post-traumatic stress disorder find it almost impossible to comprehend and to work within a process that is, at times, built for people who are healthy and, as such, they make a significant disconnect.

The fifth and the final piece of evidence I wish to present today is the fact that there is no support for families. As I indicated, the families today live the missions with us. As those veterans come back, they do not come back to a family that has simply, on occasion, seen or heard of the nature of the conflicts, but, due to the media and due to the availability of information, they live and see on a day-to-day basis the impact of those missions on their loved ones. In fact, they become affected by that impact and have difficulties in adjusting and accepting the return of a veteran who, due to the impact of those operations, is not necessarily the same person who left months before.

Veterans Affairs Canada and National Defence have been working extensively — and I must mention my personal involvement since 1997 — in attempting to adjust the old program and leading to the introduction of this new contract between the Canadian people and the members of the Canadian Forces who ultimately become veterans of these new operations. In so doing, the provisions of Bill C-45 are the result of years of study and consultation with stakeholders, partners and experts in the field. They are also modeled on the best practices of other countries which have already modernized their veteran services and benefits. I speak specifically of Australia, the United Kingdom and the United States.

With the focus on wellness, the proposed programs deal with the key issues of rehabilitation, health benefits, economic loss, job placement and disability awards. These elements must all be viewed within the context of the veterans' needs and their families' needs over time. It is not a one-time effort but, on the contrary, must be available throughout the life of the veterans as they attempt to move back into society. They need support to be

able to be rehabilitated, job re-training and job availability, including, should the member be totally disabled, providing job support, training and education to the spouse in order for the spouse to be able to take over the charge and responsibilities of the family.

Honourable senators, we need a rehabilitation program that will help disabled veterans participate to the best of their ability at home, at work and in the community. We need health benefits that will complement existing coverage provided by National Defence and provide eligible veterans who face service-related barriers to integration and their families with uninterrupted health coverage after their release. Many were falling between the cracks from the time of their release from the Canadian Forces to the time that Veterans Affairs Canada picked them up. As such, a number of us suffered unjustly and, in particular, our families suffered.

• (1550)

Job search and transition training will be offered to all releasing Canadian Forces members. All members of the Canadian Forces who serve for one year and who are ultimately released are veterans. As such, they must have access to the benefits of this veterans program. These provisions will be jointly managed by VAC and DND and will provide veterans and their families with the independence and financial security that they deserve.

In a similar fashion, the economic loss provisions of the bill will offer a safety net for those who experience an income loss as a result of their service-related rehabilitation needs. It will include short-term support for those undergoing rehabilitation and longer-term relief for those who can no longer work.

A disability award program will compensate Canadian Forces veterans for non-economic losses such as pain and suffering. We propose that this compensation be delivered in the form of a tax-free, lump sum payment of up to \$250,000, depending on the extent of the total disability.

Honourable senators, I have touched on the surface of these provisions and all that they offer. I would now like to touch on the consultative process. Since VAC's announcement in the spring of 2004 of its intent to introduce a new veterans charter, a modernization task force has undertaken extensive consultations with stakeholder groups, including national veterans associations and officials from DND. In addition, focus groups were held to gauge reactions of Canadian Forces members, veterans and their families to the program proposals.

As well, the Veterans Affairs Canada — Canadian Forces Advisory Council, created in honour of Dr. Peter Neary and his team from the University of Western Ontario, with whom I participated for more than four years, has advised, consulted and been involved in the articulation of many of the proposals that are included. In retrospect, however, some of the details have come to the fore as the bill has progressed.

As such, Canadian Forces members and veterans see this as not only revolutionary but also as a whole new effort for attempting to solve the problems of the past, as well as for propelling us into the future. As such, for those who wish to serve the Canadian

Forces, it will enhance their interest and their field of support as they commit themselves and their families to sacrifices while serving overseas and, in so many cases, become disabled by their service.

Honourable senators, Bill C-45, in respect of the new veterans charter, is the people's side of our national commitment to a troubled world. It recognizes that Canada is strengthening its international role and it assures that the men and women of the Canadian Forces are well supported and cared for. By supporting this new social contract, we will not only resolve a pressing need to meet the continued effectiveness of our forces and operations around the world but we will also face head-on the responsibilities that we have to those who risk their lives for the enhancement of peace, security and human rights in far-off lands in our name. It is with this responsibility in mind, along with Canada's proud tradition of honouring her veterans, that I ask honourable senators to support the swift passage of Bill C-45.

Hon. John Lynch-Staunton: Honourable senators, would Senator Dallaire allow one or two questions?

Senator Dallaire: Yes.

Senator Lynch-Staunton: The first question is with respect to the Veterans Review and Appeal Board, which has a final say in the case of disputes. On many occasions these disputes are not in favour of the veteran. Over the years, veterans groups have been asking for an ombudsman so that there would be a more neutral party in place for disputes that achieve an unsatisfactory result before the board. That would be one more level of appeal. Are you aware of any reference to an ombudsman in this proposed veterans charter?

Senator Dallaire: In the deliberations that took place, there was a tacit decision not to look at the Veterans Review and Appeal Board and to reconstitute that capability. It was thought that it responded to what veterans perceived to be their rightful requirement or compensation, although not always favourably. However, as we have acknowledged over the years, that would be an exceptional set of circumstances in exceptional cases. In our estimation, the board should continue. The idea of an ombudsman was proposed and, as such, has been left for consideration in the future. In our analysis, the board should remain in Bill C-45.

Senator Lynch-Staunton: My other question is more pertinent to the bill and to clause 9, specifically. A veteran applying for rehabilitation services who has had physical or mental health problems has 120 days from the day of his release to make that application. If he goes beyond 120 days, a minister may, at his or her discretion, allow the application to be made. A veteran may not find that he has a disability that will qualify him for these services within 120 days. Why is the deadline so short? Why is it not extended to six months or one year? Some disabilities might not become apparent, or be seen, felt or known for a long time after the veteran has come home and is released. Why is the window for application only open for 120 days?

Senator Dallaire: There have been a few concerns with the nuts and bolts of the bill. If I may, honourable senators, I would prefer to defer the response to the honourable senator's question to committee, if it is so referred. That way, I would be prepared to provide a more definitive response.

[Senator Dallaire]

Senator Lynch-Staunton: Honourable senators, I did not know that the bill would be referred to committee. If that were to be the case then, certainly, these questions would be more pertinently asked there. I would agree to defer them.

Hon. Terry Stratton (Deputy Leader of the Opposition): Would the honourable senator take another question?

Senator Dallaire: Yes.

Senator Stratton: Does Bill C-45 address all veterans or a particular class of veterans?

Senator Dallaire: Honourable senators, as indicated, the proposed charter would meet the requirements of all veterans. In so doing, the compensation and all the programs established for our traditional veterans from World War II and Korea have not been affected by this process. As such, all rights and privileges established in the past will continue to meet their requirements as indicated in our work. We ensured that traditional veterans do not think that what they have come to expect and know over many years would be affected in any way, shape or form by this process.

Senator Stratton: Would the honourable senator, as a veteran, benefit from the provisions of this bill?

Senator Dallaire: Yes, I would benefit. All Canadian Forces veterans post-World War II, with the exception of Korea, would benefit from this bill should compensation, rehabilitation, training and the like be required. It is for all Canadian Forces members recognized as veterans.

[Translation]

Hon. Madeleine Plamondon: Honourable senators, I would like to know more about the definition of "common-law partner." The bill refers to a person who is cohabiting with the member or veteran in a conjugal relationship, having so cohabited for a period of at least one year. Would a person who was in a conjugal relationship with a veteran for at least one year following the veteran's return, would that person be entitled to compensation and, if so, what would be the nature of that compensation? What about a person who had been in a conjugal relationship for only one year?

Senator Dallaire: The bill will require Veterans Affairs Canada to undertake a comprehensive review of its policies, and this will take almost one year. A person who did not enter into a conjugal relationship with a veteran until one year after he had returned would be entitled to the same compensation as would a wife. Moreover, if the veteran is injured to the point where he can no longer provide for his family's needs, the spouse will receive all possible support to get an education leading to a career, or to find a job allowing that person to support the family.

Senator Plamondon: What about same-sex couples?

Senator Dallaire: According to the law, the standard established definitions are the ones used.

• (1600)

Hon. Marcel Prud'homme: Honourable senators, if memory serves, the government's Red Book of 1993 included a promise that the whole question of same-sex partners would be re-examined. There was even one provision — I discussed this with some of the members — that aroused a great deal of interest. No political party appeared to want to address this question.

When a new bill is introduced, this might be the time to re-examine the whole issue that was cast aside. I understand that people can be common-law partners. I understand traditional marriage and marriage between persons of the same sex. Some same-sex couples want to marry. I am basically a traditionalist when it comes to marriage.

However, once again, we have not addressed the matter of brothers and sisters, brothers and brothers, sisters and sisters — and there are a number of them in the Senate — who look after each other. The word "partner" has never been defined. It was supposed to be in 1993. Madam Robillard, as President of the Treasury Board, had even promised: "Do not worry, honourable senators, a special justice department committee will address this important question." I wonder whether the time for that has come. I submit that question with the greatest respect and friendship. Will it soon be possible to extend that definition beyond this debate? I see that Senator Angus and a few others are smiling at this. It may be something new for some, but there are thousands and thousands of people who are looking after others.

Returning to my initial definition, there is a broader definition of child, as in the *pacte français*. In my case, this would include my sister. As everyone knows, my sister and I have been looking after each other for 70 and 75 years. However, there are no provisions for these people, or for widows or widowers who are looking after another widow or widower. There has been a whole debate on same-sex marriages but nothing on these other situations.

Would you have a suggestion before we go to committee? Is it not time to examine this issue, which affects so many people? Should it be considered in the near future?

Senator Eggleton, you were in National Defence; if you wish to debate, please rise. I will listen to what you have to say with considerable respect, if I can still muster any.

I now address Senator Dallaire. Is this not an opportunity to examine the problem, even if it means passing the bill fairly quickly and then returning to the matter?

Senator Dallaire: I have to say the scenario you have developed warrants consideration, but in this context, the matter could be addressed in committee in order to permit a perspective more specific to the needs of veterans.

Senator Prud'homme: Veterans have sisters, too!

[English]

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, if there are no further questions of Senator Dallaire, I rise to support this bill in principle. In so doing, I also would like to salute our new colleague Senator Dallaire. I had the pleasant opportunity over the last couple of days of being with him as he was honoured by one of our New Brunswick universities.

Senator Dallaire brings very special insights and will make many contributions to this chamber. As well, he is an excellent spokesperson, given his history, for veterans, being a veteran himself. I take the case he has made and the manner in which it was made for support of this bill.

My fraternal advice would be that, given he may be a beneficiary of some of the provisions of this act, he may want to abstain when it comes to the vote, for a number of reasons. Given that the bill has the support of the opposition in the Senate, and of a significant number on the government side, there is no question that the bill will carry. For that reason, should he decide to abstain on the vote, we would all understand why.

Honourable senators, all members of the Senate of Canada, as we work under the paintings daily here, are cognizant and always sensitive to the contributions made by members of the Canadian Forces and those who, when they complete their service with our forces, are distinguished veterans. It is often a happy opportunity for us to have legislation in this chamber that speaks to issues of practicality, of bread and butter, as you may put it.

Bill C-45 does have shortcomings, and, with my colleagues who are sitting on the other side of this chamber, I am sure we will attend to fixing the lacuna that can be found in this bill. However, at this point in time, dealing with what we have, we are supportive of the bill. Also, given the era of some volatility in the other place, we are concerned that the bill be proceeded with as carefully as the Senate, by duty, can proceed with the bill, but equally as expeditiously as we can examine and proceed with it.

Honourable senators, the Veterans Charter currently in place was developed after the Second World War, but it does not meet the needs and realities that face veterans of our Armed Forces in this day and age. Although Bill C-45 is intended to rectify many of the difficulties currently faced by veterans, this proposed legislation does not go far enough. I think that will be the testimony that we will hear from witnesses, particularly from the veterans' community.

In the bill before us, there are some issues that may arise in the future of which honourable senators should be aware. There are five separate programs that will have to be administered by Veterans Affairs Canada. Those programs are health benefits, job placement assistance, economic loss support, disability awards and death benefits.

• (1610)

As an old public administrator, I inevitably have to ask the question: Is the machinery of the necessary administration currently set up in Veterans Affairs Canada? Can it make all the necessary arrangements in order to deal with these services

should this bill be passed? Has the government been exercising due diligence in making plans for implementing this bill when it becomes law?

The bill calls for case management teams in one point of contact. The system now requires veterans to call a toll-free number and wait for a response from their case manager. If you talk to a handful of veterans, they will tell you that process can take days.

We therefore should have concerns about the amount of time that a veteran will need to wait in order to access the services being outlined in the bill that is before us. Clause 9(2), on page 7 of the bill, speaks of 120 days. However, it looks not so much like a right that is granted by that clause but a privilege that the minister has the discretion to bestow.

On the point of 120 days, this timeline may not be suitable for a number of individuals due to the nature of their illness or their condition resulting from their military service. For example, perhaps a condition does not manifest itself until long after their return. What will these individuals be told when they contact Veterans Affairs? Will their attempt to access these necessary services be stymied simply because they applied after the 120-day cut-off? Again, ministerial discretion does not predicate a right.

There are also concerns about eligibility for benefits for widowed spouses with children versus those without children. In the current legislation, as I understand it, a widowed spouse with children can receive 100 per cent of the benefit. Those spouses with children receive 60 per cent, and the remaining 40 per cent goes to the children. The spouse nonetheless has to raise and support the children on the reduced amount. Perhaps we will get an explanation from the witnesses who come to the committee as to the rationale behind this particular aspect of the legislation.

A spouse of less than one year is not eligible for benefits. I would raise serious concern about this measure and the rationale behind it.

Perhaps the aspect of the legislation that some might find cruel is that spouses and families of veterans who commit suicide are also ineligible for benefits. This provision is extraordinary. Senator LeBreton and her colleagues on the Standing Senate Committee on Social Affairs, Science and Technology, who are conducting a thorough study into mental health in Canada, have heard a lot of evidence that speaks to the mental health issues surrounding the tragedy of suicide. We must be concerned about the ineligibility that this legislation seems to imply regarding the benefits for one who commits suicide. We are interested in learning from the department and from the minister the public policy rationale for that particular measure.

The veterans community has been arguing the case for an ombudsman for veterans. This chamber has a fair amount of experience with the role, the nature and the function of an office such as ombudsman. The role of ombudsman is exercised to protect the individual — in this case it would be the veteran — from maladministration of public law.

From reading the reports of various ombudsmen in different settings, a lot of the maladministration and the victimization that the ombudsman's office serves to correct is unintentional. The case that has been made by the veterans community for an ombudsman for veterans is a strong one, and I would like to have seen that in this legislation, but it is not there. Our veterans deserve and require someone to look out for their interests when they believe that the bureaucratic apparatus is failing them.

An ombudsman, as they see it, can play a critically important role in monitoring contentious situations and aiding veterans who believe their voices are not being heard. It is a truism that they have sacrificed so much for their country. This is a small measure in return.

Honourable senators, it is clear that we support this bill. We would like to see the minister, officials and members of the veterans community appear before the committee that will be examining the bill so that we might proceed with our work. At this stage of the debate at second reading, I am pleased to support the bill.

Hon. Serge Joyal: Honourable senators, would the honourable Leader of the Opposition allow me to ask a question?

Senator Kinsella: Yes.

Senator Joyal: In my honourable friend's opening intervention, I was intrigued by the remark that Senator Dallaire would be well advised not to vote on the bill on the basis of a potential conflict of interest.

As Senator Kinsella knows, the Rules Committee has been meeting in camera. I believe he has attended many of the meetings. I was always under the impression that when a senator stands to benefit from a measure — in the present case, Bill C-45 — in a bill that applies broadly to a class of persons such as veterans, the benefit is achieved through an act of Parliament, which is of course not a personal decision. In such a case, the measure would not be considered to further a senator's own interests.

Another example that immediately comes to mind is that of a senator who is a farmer or a fisherman, and we have a bill in front of us purporting to improve fisheries or farming programs. The senator in question might be a beneficiary of the bill once adopted, but in no different capacity than any other farmer if he or she complies with the programs.

• (1620)

The question has merit and we may want to review it once the committee reports, but I was under the impression, when we discussed those issues earlier, that in that context the senator would not be deemed to be furthering his or her private interests and would be able to take part in debate or to vote. I think the committee tried to distinguish between declaring an interest, taking part in a debate, and a situation in which a bill would specifically favour a senator almost nominally.

Does Senator Kinsella agree with me that this is not the situation in which a senator who happens to be a veteran would find himself under this bill; in other words, that he would have to declare an interest and abstain from voting?

Senator Kinsella: Honourable senators, I thank the honourable senator for raising that question, because the record will now be a little clearer. Recently, we had before us legislation that affected benefits for lieutenant-governors, and this chamber often has the good fortune to have among its members former lieutenant-governors.

I agree with everything that the honourable senator has said. I know that, but the grand public does not know that. I raised this in the way that I did because of the admiration I have for our colleague. Someone may say, "Not only is Senator Dallaire a veteran, he is one of our most distinguished veterans. How can he be voting on that?" He clearly has every right to vote on it, for all the technical reasons that Senator Joyal has mentioned. However, to avoid that problem, I expressed it as a fraternal suggestion because some people are prone to say certain things about senators.

Senator Prud'homme: Let them.

Senator Kinsella: I agree with Senator Joyal.

Hon. Norman K. Atkins: Honourable senators, I assume that Senator Kinsella is aware that the military has an ombudsman. Does he think it might be more sensible to broaden the responsibility of the military ombudsman to include veterans rather than establishing another level of bureaucracy?

Senator Kinsella: I thank Senator Atkins for that question. Had the experience of the ombudsman's office in the Canadian Armed Forces been an exciting, positive one, I might be open to looking for other responsibilities for the military ombudsman. However, as all honourable senators know, there have been difficulties there.

However, more substantively, the role of the veterans' ombudsman is speaking to that relationship between the veterans and the Government of Canada and the programs that have been voted by Parliament that are available to veterans. It is a whole different field, and they are dealing with fundamentally different issues. The Armed Forces ombudsman operates in a different theatre of issues. This would not be that costly, yet, as an office, it could be very effective. I think there should be a discrete ombudsman's office in Veterans Affairs.

Hon. Joseph A. Day: Honourable senators, I have a question for the honourable senator about the suggestion by the Armed Forces ombudsman himself that his role be expanded. Is the honourable senator aware that the Royal Canadian Legion strongly objected to the suggestion of an ombudsman, as the Legion feels that it performs that role?

Senator Kinsella: No, I am not, but I am glad to hear that the Legion agrees with my position.

The Hon. the Speaker: As no further senator is rising to speak, are honourable senators ready for the question?

Hon. Senators: Question!

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Dallaire, bill referred to the Standing Senate Committee on National Finance.

NATIONAL BLOOD DONOR WEEK BILL

SECOND READING—DEBATE ADJOURNED

Hon. Lorna Milne moved second reading of Bill S-29, respecting a National Blood Donor Week.—(*Honourable Senator Mercer*)

She said: Honourable senators, I am very pleased to rise today to speak to second reading of Bill S-29, an act respecting a national blood donor week. I am bringing forward this legislation on behalf of Senators Cochrane and Mercer, and several members of Parliament representing all political parties.

Earlier this year, Canada's two blood collection agencies, the Canadian Blood Services and Héma-Québec, approached parliamentarians asking for our support in bringing this issue to you. This bill would allow the federal government to designate the second week in June as National Blood Donor Week in order to support the year-long effort to recruit blood donors, the foundation of our national blood system.

The World Health Organization has declared the second Tuesday of every June as World Blood Donor Day, a day of celebration to honour and thank those people who donate blood on a voluntary basis. This bill will provide Canadians with an opportunity to join the WHO celebrations and thank those donors who contribute altruistically, without remuneration of any kind, to ensuring the health of their fellow Canadians.

• (1630)

I believe that honourable senators will agree that this is a cause worthy of the support of the Senate of Canada.

The new blood system operators, Héma-Québec and Canadian Blood Services, along with Health Canada — the regulator — and the provinces and territories — the funders — have collaborated to support a blood system that we can all be truly proud of, a system that is among the safest in the world.

This is a system that must continue to supply hospitals with blood, plasma, platelets, bone marrow and other products that are needed not only to keep people alive, but to also improve their quality of life.

This is a system that must ensure that every unit collected undergoes extensive testing to ensure that it is as safe as it can possibly be for patients. This is a system that must remain at the forefront of advances in research and technology.

This is a system that is capable of facing safety threats quickly and effectively, such as implementing a test for West Nile virus within eight months of discovering that it could be transmitted by blood.

Honourable senators, the blood operators act on the basis that safety is paramount because they know the importance of each unit of blood. Each unit is manufactured into as many as three different products that are used in a variety of ways to treat patients: from those suffering from trauma undergoing chemotherapy for cancer, hemophilia patients who require regular transfusions or those who are undergoing transplant surgeries. These are only a few of the reasons that the blood operators need our support.

Another reason is a little girl named Olivia. At three and a half years of age, she was diagnosed with cancer. Over the course of her chemotherapy and radiation treatment, she received 25 units of blood products. Without these products, she would not be the happy, healthy 11-year-old that she is today.

Another reason is Tom, who needs a blood transfusion every seven weeks to give him the red blood cells that his own body does not produce. There is no cure for this rare form of anemia from which he suffers. This means that he will continue to need these transfusions for the rest of his life.

What would he or Olivia do if others did not donate the blood that they so desperately need?

These are just a few examples from across Canada of how the blood system has the potential to make a difference. I know there are thousands of other stories from across the country of people whose lives have been saved because of the efforts of caring people they have never met. These are Canada's blood donors, Canada's everyday heroes.

These stories speak on a very personal level about why we need a safe and secure blood system. That is why I am so pleased to have been asked by Senator Mercer today to speak to this all-party effort to support the designation of a national blood donor week.

I would like to thank our colleagues, who also have agreed to work to ensure that this bill is passed as quickly as possible. Given the approach of World Blood Donor Day on June 14, I am heartened to believe that we can all come together for one common cause, a cause that will touch the lives of almost every Canadian at some point in their future.

On motion of Senator Stratton, debate adjourned.

GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA

PRIVATE BILL TO AMEND ACT OF INCORPORATION—
THIRD READING

Hon. Jeremiah S. Grafstein moved third reading of Bill S-25, to amend the Act of incorporation of The General Synod of the Anglican Church of Canada.

He said: Honourable senators, Bill S-25 amends the original investment powers of the Anglican Church of Canada passed more than 50 years ago. The General Synod, the governing body of the Anglican Church of Canada, and its powers were defined in an act of Parliament way back in 1921. Amended in 1951, the Synod was allowed to make investments subject to limitations in section 6A of that act. The church now wishes to amend this act to remove investment restrictions, called the legal list, which was commonly used in legislation at the time of the act in 1951, when there was no inflation and when the rate of return was very small and provided adequate income for the beneficiaries of the trust.

This concept has been almost universally replaced in Canada by what we call the prudent investor rule. That rule allows investments in any kind of property in which a prudent investor might invest. When the Parliament of Canada revised the laws governing financial institutions in 1991, it included in the Bank Act, the Insurance Companies Act and the Trust and Loan Companies Act the authority for investment policies that a reasonable prudent investor would employ to avoid undue risk and to obtain a reasonable return. The Province of Ontario adopted a prudent investor rule, as recommended by the Uniform Law Conference of Canada and the Ontario Trustee Act of 1990.

However, the Anglican Church of Canada is still governed by the old legal list. A change in its act of incorporation is now required for investments in accordance with modern rules respecting these trust investments.

The amended section 6A reads:

The Synod may also invest and reinvest any of its funds, including any funds held in trust, in such investments as the Synod considers advisable.

Honourable senators may recall that several years ago the Senate studied Bill S-15, to incorporate the Bishop of the Arctic of the Church of England in Canada, sponsored by Senator Meighen on the other side. This bill dealt with the limited investment powers of the Anglican Church's diocese of the Arctic. This chamber accepted the same amendment now proposed by the General Synod for this bill.

Honourable senators, I ask you to enable the General Synod of the Anglican Church to invest its monies according to modern regulations.

I want to thank Senator Plamondon for having proposed an observation that was included in our report. For greater certainty, the Standing Senate Committee on Banking, Trade and Commerce noted that the prudent investor rule should and would be followed by making investments on behalf of the church. As honourable senators know, the Trustee Act that governs it does have the prudent investor rule. We want to make sure that those investing on behalf of the church invest safely and soundly on behalf of the church, as was suggested in the committee.

Hopefully, in the future, we will adopt a bill similar to Bill S-30, to amend the Canada Corporations Act, introduced by our colleague Senator Atkins, which died in committee, so that such

amendments would be made pursuant to the non-profit corporation provisions under the Canada Corporations Act and no longer take the time of this chamber for these kinds of amendments.

Honourable senators, I urge your support for Bill S-25.

The Hon. the Speaker: I see no honourable senators rising to speak. I ask honourable senators if they are ready for the question.

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Committee on Internal Economy, Budgets and Administration (budgets of certain committees), presented in the Senate on May 5, 2005.—(*Honourable Senator Furey*)

Hon. George J. Furey moved the adoption of the report.

Motion agreed to and report adopted.

• (1640)

[*Translation*]

REBUILDING OF SOUTHEAST ASIA AFTER TSUNAMI

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Milne calling the attention of the Senate to her recent visit to Indonesia and to Canada's efforts to help rebuild Southeast Asia after the tragic tsunami of December 26, 2004.—(*Honourable Senator Plamondon*)

Hon. Madeleine Plamondon: Honourable senators, I recently visited Indonesia at the invitation of His Honour Speaker Hays. The visit served to recognize the significant progress Indonesia has made in terms of democracy. Its objectives were to highlight Canada's long-term commitment, following the tsunami, to promote friendship and dialogue with members of the Indonesian government, to recognize progress in the development of democracy in a pluralistic society, to support the efforts of the current government to respect human rights, to promote essential dialogue with moderate Islamic communities, to promote cooperation in the fight against terrorism and to encourage the passage of laws and regulations protecting and promoting trade and investment.

Honourable senators, Senator Lorna Milne has spoken eloquently and at length of Indonesia's geopolitical profile and of the delegation's visit. I will not repeat what she has said, which I fully agree with and which included all the statistics.

I would like to share a few impressions and concerns with you. I want to mention corruption, the desolation in connection with the unprecedented tsunami disaster, solidarity in the face of insecurity and the poverty, which could serve as a springboard for terrorism.

In terms of addressing the corruption, the government must continue its efforts for at least 10 years in order to deal with the situation Indonesians are in. An American married to an Indonesian woman wanted to bring their babysitter on a trip to the United States. The trip was planned, but the babysitter did not have any identification. No problem, I was told. With US \$50 you can get a passport, identification and anything you need to get from Indonesia to the United States, and it will only take a week.

A Canadian I met in my travels said that it was even a handicap not to give bribes since others do it and get contracts that way. Will the new democracy ensure that everyone doing business in Indonesia is on equal footing?

I would like to speak about the desolation affecting the residents of Aceh. In reference to a 13,000-ton ship beached by the wave two kilometres from shore, in the middle of grounds that have been cleared but are still quite scarred, an Indonesian said to me: "This is nothing compared to the day after the tsunami. Bodies were hanging from the ship you see there and bodies were intermingled with debris for as far as the eye could see."

Many children are among the victims. The first wave withdrew quickly and, according to one of the locals, the children ran around gathering beached fish, only to be swept away by the second wave.

I spoke with a member of the Islamic university who was in Jakarta on December 26 for the delegation's presentation of a cheque for \$50,000. His family was supposed to meet him at the Aceh airport. When he arrived in Aceh, he had lost his wife, his children and his home. None of his family members were ever found. Their bodies have been claimed by the sea, like countless others.

I could not help but cry during a meeting when the statistics were reported because those statistics had faces, thousands of faces.

Indonesians should be commended for their spirit of solidarity. Many survivors were taken in by distant relatives, and thus received essential emotional support that many others will not.

Rebuilding communities will not be difficult; rebuilding lives will be. Global solidarity and the agencies, with limited resources, have managed to avoid an epidemic that could have claimed as many lives as the tsunami. They deserve our admiration and recognition.

[Senator Plamondon]

I watched a clown make children laugh with his pantomime, children who desperately needed to laugh. In temperatures of over 30 degrees, groups provided drinking water and food rations. The salt water from the second wave covered a region that will remain arid unless it is treated; the same is true of the wells, which were contaminated by salt water from the ocean.

I briefly helped with the distribution of food supplies. Green plastic bags were the only containers in which to distribute oil, rice and canned fish. Everything was counted and people lined up under an unrelenting sun to get their rations. What will happen when these organizations leave and the world loses interest in this region?

The threat of terrorism is omnipresent. Each time cars enter the hotel grounds, they are swept for mines. Before you can enter the hotel lobby, you are subject to the same security measures as at an airport.

In Indonesia, half the country lives in extreme poverty, on less than \$2 a day. As a result of the tsunami, all aid is destined for Aceh. The images in the news have struck a chord and donations for Aceh have poured in. However, poor Indonesians in the rest of the country are seeing all this aid that they cannot access. No doubt, they will see this as an injustice. This might be a breeding ground for terrorism.

Even if, as is reported, there are only 2,000 terrorists out of a population of 238 million, it is not easy to secure an archipelago of 18,000 islands. It would be easy to mobilize people who are starving, who cannot see the light at the end of the tunnel, when a small group is the recipient of well-targeted aid efforts.

Fortunately, Canada has made a long-term commitment. It must ensure its full participation in order to reduce poverty, and not just in regions affected by the tsunami, because not only is it the charitable thing to do; it also counters terrorism.

On motion of Senator Robichaud, debate adjourned.

THE SENATE

MOTION TO URGE GOVERNMENT TO REDUCE CERTAIN REVENUES AND TARGET PORTION OF GOODS AND SERVICES TAX REVENUE FOR DEBT REDUCTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella seconded by the Honourable Senator Stratton:

That the Senate urge the government to reduce personal income taxes for low and modest income earners;

That the Senate urge the government to stop overcharging Canadian employees and reduce Employment Insurance rates so that annual program revenues will no longer substantially exceed annual program expenditures;

That the Senate urge the government in each budget henceforth to target an amount for debt reduction of not less than 2/7 of the net revenue expected to be raised by the federal Goods and Services Tax; and

That a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.—(*Honourable Senator Rompkey, P.C.*)

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I have been informed that our honourable colleague the Leader of the Government in the Senate would like to speak to this motion by Senator Kinsella. I therefore move that the debate be adjourned until the next sitting of the Senate.

On motion of Senator Robichaud, debate adjourned.

• (1650)

CONFERENCE OF WOMEN'S RIGHTS

INQUIRY—DEBATE ADJOURNED

Hon. Rose-Marie Losier-Cool rose pursuant to notice of April 21, 2005:

That she will call the attention of the Senate to the Millennium Development Goals, more particularly to Goal number 3, seeking to promote gender equality and to empower women.

She said: Honourable senators, I would like to speak today about this fine project launched by close to 200 members of the United Nations at the time of adoption of the Millennium Declaration in 2000. There are eight developmental goals aimed at making it possible for the countries of the South to take their rightful place on the world stage. The following is a brief summary of the eight goals, which have a target date of 2015.

The first goal is to reduce by half the proportion of the world's population suffering from extreme poverty and hunger.

The second is to achieve universal primary education.

The third is to promote gender equality and empower women. The emphasis here is on equality of knowledge and power.

The fourth is to reduce by two thirds the mortality rate among children under the age of five.

The fifth is to reduce by three quarters the maternal mortality rate. Objectives four and five were the theme of World Health Day 2005 this past April 7. At that time, moreover, I pointed out the work that remains to be done in Canada for our own mothers and children.

The sixth goal is to halt and reverse the spread of HIV/AIDS, malaria and other major pandemics.

The seventh goal relates to sustainable development and reversing the loss of environmental resources, as well as reducing by half the proportion of people without access to safe drinking water and basic sanitation.

The eighth and final goal is the broadest, because its aim is to develop a global partnership for development based on many governance, multiculturalism and human rights criteria.

These eight goals are admirable, but there is no guarantee they will be reached by 2015, for a number of reasons. The most relevant one, as far as Canada's role is concerned, remains the fact that our country contributes less than 0.3 per cent of its GDP to international aid, when it should be contributing at least 0.7 per cent.

I would now like to talk to you more specifically about the third goal. Its aim is, primarily, to give girls and women equal access to knowledge and power.

In mid-April, I travelled to Paris, at the invitation of the French senate and the Mouvement français pour le planning familial, where I took part in a very informative conference on women's rights, sexual health and development. In addition to considering the benefits of better family planning, the conference looked at the link between women's rights and sustainable development; the need to empower women through education in order to control infant and maternal mortality; access for girls to education; and the importance of a good education in sexual and reproductive matters. As you have seen, these topics are included in the Millennium Development Goals.

The conference concluded with a very animated discussion of women's place in the labour market, given the many issues such as daycare, professional equality, pay equity and the double life of working mothers. Social demographer Nathalie Bajos did an excellent job of summarizing the debate by saying that the main obstacle to the full realization of women's potential was their lack of access to knowledge and education; in short, the third millennium goal.

Permit me now to give you a quick international overview. The World Bank has a website on the Millennium Development Goals. I invite you to consult it.

On average, there are one fifth more boys than girls in the primary and secondary schools of the poorest countries. Girls enjoy equality with boys in Central America, Central and East Asia and the Caribbean. However, girls are at a major disadvantage in all other developing countries.

[*English*]

Yet, knowing how to read and write allows those girls and the women they become to be self-sufficient, to deal directly with the authorities and people in power, and to acquire even more knowledge.

Literacy empowers women. It increases their productivity. It fosters equality between both sexes, and it allows better control over pregnancies and improved maternal health. Finally, an educated mother will be a better mother to her children and will give them a better head start in life. At the going rate, however, objective number three will not be reached in 2015, because by then only 88 per cent of women aged 15 to 24 will know how to read and write.

Fortunately, in Canada our girls and boys are at least equal. I say "at least" because girls are actually more schooled than our boys if the 2003 indicators are to be believed. According to these indicators, 83 per cent of today's Canadian girls graduate from high school, compared to 73 per cent of our boys. As well, there are currently more women than men in university programs, in vocational or transition classes and in technical colleges and universities. This domination is also present in the number of new female graduates, who outnumber men in all provinces and at all levels, except for postgraduate studies.

Even when expanding the comparison base to today's Canadian population aged 25 to 64, women still remain better educated overall, except when it comes to vocational training, where the number of male graduates is greater.

There is, however, one caveat to these feel-good statistics: immigrant women. Even though these women have more secondary and college schooling than male immigrants, they are outnumbered by these men in universities and in vocational programs.

[*Translation*]

Let us leave Canada now and talk about foreign countries, developing countries where women still have too little knowledge to be equal to men and to contribute to the social, economic, cultural or political life of their country.

According to the World Bank, women in developing countries, even if they participate in various sectors of the economy, do not carry enough weight in what is referred to as the monetary economy, where salaries are involved. In other words, women are working, but not earning salaries.

In addition, the people who have to work in a productive manner, but without freedom, equality or human dignity, are more often than not women. I am not talking about farming, but, rather, forced labour, borderline slavery like in those famous sweatshops, underpaid jobs or even prostitution.

Education and knowledge go a long way toward solving this inequality of women in these countries. I am not just talking about scholastic, academic or technical knowledge, but medical and sexual knowledge.

You will agree that there is little point in a woman getting a university degree if she has to spend the rest of her life pregnant and changing diapers, or if she has to die from complications related to pregnancy, in childbirth or from AIDS that her husband gave her by refusing to wear a condom.

To gain full access to knowledge, a woman must be able to enjoy full and constant control over her body. That is the role of sexual and reproductive education that all donor countries support financially and morally, with the exception of our neighbours to the south and certain Muslim countries.

What is the solution for giving women equal access to knowledge? The main solution, from a Canadian point of view, is international development assistance. It is essential that we think about and follow through on the minimum contribution of

0.7 per cent of GDP. The South needs our financial support for sending project officers, computer equipment, school books, clothing, food, condoms and drugs, among other things. In Canada, many NGOs are working to that end. These organizations coordinate everything with help from partners or the local population in the developing countries.

• (1700)

Our government is coordinating and financing projects. It wants to forgive the debt owed to it by the world's poorest countries. Internationally, there are prestigious organizations like the United Nations Population Fund, but these are very expensive. However, for each of us individually, this represents just a few cents. It is all a matter of perspective.

Think about what a huge impact it would have on women in the South if our country and every other country considered developed or rich made a larger financial contribution. Imagine the influence these women could have on society, the economy and the politics of their countries once they got healthy and educated. Let us take a moment to really think about it.

I take this opportunity to say a word about political power. It represents the height of the empowerment objectives women might have. In early March, I led the Canadian delegation of the Inter-Parliamentary Union at a United Nations conference in New York City where the progress made over the ten years since the Beijing Conference on Women was reviewed. The Inter-Parliamentary Union focused on the political role of women around the world. The statistics I will be quoting come from this conference.

I remind honourable senators that women make up 52 per cent of the world's population. However, do we comprise 52 per cent of the world's political leaders? Of course not. Following a long battle, all countries, with the exception of three, have finally given women the right to vote and the right to run for office. Let us look at the results: in 2003, women accounted for a mere 15 per cent of the world's parliamentarians. However, some progress was made considering that, in 1987, they only accounted for 9 per cent. This means that if the trend continues, if we continue to have a 6 per cent increase every 15 years, we will have to wait until the year 2095 to have an equal number of women and men in office. I hope my great-grandchildren will see this happen. Fortunately, in Canada we are further ahead, with women accounting for 21 per cent of our members of Parliament and 36 per cent of our senators.

How can we increase the percentage of women in the parliaments of southern nations? We keep coming back to the same three solutions: guaranteeing quotas of women among the candidates, setting aside a number of seats for women in the legislatures, and changing mentalities on both fronts. On a social level, men and women must come to understand and accept that women are equal to men.

In some countries, this fundamental change will take a long time. We must persevere. On the parliamentary level, the legislative assemblies must be made more attractive to women by ensuring that debates are less aggressive, that men show greater respect for their female colleagues and that there are better working conditions in terms of schedule and workload.

[Senator Losier-Cool]

In the end, however, increasing the number of female parliamentarians is not the goal in and of itself, but rather a means. It is the means to allow these women to foster debate on social issues such as poverty, hunger, disease and infant or maternal mortality, among others. All these issues are mentioned in the Millennium Development Goals.

If Goal number 3, to promote gender equality and empower women, is achieved, then logically the other seven goals should follow automatically. I strongly believe that women are the best way to foster international development and that they are the key to its success. That is my opinion. What do you think?

On motion of Senator Fraser, debate adjourned.

[English]

PROVINCE OF ALBERTA

INQUIRY—DEBATE ADJOURNED

Hon. Grant Mitchell rose pursuant to notice of May 3, 2005:

That he will call the attention of the Senate to the Province of Alberta and the role it plays in Canada.

He said: Honourable senators, I rise today with humility and gratitude to make my maiden speech in the Senate. I feel remarkably lucky to be here, to be able to serve Canada and Canadians, Alberta and Albertans. This chamber is a special place in a very special institution of this country. I have always had a great sense of the worth and contribution of the Senate to Canada and of what she will become ultimately. I have now seen the commitment, dedication and hard work firsthand. I believe even more in the presence of a Senate in this country. Having observed honourable senators in committee and in this chamber, I realize that the bar is set very high for new members. I hope that I will be worthy of the gift that being a senator is and live up to my responsibility to Canadians that is inherent with the honour.

It is tradition in the Alberta Legislature that the maiden speech generally addresses one's constituency. I am told that while that is not a hard and fast rule in the Senate, it would not be inappropriate to speak to one's region, which is Alberta for me. I would like to make some points about that wonderful place to senators today.

When I began to think about such a speech, I found myself reduced to platitudes because there are so many great things about Alberta that platitudes are appropriate in describing most of it. I will list some of them, which you might have heard. Certainly, you can imagine them and, if you have been there, you will immediately agree that these things are true. Alberta is endowed with a great array of natural resources — energy, minerals, agriculture and forestry — all of which are tremendously important and powerful in the existence of the province. However, Alberta is also endowed with remarkable people who are smart, who work hard, who are committed to their neighbours and to doing things for people other than themselves, and who are entrepreneurial and energetic. They focus not only on business, for which we are known, but also on community work and supporting others in our communities.

Honourable senators, take these elements together and the result is an outstanding economy, perhaps unprecedented. Alberta is one of the wealthiest places on the face of the earth. Its economy is driven by energy, agriculture, and mining, et cetera. Its economy is also progressively diversifying through its development of a greater base in manufacturing, innovation and technologies. Alberta is not only an economic presence today, but is also on the cutting edge of the future economically.

It is not as though Albertans have squandered this great wealth and good fortune. Alberta has a tremendous commitment to multiculturalism, the arts and education where much good is accomplished not only for Alberta but also for Canada. Alberta has contributed tremendously to this country in many ways. It certainly has made its contributions through the equalization program. Many of us are proud that Alberta has been able to do that.

• (1710)

All of this happens in a place of unparalleled beauty. If you have seen the mountains, the rivers, the plains and the communities, you know that Alberta is a beautiful place to be. It is a beautiful place to visit, and it is a beautiful place in which to live and raise your children. I have had the good fortune of being able to do that. In many respects, Albertans are a blessed people in a way unparalleled in the world.

If Alberta has had this success in the past, it only promises to be greater in the future. Alberta is perhaps the only democracy in the world with significant world-class energy resources. It is an area that has the resources of the Middle East but is also a democracy. Imagine what that can mean in a world restructured as it has been since 9/11. Imagine what that means for the future of Alberta and Canada economically. Canada needs Alberta. I would argue that Alberta needs Canada as well.

That is not to say there is no room for improvement. Certainly, there is. We have had a generally conservative approach to public policy, which means that there is room for improvement in social programs, in our commitment to education and to public health care, as opposed to private health care. However, for all intents and purposes, for most Albertans, our province is, in fact, a utopia; a place that is remarkable in history and remarkable on the face of the earth. Most who live there are extremely fortunate.

Unfortunately, that view and that vision of Alberta is not always the message conveyed to the rest of Canada. In fact, often the message that Canadians hear from the political leadership in Alberta's government and in the opposition in the other place is a message that Albertans are discontent with Canada. The perception exists that somehow Albertans are unhappy with being in this country and that there are those who would argue that they could do better without the rest of this country. I believe you can capture that sentiment in something called "alienation politics," or "firewall politics." I am here as an Albertan to tell you that I am very tired of alienation politics and of firewall politics. I believe that Canada and Alberta deserve far better.

Alienation politics are used for narrow and often selfish, cheap political gains and they diminish the leadership role that Alberta can, and does, play in the rest of this country. Politicians utilize these politics without appreciating the impact they can have on the strength and the unity of this great country.

Alienation politics are defined in a number of standard, stock issues. We hear them all the time coming from various parts of this country. I will go through a number of those issues, which are particularly significant to me, and argue that in fact there is another side to the story of alienation politics. Many Albertans believe passionately in this country, and they disagree with the standard and the stock issues that are the currency of alienation politics.

These I categorize in three different areas: First, a discontent with Canada's institutions of democracy; second, a discontent with the Charter of Rights; and, third, generally an ambivalence about Alberta's place in Canada and an ambivalence about Quebec remaining in this country.

First, on the issue of our institutions, Senate reform is a sensitive issue because there is a great desire for Senate reform in Alberta. I believe there is room for Senate reform. The point I want to make is twofold. One, the Senate has made a tremendous contribution, as I said earlier, to this country. It does play a role in representing minority regional rights in sober second thought. However, precipitous Senate reform may exacerbate the very problem that Senate reform would be designed to fix. If we begin to elect senators piecemeal, we will find that the Senate will be in a position to exercise tremendous power.

As we all know, the Senate has tremendous powers. We can hamstring almost anything that the other place would determine to do. Those powers have been muted because senators have understood that they are not elected and therefore have utilized discretion in the exercise of those powers.

Were senators to become elected, I believe that that could change and you could begin to entrench powers that would not ameliorate but would in fact worsen the very issues that people are concerned about with respect to regional imbalance. If we begin to elect before we have established equal regional representation, you may well never get that feature of Senate reform. Once you have elected politicians in these places, it would be much more difficult to change the numbers and to change the powers.

A second area often raised as a criticism of this country is our judicial institutions. We hear the refrain "judge-made law." I believe Canada's judicial institutions are the envy of the world. They are some of the fairest and most just judicial institutions to be found worldwide. We are also extremely fortunate to have heard some of the top legal minds in the world in our courts and administering our justice system. I do not want to hear much more about judge-made law. I believe that is an excuse for saying, "We are not getting the answers that we personally want, so perhaps we can tinker and change something in order to get the answers we want." The irony is that the very people who are saying, "We don't want judges to make laws to be political," are actually politicizing the judiciary by virtue of the fact that they make that claim against judge-made law.

[Senator Mitchell]

Finally, there is criticism of our parliamentary institutions. There are those who argue that Parliament is dysfunctional and that somehow the system in the United States might be better. I want to remind honourable senators that the parliamentary system is one of the most successful — if not the most successful — form of government in the history of the world. Given its roots in Britain, it has lasted longer than any other form of government in existence today. It has been so successful because it reflects a number of important features of the human condition. Citizens must have a chance to express dissent. They must know that dissenting views are given a proper voice. The parliamentary process institutionalizes that through its opposition structure.

To be successful, a system of government must also have ways of building consensus. Consensus is Parliament's second name. We have caucuses that build consensus. We have debates in chambers like these that build consensus. We have committees that debate and build consensus. Although these are often discredited, we have political parties that build consensus.

Part of our system is the political party system, and it is a very important part of our parliamentary process because it allows for varied ideas to be entered into the system. It allows for us to package complex political ideas so that people can make choices and decisions about them. Some say parties limit what representatives can do and that somehow elected representatives are told what to do by their leader. I was a leader of a caucus, and I worked under two other leaders of an elected caucus. It is ultimately very difficult for a leader to tell any elected representative what to do. That elected representative can leave the caucus at any time if they believe they need to stand up for something. The irony is that when they do, and they subsequently run as independents, they generally do not get re-elected, which says something about Canadians' commitment to political parties.

• (1720)

Another area in which alienation politics are reflected is the Charter of Rights. We have seen that document criticized in so many different ways at so many different times. Most recently in Alberta, it has been criticized in the context of gay marriage, and invoking the notwithstanding clause has been raised on a number of occasions.

As an aside, I can only imagine what it must be like to be 16 years old and gay in a context like that. To have those in positions of authority make you feel that you are so different and so outside the mainstream must be devastating for those young people.

However, the views of Albertans on gay marriage are not monolithic. I see another view. It is absolutely an issue of values. I know that both sides hold important values genuinely and with great passion. On the one hand, there are those who are opposed to gay marriage who say that traditional marriage is marriage between a man and a woman. That is obviously a legitimately and strongly-held view. However, there are other values that are at least equally strong. One is: Should all Canadians not be considered equal under the law?

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

Senator Mitchell: Yes. May I have a few more minutes?

Hon. Senators: Agreed.

Senator Mitchell: Thank you, honourable senators.

Another is the value that marriage is the realization of love in a lifetime commitment, and there is the value that government should intervene as little as possible in people's lives, particularly in their personal lives.

I ask rhetorically: Why should one of those values trump another of those values? I think you can have both of that in some contexts. In the church context, churches are worried that they will be forced to marry people whom they do not believe they should marry. The churches will not be forced to do that. If they were to be forced to do that, long ago the Catholic Church would have been forced to ordain women priests. That is not the case and will not happen. On the other hand, the church is quite happy to have individuals told who they can and cannot marry. I see a fundamental contradiction there. I believe that it is correct to recognize gay marriage and I believe that the legislation currently in the other place should be passed.

The third category of the alienation issue is the view of Quebec. There are those leaders who, although they may not always express it explicitly, are ambivalent about this country staying together and about Quebec's place in this country. I want to address that very strongly. I believe that Quebec makes this country special. It makes us different from the United States, and it makes us emphasize culture in a way that very few countries do. Because of the importance that the presence of Quebec has placed on culture and language, we have become multicultural. There are very few places in the world where people can enjoy the benefits of their cultural heritage in the way that we do in Canada. If you agree with me that culture is an essential element of a human being's soul, you will agree that Quebec is a tremendous gift to the people of this country.

The Clarity Act outlined to Quebecers what they could expect if they were to separate, and I think that was right. What is not addressed enough for the rest of the country, and for Quebecers for that matter, is what will happen to what is left of this country if Quebec were to leave. It will not just be 90 per cent of what it used to be. Can you imagine what would happen to the dollar? I expect that it would plummet. Can you imagine what would happen to capital markets in the face of the uncertainty of this kind of restructuring? I expect that they would plummet. Can you imagine what would happen to stock markets in general, which abhor uncertainty? It would not be a pleasant economy if Quebec were to leave.

However, that is only money, and that is only marginally important compared to what else that we would lose. I believe that we would lose a great portion of our very spirit. Canadians are a special people, and that is in part because of our great traditions, the breadth of this country, and all the things that this country means to us. If we lose a part of our country that is as important as Quebec, we will lose a very important element of our souls. I believe that many of us will have a hole in our hearts as large as Quebec.

About 31 years ago, when I was a young man, I came to Parliament Hill for a meeting. It was a crisp, clear and beautiful winter night. I saw this building and the Peace Tower. I will never forget the impression it left with me. The pure, the clean, the goodness of this country was reflected in the power of this building and that setting that night.

To this day, I believe that Canada is an exceptionally good place, that it is a beacon for people around the world. People emulate and admire us for the way in which we treat other people, the way that we have blended minority and collective rights, the way that we have elevated culture and multiculturalism, the way that we are decent and dignified, and the way that we have created a judiciary premised upon fairness and justice.

Why would anyone want to jeopardize this? This is no time for ambivalence or uncertainty about this country. This is a time for passionate belief and defence of this country. I believe that Canada needs to be nurtured and protected by all of those who understand the remarkable gift that this country is to us Canadians and to the rest of the world.

On motion of Senator Robichaud, for Senator Prud'homme, debate adjourned.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Peter A. Stollery: Honourable senators, could I have the indulgence of the Senate to allow the Foreign Affairs Committee to sit? Our witnesses and committee members are waiting. If the Senate would allow us, we could have our meeting on the record. I ask the indulgence of the Senate.

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

Hon. Senators: Agreed.

INTER-PARLIAMENTARY UNION

INQUIRY—DEBATE ADJOURNED

Hon. Joan Fraser rose pursuant to notice of May 4, 2005:

That she will call the attention of the Senate to the work of the IPU.

[*Translation*]

She said: Honourable senators, I want to take a few moments to talk to you about an organization that we have all heard of, but about which many of us know very little; I am referring to the Inter-Parliamentary Union.

[*English*]

The Inter-Parliamentary Union is the world organization of parliaments, the world's oldest and largest interparliamentary organization. It has existed since 1889, and we now have

140 member countries around the world. This list does not include the United States, which is a great pity — we continue to try to persuade them to come back — but it does allow Canada to play a greater role than might otherwise be the case.

I know many of you will remember the old slur that the IPU is a great travel club but not much else. It certainly does require you to travel because its member countries are all over the world and they all want to have the honour of hosting an IPU conference. Apart from the annual sessions in Geneva, where the headquarters are, recent conference sites have ranged from Havana to Marrakesh to Manila. Next year it will be Nairobi. Other interparliamentary groups have widely dispersed members as well.

What is unique about the IPU is that its members do not belong to any one political or geographic club, like the Commonwealth or the Latin American region, each of which has its own very valuable parliamentary organization.

• (1730)

In those groups, there is a shared bond of experience and there are shared interests. The only thing that IPU members all have in common is the single supreme fact that they all have a functioning parliament. When we meet, we have to learn to know and work with people whose entire experience is different from ours, people who have entirely different sets of needs and priorities. It is the most enriching experience imaginable.

It also enables the IPU to provide a forum for peace-building. For example, for some years now the IPU has provided a forum for senior Israeli and Palestinian parliamentarians to meet for private discussions and negotiations. It is through the IPU that the new Parliamentary Assembly of the Mediterranean has been set up.

Given the IPU's global character, it is no accident that the union has focused in recent years on deepening its relations with the United Nations. As many of you know, we have observer status at the UN, which is very rare and difficult to achieve, and much of our work is designed to complement or feed into UN activities. At our semi-annual conferences, our debates are frequently related to matters that are before the UN, and IPU documents and other resolutions are circulated there.

The IPU also has and uses the right to speak at UN meetings. It maintains an office in New York and holds an annual parliamentarians' session at the UN.

It also works closely with the UN in many fields. Some of you will be aware of the Second World Conference of Speakers of Parliaments, which will be held next September in New York and where I believe our own Speaker will be present. Few of us know about other joint IPU activities.

For example, joint projects with the UN Development Programme help to strengthen parliaments in many post-conflict situations, from Timor-Leste to Afghanistan and soon Iraq. In conjunction with UN AIDS, funding is now being sought for a new committee based at IPU headquarters to strengthen

parliamentary capacity to deal with AIDS. Conferences on refugees have recently been organized in Spain and Africa in conjunction with the United Nations High Commissioner for Refugees, UNHCR. A major effort is underway with the UN Institute for Training and Research to strengthen parliamentary capacity worldwide.

Together with various UN agencies, the IPU also produces a wide range of handbooks for parliamentarians. Recent topics include human rights, child protection, United Nations Educational, Scientific and Cultural Organization, UNESCO, and the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW, and gender-sensitive budgeting. Now underway are an update of the handbook on international law and practice for the conduct of free and fair elections, and a major project to develop democracy indicators.

The IPU organizes regional meetings for parliamentarians on topics ranging from conflict resolution to the rights of Aboriginal peoples. It organizes meetings of parliamentarians to provide input to major international meetings of such bodies as United Nations Conference on Trade and Development, UNCTAD. It has recently provided observers for the Palestinian elections and, on very short notice, for the overseas component of the Iraqi election.

The UN is not the only body with which the IPU works closely. For example, the IPU and the European Parliament have worked together to hold parliamentary conferences to provide much needed parliamentary input to the meetings of the World Trade Organization, WTO. The IPU and the European Commission are engaged in a massive democracy project to build the capacity of Nigeria's federal and state legislatures. With the Geneva Centre for the Democratic Control of Armed Forces, the IPU has published a handbook on parliamentary oversight of the security section, which interests us all.

You will have gathered from all this that human rights are a core concern for the IPU. Nowhere is that more evident than in the tireless work of its Committee on the Human Rights of Parliamentarians, on which Senator Carstairs sits. That committee bears a very heavy caseload. Its work is remarkable, and its reports are essential reading for anyone who cares about these matters. I refer you notably to the devastating report the committee released last year on the state of parliamentarians in Zimbabwe.

However, it is not just a question of making reports. The committee also has an effect. For example, last year it prodded the Indonesian and Mongolian parliaments into acting in the case of two parliamentarians who had been murdered.

Another valuable body is the Association of Secretaries General of Parliaments, which brings together table officers and other parliamentary staff to strengthen their expertise. Our own table officers can tell you how useful those meetings are.

There is much more. However, in the short time remaining, I would like to focus on the IPU's efforts to advance the rights of women. The IPU was, like most political organizations, fairly slow to give priority to women's issues. The first woman member

of the executive committee was elected in 1987, but we have more than made up for lost time. Today, women play a greater role in the organization than, to my knowledge, they do in any other interparliamentary group.

There is a day-long meeting of women parliamentarians before the main IPU assembly each spring, which brings together women from all continents who feed the results of their work back into the deliberations of their respective geopolitical groups. At the meeting, women also discuss themes being debated by the assembly and the discussion feeds into or proposes amendments to resolutions.

A coordinating committee of women parliamentarians meets at both the spring and fall assemblies, plans the spring meeting and provides input into key positions such as the drafters of reports and resolutions. This committee also organizes male and female dialogue sessions at the assemblies on topics of particular concern to women. These sessions, which showcase top experts from around the world, are among the most stimulating events at the conferences.

I must stress that women are not just a side event. The president of the coordinating committee is an ex officio member of the IPU's executive committee. In addition, the gender partnership group, which is a subcommittee of the executive committee, acts on a regular basis in connection with women's issues. That was the group that brought forward a revolutionary change to increase the number of women parliamentarians who participate in the union at all levels in the year 2003.

That was when the IPU's rules were changed to penalize countries that, for three successive sessions, send single-sex delegations to the assembly. At the third assembly, their allowable delegation is reduced by one person, and they lose two out of their 10 basic votes. In addition, three of the 15 members of the executive committee, in addition to the president of the coordinating committee, must be women. Countries that exclude women from voting or standing for election are not eligible for membership on the executive committee. The results have been striking.

Five and a half years ago, at the Berlin conference in the fall of 1999, 27 per cent of the participating countries sent all-male delegations. Last month in Manila, that proportion had fallen to 10 per cent, and 27 per cent of the delegates were women. The gender partnership has established the practice of holding meetings with countries that still consistently send single-sex delegations. Those can be very interesting meetings indeed.

Within the IPU, there is a small women's division that works closely with the UN and with parliaments. For example, as Senator Losier-Cool reminded us, it held a special meeting of parliamentarians in New York this spring, which I was actually privileged to chair, as part of the Beijing Plus 10 anniversary proceedings.

The women's division compiles data about the situation of women in parliaments. It is, in fact, the source for these data. Nobody else does this in the way we do. It organizes regional seminars for parliamentarians on topics such as gender-based analysis and female genital mutilation.

The division works closely with UNICEF, and a series of projects are planned on a range of issues from child trafficking to child-friendly budgets. The IPU is also working to establish a specialized committee to follow child protection issues and function as a focal point or liaison between the IPU, UNICEF and other UN agencies.

What is, in some ways, the most striking thing of all is that the IPU does all this on a minuscule budget — about CAN\$10 million a year, plus about \$1 million more from other sources such as the European Commission.

In this context, I want to mention that one of the most creative ideas in years has come from our colleague Senator Oliver, who is Vice-President of the IPU's Canadian group. He is spearheading a drive to create a global foundation for democracy to provide significant stable new funding for the union's work. In this, Senator Oliver is upholding Canada's long tradition of playing a significant role within the IPU.

Many of you know about the years of work that Senator Prud'homme has devoted to the union. Among our former colleagues, let me mention Senator Peter Bosa, the long-time head of the Canadian group; Senator Joan Neiman, who helped to found the human rights committee; and Senator Sheila Finestone, who was a founding mother of the Meeting of Women Parliamentarians. I have already mentioned Senator Carstairs' role in the human rights committee.

I myself have the honour to be the current president of the Women's Coordinating Committee, which means I am on the executive committee. In case you think that senators do all the work, let me say that in Manila, our colleague from the other place, Paddy Torsney, was chosen to be the next chair of the Twelve Plus geopolitical group, which is universally acknowledged to be the most influential such group within the IPU and which Senator Bosa also chaired at one time.

• (1740)

Honourable senators, I hope that this very brief sketch of the IPU's work has helped to kill whatever was left of that old line about the IPU being just a travel club. It is, in fact, an organization where you have to be prepared to work very hard if you want to belong. It is also an organization that offers incredible opportunities to learn and to contribute, one to which Canada can be proud to belong.

On motion of Senator Robichaud, for Senator Prud'homme, debate adjourned.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Jerahmiel S. Grafstein, pursuant to notice of May 5, 2005, moved:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to sit at 3:30 p.m., on Wednesday, May 11, 2005, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

[*Translation*]

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, when such a motion is presented, I normally ask a question in order to learn the reason behind the motion before us.

[*English*]

Senator Grafstein: Honourable senators, tomorrow we are commencing a unique experiment in Senate hearings by having a two-day round table to hear experts on productivity and competition. This is as a result of a unanimous recommendation of the committee. In order to facilitate that configuration, we need extra time. We have been crushed for time because we are bringing experts Wednesday and Thursday. We will have 15 or 20 of them. To cram them all in during the two-hour time frames on Wednesday afternoon and Thursday morning is impossible. We need at least another half an hour.

Our problem is that we sit from 4:00 to 6:00. Our colleagues on the other side are pressed to go to other committees. At six o'clock sharp, we have to vacate our room. The only way to

accommodate this on a cost-effective basis is to ask the indulgence of the Senate for this session.

I would like to advise senators that this will be the first time we will be experimenting with public participation in the round tables. We will be on the Internet, and we will allow the public to participate as they hear the evidence. The evidence will be on television. That will be tape-delayed. It will be on the Internet live, and the Canadian audience will be asked to participate directly. All the information that we get, the reactions to the experts' information, will be culled by the committee and will form part of our final recommendation. We are trying something new. It is cost-effective, honourable senators. This will all cost us about \$6,000 in total. We need your assistance for this extra half hour.

Senator Robichaud: Question!

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

Motion agreed to.

The Senate adjourned until Wednesday, May 11, 2005, at 1:30 p.m.

CONTENTS

Tuesday, May 10, 2005

	PAGE	PAGE
SENATORS' STATEMENTS		
Holocaust Memorial Day		
Hon. Jerahmiel S. Grafstein	1190	
Canada-United States Relations		
North Dakota—Devils Lake Diversion. Hon. Janis G. Johnson	1190	
Rebuilding of Southeast Asia after Tsunami		
Hon. Lorna Milne	1191	
Racial Discrimination		
Quebec Human Rights Tribunal— Centre Maraîcher Eugène Guinois. Hon. Donald H. Oliver	1191	
Yukon		
Contribution to World War II. Hon. Ione Christensen	1192	
Soviet Occupation of European Countries		
Hon. A. Raynell Andreychuk	1192	
<hr/>		
ROUTINE PROCEEDINGS		
Treaties Entered Into Force in 2002, 2003 and 2004		
Tabled. Hon. Fernand Robichaud	1192	
Legal and Constitutional Affairs		
Budget and Authorization to Engage Services—Report of Committee on Study of Including in Legislation Non-derogation Clauses Relating to Aboriginal Treaty Rights Presented. Hon. Lise Bacon	1192	
Budget and Authorization to Engage Services— Report of Committee on Study of Bilingual Status of City of Ottawa. Hon. Lise Bacon	1193	
Study on Legal Issues Affecting On-reserve Matrimonial Real Property on Breakdown of Marriage or Common Law Relationship		
Interim Report of the Standing Senate Committee on Human Rights Tabled. Hon. A. Raynell Andreychuk	1193	
Canadian Forces Members and Veterans Re-establishment and Compensation Bill (Bill C-45)		
First Reading. Hon. Fernand Robichaud Hon. Noël A. Kinsella Hon. John Lynch-Staunton	1193 1193 1194	
Bankruptcy and Insolvency Act (Bill S-30)		
Bill to Amend—First Reading. Hon. Michel Biron	1194	
Foreign Affairs		
Committee Authorized to Meet During Sitting of the Senate. Hon. Peter A. Stollery Hon. Marcel Prud'homme	1194 1194	
Official Languages		
Notice of Motion to Authorize the Committee to Meet During Adjournment of the Senate. Hon. Eymard G. Corbin	1194	
<hr/>		
QUESTION PERIOD		
Finance		
Budget Implementation Bill, 2004, No. 2— Clarification of General Anti-avoidance Rule. Hon. Serge Joyal Hon. Jack Austin Hon. Noël A. Kinsella	1194 1195 1195	
Delayed Answers to Oral Questions		
Hon. Fernand Robichaud	1195	
Finance		
Budget 2005—Renewal of Canada-community Agreements. Question by Senator Nolin. Hon. Fernand Robichaud (Delayed Answer)	1196	
Health		
Availability of Heart Medication Inderal LA. Question by Senator Keon. Hon. Fernand Robichaud (Delayed Answer) Meeting with United States Secretary of Health and Human Services—Sale of Prescription Drugs— Handling of Cox-2 Inhibitors. Question by Senator Keon. Hon. Fernand Robichaud (Delayed Answer) Compensation to Hepatitis C Victims. Question by Senator Keon. Hon. Fernand Robichaud (Delayed Answer)	1196 1196 1197	
<hr/>		
ORDERS OF THE DAY		
Budget Implementation Bill, 2004, No. 2 (Bill C-33)		
Third Reading. Hon. Wilfred P. Moore Hon. W. David Angus Hon. Joseph A. Day Hon. Anne C. Cools	1197 1199 1200 1201	
Canadian Forces Members and Veterans Re-establishment and Compensation Bill (Bill C-45)		
Second Reading. Hon. Roméo Antonius Dallaire Hon. John Lynch-Staunton Hon. Terry Stratton Hon. Madeleine Plamondon Hon. Marcel Prud'homme Hon. Noël A. Kinsella Hon. Serge Joyal Hon. Norman K. Atkins Hon. Joseph A. Day Referred to Committee	1202 1204 1205 1205 1205 1206 1207 1207 1207 1208	
National Blood Donor Week Bill (Bill S-29)		
Second Reading—Debate Adjourned. Hon. Lorna Milne	1208	
General Synod of the Anglican Church of Canada (Bill S-25)		
Private Bill to Amend Act of Incorporation—Third Reading. Hon. Jerahmiel S. Grafstein	1208	

	PAGE		PAGE
Internal Economy, Budgets and Administration		Province of Alberta	
Tenth Report of Committee Adopted.		Inquiry—Debate Adjourned.	
Hon. George J. Furey	1209	Hon. Grant Mitchell.	1213
Rebuilding of Southeast Asia after Tsunami		Foreign Affairs	
Inquiry—Debate Continued.		Committee Authorized to Meet During Sitting of the Senate.	
Hon. Madeleine Plamondon	1209	Hon. Peter A. Stollery	1215
The Senate		Inter-Parliamentary Union	
Motion to Urge Government to Reduce Certain Revenues		Inquiry—Debate Adjourned.	
and Target Portion of Goods and Services Tax Revenue		Hon. Joan Fraser	1215
for Debt Reduction—Debate Continued.		Banking, Trade and Commerce	
Hon. Fernand Robichaud	1211	Committee Authorized to Meet During Sitting of the Senate.	
Conference of Women's Rights		Hon. Jerahmiel S. Grafstein,	1217
Inquiry—Debate Adjourned.		Hon. Fernand Robichaud	1218
Hon. Rose-Marie Losier-Cool	1211		



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