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(HANSARD)

Wednesday, November 23, 2005

THE HONOURABLE DANIEL HAYS
SPEAKER

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THE SENATE

Wednesday, November 23, 2005

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

NATIONAL FEDERATION OF FRANCOPHONE SCHOOL BOARDS

FIFTEENTH ANNUAL CONVENTION

Hon. Maria Chaput: Honourable senators, I recently had the opportunity of taking part in the fifteenth annual convention of the National Federation of Francophone School Boards held in Ottawa from November 2 to 4, 2005.

Founded in 1990, the federation brings together representatives from every francophone school board in Canada. It has a current membership of 31.

The objectives of the federation include providing Canada's francophone and Acadian school boards with a forum for exchange and collaborative efforts, supporting the actions of its members on the provincial level and representing its members at the national level.

The federation sees the ideal school as an institution that is adequately financed, open to its community, equipped with auxiliary structures — child care and early childhood education — and focused on cultural identity.

Because the federation believes language is directly linked to culture and identity, it feels that the school must play a vital role in the development of its students as francophone citizens.

My congratulations to federation president Madeleine Chevalier for her excellent leadership and to all those who are instrumental in the success of the Federation.

[*English*]

FAMILY VIOLENCE PREVENTION MONTH

ALBERTA

Hon. Grant Mitchell: Honourable senators, November is Family Violence Prevention Month in Alberta. As part of that event, I recently had the opportunity, along with Deputy Prime Minister Anne McLellan and Senators Tardif and Banks, to attend the launching of a book entitled *Standing Together*.

The book is a collection of stories and poems by 103 women who have experienced the horror of family violence. Each has made the difficult step of taking control of their lives under the most difficult circumstances and putting a stop to the abuse they and their children were experiencing. They tell their stories in their own words. These stories are at once terrifying, tragic and uplifting. They are stories of pain, courage and strength. Ultimately for some, but unfortunately not yet for all of these authors, they are stories of hope for freedom from fear.

That night, a number of the women read their stories and poems to those in attendance. There could not have been a person in that room who was not deeply moved.

Family violence is a serious issue that affects far more people than many of us would know — women, children, the elderly and, yes, sometimes even men. For women, the violence is likely to be particularly severe. Family violence can be emotional and psychological, as well as physical and sexual.

One of the presenters that night made the point that it is sobering to think that in this era when public safety, particularly in the international context, has been given such profile, the least safe place for some Canadians is in their own homes.

This project did not occur by itself. It was the brainchild of Iris Evans, Alberta's Minister of Health. It was supported by Jan Reimer, former Mayor of Edmonton and now the head of the Association of Women's Shelters of Alberta. It was edited by Linda Goyette, an Edmonton author and former journalist and columnist.

Each of these women and especially each of the contributing authors is to be congratulated for undertaking this important project. I know that all senators join me in doing so.

ATLANTIC CANADA WOMEN ENTREPRENEUR TRADE MISSION TO BOSTON

Hon. Catherine S. Callbeck: Honourable senators, last week I led a trade mission to Boston on behalf of the Honourable Joe McGuire, Minister of the Atlantic Canada Opportunities Agency. This trade mission was different from any other trade mission previously led by ACOA in that it was organized exclusively for Atlantic Canadian women entrepreneurs.

Fourteen women-owned companies participated in the trade mission. Their products and services ranged from custom-fit golf equipment to jewellery to organizational and health promotion services.

During the past five months, these women entrepreneurs have been involved in the Women Exporters' Initiative, which trained them to be export-ready. They arrived in Boston with the tools, skills and confidence to sell their products and services.

I am pleased to let honourable senators know that many of the participating companies made new sales and signed contracts with their clients and distributors in New England.

While in Boston, the women took part in business meetings. They had opportunities to network with business groups in the Boston area and listened to engaging and highly qualified guest speakers. Through it all, they formed a strong network of contacts among themselves. They all came back to Atlantic Canada with strong leads and valuable in-market experience.

As my honourable friends know, in November 2002 I was asked by the Prime Minister to serve as Vice-chair of the Prime Minister's Task Force on Women Entrepreneurs. The task force was put in place to find out how the federal government could be more supportive of women entrepreneurs and to determine why there were not more women entrepreneurs fuelling the Canadian economy.

• (1340)

In October 2003, we presented our report to the Prime Minister. One of our recommendations was that the federal government should encourage and assist women entrepreneurs to be export-ready. This first women entrepreneur trade mission from Atlantic Canada to Boston is exactly the type of initiative we recommended.

I want to recognize ACOA, International Trade Canada, Export Development Canada and the Canadian Manufacturers and Exporters for organizing this women exporters initiative. They have all worked extremely hard. Their collaboration ensured that more women entrepreneurs from Atlantic Canada will become successful exporters. I congratulate them on their success.

Hon. Senators: Hear, hear!

NORTH ATLANTIC TREATY ORGANIZATION PARLIAMENTARY ASSEMBLY

FIFTIETH ANNIVERSARY

Hon. Joseph A. Day: Honourable senators, I should like to talk for a few minutes today about the fiftieth anniversary of the NATO Parliamentary Assembly and the Canadian senator who was instrumental in the establishment of the assembly. The North Atlantic Treaty Organization Parliamentary Assembly was formed 50 years ago, on July 18, 1955. However, its formation at the time was not without its doubters.

Even though there were calls for the creation of a parallel parliamentary assembly after the inception of NATO in 1949, there was resistance to the idea. NATO, at the time, did not support the idea and favoured national parliamentary associations in each of the member states. Even with such resistance, parliamentarians are a stubborn lot, and the first annual conference of the NATO parliamentarians, with Nova Scotia Senator Wishart Robertson as co-chair, was held on July 18, 1955.

Senator Robertson was born in Barrington Passage, Nova Scotia in 1891, and served in this chamber with distinction from 1943 to 1965. In addition to serving as Speaker of the Senate, Senator Robertson also served as Leader of the Government in the Senate from 1945 to 1953. He was recognized for his efforts in the formation of the NATO Parliamentary Assembly by being elected honorary life president at the conclusion of its inaugural meeting in Paris in 1955.

Honourable senators, this is indeed a great honour, and one this chamber should be proud to have as part of our history. Many other honourable senators have from time to time served on the NATO Parliamentary Assembly. For instance, Senator Rompkey served recently as vice-president of the assembly, while Senator Nolin currently serves in that capacity.

Our delegation this year was led by Senator Cordy, President of the Canada NATO Parliamentary Association. The delegation for the fiftieth anniversary meeting also included Senators Hubley, Andreychuk and myself. We were all pleased to take part in this year's historic meeting, and I know honourable senators will want to join with me in offering congratulations to the NATO Parliamentary Assembly in its fiftieth year of service.

Hon. Senators: Hear, hear!

RESIDENTIAL SCHOOL COMPENSATION PACKAGE

Hon. Nick G. Sibbeston: Honourable senators, today the federal government announced compensation for Aboriginal people that have been in residential schools. That decision is a very good and touching one.

When I heard the decision this morning, I shed a tear, because I was six years old when I went to residential school. My mother got sick and had to go into the hospital. I left the comforts of my home in Fort Simpson — my grandmother and my mother — and I went to residential school for six years in Fort Providence.

With the exception of one summer when I was able to go home for only one weekend, I went home every summer for a few weeks. However, I have cousins who attended residential school and who, for 10 years, never went home. Imagine sending your child away for months, let alone years.

Many of those who attended residential school have suffered a lasting effect. Many have experienced trauma and difficulty.

I am fine physically. People ask me how I am, and I tell them that nothing hurts on me, that I am in good physical shape. However, mentally, there are days and stretches of time when I suffer from depression and sadness and have a hard time coping with life. Fortunately, through a healing process, I and many others are able to function and enjoy life.

A number of years ago, when we started our healing process, many of us said, "We do not want money; we just want our life. We want to experience happiness." Fortunately, some of us have made progress; unfortunately, others have not. Many have died and many suffer today from addictions, such as alcoholism.

Honourable senators, this is a monumental day — not so much because of the money, but because of the gesture and the recognition that it has been really tough on those who attended residential schools. I am very thankful today.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

LIBRARY OF PARLIAMENT

SECOND REPORT OF JOINT COMMITTEE PRESENTED

Hon. Marilyn Trenholme Counsell, Joint Chair of the Standing Joint Committee on the Library of Parliament, presented the following report:

Wednesday, November 23, 2005

The Standing Joint Committee on the Library of Parliament has the honour to table its

SECOND REPORT

Pursuant to the order of reference from the Senate on November 22, 2005, House of Commons Standing Order 111.1, and the order of reference from the Commons on November 17, 2005, the Committee has considered the certificate of nomination of Mr. William Robert Young to the office of Parliamentary Librarian.

The Committee approves the appointment of Mr. Young to the office of Parliamentary Librarian.

A copy of the relevant Minutes of Proceedings (*Meeting No. 5*) is tabled in the House of Commons.

Respectfully submitted,

MARILYN TRENHOLME COUNSELL
Joint Chair

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

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

• (1350)

[*Translation*]

CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

THIRTY-THIRD ANNUAL MEETING, AUGUST 28-SEPTEMBER 4, 2005—REPORT TABLED

Hon. Lise Bacon: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canada-France Inter-Parliamentary Association on its 33rd annual meeting, held in Vancouver, Victoria and Nanaimo, British Columbia, from August 28 to September 4, 2005.

[*English*]

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS TERMINALS—PRESENTATION OF PETITION

Hon. Michael A. Meighen: Honourable senators, I have the honour to present petitions from 133 residents of New Brunswick and elsewhere in Canada, the U.S. and the U.K. asking our government to refuse the right of passage to LNG tankers through Head Harbour Passage.

QUESTION PERIOD

INDUSTRY

INVESTMENT CANADA—NOTICE OF NET BENEFIT REGARDING SALE OF TERASEN GAS TO KINDER MORGAN

Hon. Pat Carney: Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday, I asked the leader what benefits for the public were negotiated by Industry Canada when it approved the purchase of Terasen Gas by the Texas energy giant Kinder Morgan. The leader advised the chamber that:

> ...section 36 of the Investment Canada Act precludes the minister or any government official from disclosing any information that has been obtained through the administration of that act.

The minister's written answer to me indicates that there are exceptions to the confidentiality provisions of the ICA. The written answer states that what can be made public includes information contained in any written undertaking given to Her Majesty in right of Canada relating to an investment that the minister is satisfied or is deemed to be satisfied is likely to be of net benefit to Canada. That is exactly what I want to know. What undertakings were deemed of net benefit to Canada?

Is the minister telling us that the undertakings given to Her Majesty were oral undertakings? If they are still secret, were they oral? According to the letter he provided me, information contained in any written undertaking can be made public.

Hon. Jack Austin (Leader of the Government): Honourable senators, in answering the honourable senator's question yesterday, I did provide information with respect to the undertakings made by Kinder Morgan Inc. with respect to the acquisition of Terasen Gas. I mentioned capital investments and other items that would assure net benefits to Canada. I believe that a satisfactory answer was provided to the honourable senator about the agreement of Kinder Morgan.

Senator Carney: May I remind the honourable leader that yesterday he specifically said:

> ...section 36 of the Investment Canada Act precludes the minister or any government official from disclosing any information that has been obtained through the administration of that act.

While we are grateful for some of the information provided, we would like to know the rest of the information. For example, Terasen Waterworks, a subsidiary of Terasen Gas, owns and operates municipal waterworks in Canada, including those in the municipalities of Calgary and Kelowna. Canadians are not comfortable with foreign ownership of our water systems, so I would like to know whether Industry Canada, when it undertook the review, asked Terasen Gas to divest itself of the ownership of municipal water systems.

Senator Austin: Honourable senators, the disclosure I made yesterday included the phrase "with the consent of the parties," and that was the nature of the disclosure. As for the balance, the government has disclosed that which was consented to, and I have no other information I can provide. I have quoted the section of the Investment Canada Act that provides the barrier to disclosure.

I am most curious as to why the honourable senator is so concerned with this particular foreign investment. As I pointed out yesterday, the government of which she was a member took a significant departure from the government of Mr. Trudeau and introduced this act. Then Prime Minister Brian Mulroney said that Canada was open for business. His government actively invited foreign investment in Canada and said that it was good.

It is of further interest to me to note, for example, an editorial in today's *Vancouver Sun* entitled "Critics of Terasen sale resort to fear-mongering and ignore the facts." In brief, the article says that the attempt to block this deal was not in the public interest.

> Opposition to the deal gathers momentum only because its critics are misrepresenting what Terasen does and are channelling the anti-American, anti-business and anti-globalization attitudes of the ill-informed into an attack on a private deal between two private companies.

The article also states:

> Of course, Terasen doesn't own any energy resources. It doesn't produce any petroleum products. It doesn't explore for oil and gas. It does no refining. It has no interests in oil or gas fields.
>
> It simply buys gas and distributes it to 875,000 customers in B.C. Moreover, it is not allowed to make a profit reselling the gas. It can only charge for delivery and that rate is regulated by the BCUC. In fact, even the rate of return it may earn on its gas utility business is set by the regulator...

The article concluded:

> ...the outcome of this contest is assured. Canadians will be the winners.

Honourable senators, Senator Carney says that Canadians believe this and Canadians believe that. I have pointed out that the B.C. Utilities Commission heard countless witnesses and rendered over 50 pages of assessment supporting this transaction. It was also not dissented from by the province of British Columbia or the province of Alberta. It is fascinating to me that the honourable senator continues to pursue this issue. It would be interesting to know what the merits of her presentation might be.

Senator Carney: Honourable senators, the merit of my presentation is that the Investment Canada Act requires a review of foreign acquisitions of sensitive industries in Canada. They include the production of uranium and owning an interest in a uranium-producing property in Canada, providing any financial service, providing transportation services, including the transportation of oil or gas through pipelines, and cultural business. That was the gist of the legislation that the Conservative Government of Canada brought in when it said that Canada was open for business. However, it also said that it wanted a review of sensitive industries to determine whether there would be a net benefit to Canada. I have been asking the leader to make public the net benefits in this case.

INVESTMENT CANADA—NOTICE OF NET BENEFIT REGARDING SALE OF WESTCOAST ENERGY TO DUKE ENERGY

Hon. Pat Carney: In 2001, Duke Energy, one of North America's largest transmission companies, purchased Westcoast Energy for $8.5 billion, the largest foreign transaction that year. Purchases of transmission systems are subject to review under the Investment Canada Act, which is my rationale for asking the question. Four years after the sale, can the minister tell us what net benefits were negotiated for Canadians in the sale of Westcoast Energy? Eight thousand British Columbians and other Canadians wrote the British Columbia Utilities Commission about their concern over these transactions. Contrary to what the leader said earlier, there were no public hearings held by the B.C. Utilities Commission, although we asked for them.

The honourable leader asked about the justification for my question. It can be found in the words of the legislation brought forth by a Conservative government — the Investment Canada Act — which call for a review and analysis of net benefits. We have a written undertaking that these benefits can be disclosed. Therefore, what were the benefits?

• (1400)

Hon. Jack Austin (Leader of the Government): Honourable senators, I shall simply repeat that the net benefits have been disclosed in summary form and the act provides —

Senator Carney: I asked about Westcoast.

Senator Austin: The statements are on the record. I do not have to speak for a transaction that took place in 2001.

ROYAL CANADIAN MOUNTED POLICE

AUDITOR GENERAL'S REPORT— CONTRACT POLICING AGREEMENTS— HUMAN RESOURCE SHORTAGES

Hon. Pierre Claude Nolin: Honourable senators, the Auditor General's report released yesterday looked into whether the RCMP meets its contractual obligations for policing services in provinces, territories and municipalities. The report concluded that, while it fulfils its responsibilities under these contracts, the RCMP often does not have the capacity to deal with staff shortages caused by such routine matters as illness and parental leave. There are also gaps in terms of proper training qualifications and certification of officers. For example, newly-graduated cadets do not always receive six months of training in the field with a senior officer, as is expected.

Could the Leader of the Government in the Senate tell us how the federal government will ensure that the RCMP has the ability to respond to human resources shortages? We are aware of the response of the RCMP to the Auditor General that they will do their utmost to correct the problem, but I want a more specific answer from the minister.

Hon. Jack Austin (Leader of the Government): Honourable senators, the only answer I can give is that the government will do its utmost to support the RCMP.

Senator Nolin: Honourable senators, the Auditor General also reported on RCMP contract policing in Aboriginal communities. Public Safety and Emergency Preparedness Canada, or PSEPC, which is responsible for negotiating these agreements, does not fully monitor how they are implemented. An example used in the report is that peace officers are required to spend at least 80 per cent of their time on the reserve to which they are assigned. However, PSEPC does not have a system to track the amount of time an officer spends in the community and, therefore, cannot tell band councils, with which they have agreements, if the requirement is being carried out. How can the department provide Aboriginal communities with the level of policing they need and expect, if it cannot determine whether the agreements are being carried out?

Senator Austin: Honourable senators, that is a good question based on the findings of the Auditor General. The government accepts the findings and conclusions of the Auditor General with respect to policing in Aboriginal communities. It is clear that these issues need to be given a great deal more attention and that more work needs to be done in collaboration with Aboriginal communities. It is a deficiency with which the government intends to deal.

NATIONAL DEFENCE

PROPOSED EQUIPMENT EXPENDITURES

Hon. J. Michael Forrestall: Honourable senators, my question of the minister is with respect to equipment replacement.

Prior to the last election, the government announced expenditures of $7.7 billion in promised capital projects for defence, of which about $5.7 billion had already been announced but not activated.

Senator Mercer: We're doing that right now.

Senator Forrestall: Are you ever!

Senator Mercer: Promises made, promises kept!

Senator Forrestall: Are you listening, leader?

This was announced but never put in place. So much for your words.

The Hon. the Speaker: Honourable senators, order, please. Senator Forrestall has the floor.

Senator Forrestall: In the last four months, a $12-billion to $13-billion expenditure has been talked about. What will you say about that? Will you spend it?

A $4.6-billion purchase submission has gone out to replace the aging Hercules. The immediate replacement of fixed-wing search and rescue equipment was a top budget priority announced at CFB Greenwood, being the Hercules and the Buffalo. That was promised in the election barnstorming.

Mr. Minister, why was the second aspect of the original plan to replace fixed-wing aircraft dropped?

Hon. Jack Austin (Leader of the Government): Honourable senators, I answered that question yesterday. I said that, initially, the Chief of the Defence Staff recommended to the government the acquisition of transport aircraft, fixed-wing aircraft, a helicopter package and some electronic equipment for existing aircraft. However, it became clear that the acquisition of the military's top priority, that is, the transport aircraft, would slow down if the entire package were dealt with at one time. I could quote General Hillier, but I am sure that Senator Forrestall is familiar with all of this. Therefore, it was decided to proceed to replace the Hercules CC aircraft.

I misunderstood Senator Forrestall's last question yesterday. He asked me about the age of the JJ series and I answered with regard to the age of the CC series, which shows that he is much better at these identification numbers than I.

However, it is clear that, instead of proceeding with a series of equal priorities, which would be a slower process, the military desired to go ahead with the acquisition of transport equipment as the first priority, which is how we are proceeding.

Senator Forrestall: Honourable senators, it is of vital concern to Canadians that search and rescue have the tools it needs to do the job. We have replaced the Sea King helicopter with the EH-101, which has the endurance and power to a first-class job.

Incidentally, Canada has identified a problem in the tail rotary assembly of the EH-101. It is interesting to note that in other places around the world where EH-101s are being deployed they are still flying full missions with no restrictions. One wonders why there are restrictions here.

My question has to do with the urgency of search and rescue capability for this country. When can we expect a decision in that respect? A very important part of search and rescue is the capacity of fixed-wing aircraft to drop fuel and medical and other supplies where needed. Will we get it during the early stages of the campaign?

• (1410)

Senator Austin: Honourable senators, if it were up to me alone I would be delighted to announce the answer here and now. However, I am in a position simply to say that I will submit Senator Forrestall's representations to the Minister of National Defence and hope to have an answer before the election, which I expect will take place in April.

UNITED NATIONS

VOTING PATTERN ON MIDDLE EAST ISSUES

Hon. Marcel Prud'homme: My question is with respect to foreign affairs.

It is no secret to anyone that my great master was the Honourable Prime Minister Trudeau. He taught me how to be a proud Canadian and how to be consistent in our foreign policy. He used me for that purpose, and I was a willing volunteer.

On Thursday, September 25, 2003, I asked the Honourable Senator Austin a question. On Thursday, December 2, 2004, I again asked a similar question. Today, I shall ask the government leader a similar question.

Who are our friends; with whom do we usually vote at the United Nations? During our voting at the United Nations in November on multiple resolutions before the committee on action pertaining to Middle East, I realized that Canada has new allies. As I said twice before, to the embarrassment of many, Canada voted with the Federated States of Micronesia, Marshall Islands, Nauru, Palau, Tuvalu, United States, and Israel.

The United States of America is my friend and neighbour. Last Monday, when I introduced the ambassador of the United States to the Muslim community, he was applauded. I asked them to applaud him, and our friend and neighbour was applauded very widely.

That said, honourable senators, I am very concerned. All my life I have been taught, and I mentioned this in 2003 and in 2004, that in a situation such as I mentioned, it is supposed to remain an official secret. Under the Official Secrets Act, you are not supposed to say that.

In case there is doubt, you vote in good company. This time, good company abstained from voting. Everyone abstained. Canada is the only country that put its neck out with these great new allies of Marshall Islands, Nauru, Palau, Tuvalu and Micronesia.

Why were we voting in that manner on Monday at the United Nations? Are there any developments I am unaware of, so I can visit these new allies of Canada and ask them what is going on?

Hon. Jack Austin (Leader of the Government): Honourable senators, while I would not want to cast different categories of membership in the United Nations, according to its charter, all members of the United Nations are equal and are entitled to play an equal role in its affairs — although that is not always the case in practice.

Our vote with respect to the Middle East is based on an attempt to be constructive in dealing with Middle Eastern issues. We consistently try in our policy on these issues to reduce the number of resolutions, many of which we find redundant and outdated. We find they lack fairness and balance, so we try to encourage a more innovative approach to drafting these resolutions than has been the case in the past.

Canada seeks to have these resolutions based on a pragmatic and reality-driven formula, which allows the parties to enhance the possibility of their dialogue.

Senator Prud'homme: My supplementary question is with respect to finding out whether it is true that the real Minister of Foreign Affairs pertaining to the Middle East, who is vetting every word of every resolution, is not the Minister of Foreign Affairs, Mr. Pierre Pettigrew, but the honourable member from Mont Royal, who is responsible in cabinet for vetting every word, comma and paragraph of anything pertaining to the Middle East. If that is the case, it is disturbing to know that the Minister of Foreign Affairs has been eliminated.

As my successor, I can talk roughly to him. I have not shared this with him yet, but I will do so after stating it publicly.

I see an honourable senator getting nervous in the back. He can ask a supplementary question. Before he does, he should learn that one must be 30 years old to sit in the Senate, not 21.

Senator Austin: Honourable senators, it is no secret that resolutions in the United Nations with respect to the Palestine-Israel situation have been quite polemical and are designed for political positioning rather than based on the merits of issues. Unfortunately, that has been a long-standing history in the use of resolutions and their practice in the UN forums.

We follow a policy of offering both criticism and support to Palestinian and Israeli practices or their failures to live up to their obligations, and we are consistently strong in condemning acts of terrorism.

FOREIGN AFFAIRS

POLICY WITH RESPECT TO ISRAEL

Hon. Yoine Goldstein: Honourable senators, let me first correct a misapprehension. I did not suggest to the honourable senator on my extreme left that I did not know that our Constitution requires a senator to be at least 30 years of age.

What I said was that, since we are older than 21, we are certainly capable, it seems to me, of being able to withstand criticism.

That having been said, however, I should also point out that I assumed that Minister Pettigrew would be particularly disturbed and upset if he found out that the honourable senator to my extreme left considers that he, Minister Pettigrew, has nothing to do with the foreign policy for which he is responsible but that in fact foreign policy is dictated by the Minister of Justice. I dare say the Minister of Justice would not be of that view, nor would Honourable Minister Pettigrew.

Does the Government of Canada follow the statements of the Right Honourable Paul Martin who indicated on a number of occasions that Israel is Canada's friend and ally?

Senator Prud'homme: Oh, oh.

Senator Goldstein: The Prime Minister said "friend and ally." I did not interfere when Senator Prud'homme was asking his question; I would ask him to please not interfere with me.

As I was saying, does the Government of Canada follow the policy enunciated by the Honourable Prime Minister that Israel is a friend and ally of Canada? Does the Government of Canada accept the assertion by the Honourable Prime Minister that Canada and Israel share common values; democratic government, an independent legislative process, an independent judiciary, gender equality and a free press? That is what the Prime Minister said. Is that the policy that is followed by us in the United Nations and elsewhere?

• (1420)

Hon. Jack Austin (Leader of the Government): Honourable senators, what the Prime Minister has said about Canada's relationship with Israel or with the Palestinians is the policy of Canada.

THE ENVIRONMENT

NEWFOUNDLAND AND LABRADOR— REINSTATEMENT OF GANDER WEATHER OFFICE

Hon. Ethel Cochrane: Honourable senators, my question is for the Leader of the Government in the Senate. Two years ago the federal government moved regional forecasting in Newfoundland and Labrador to Halifax, Nova Scotia. Since then there have been many cases of dangerously inaccurate forecasting in my province. I have heard reports of problems with inadequate storm warning updates, and even simultaneously issued forecasts from Montreal and Halifax that were radically different.

Next week, a petition will be presented in Ottawa asking the federal government to reinstate weather forecasting at the Gander weather office. The petition contains the names of 125,000 people, who all share the concern that Newfoundland and Labrador has been poorly served by this decision.

My question for the Leader of the Government in the Senate is this: Will the federal government heed the wishes of the people of my province and fully restore the Gander weather office?

Hon. Jack Austin (Leader of the Government): Honourable senators, the question reminds me of representations that I receive from British Columbia coastal communities, in particular with respect to the weather forecasting that is done by satellite regarding Pacific weather movements and their impact.

Honourable senators, I can answer the question by saying that I will send Senator Cochrane's representation to the minister, but it is a subject on which perhaps we could ask the Standing Senate Committee on Energy, the Environment and Natural Resources to hear witnesses, to determine if weather forecasting has indeed deteriorated in its quality since the change in technology.

Senator Cochrane: Honourable senators may be aware that Newfoundland and Labrador has not had representation in cabinet for many weeks on this particular issue, due to the illness of the former Minister of Natural Resources, John Efford. The reinstatement of the Gander weather office is one of several important issues facing the province that have not been dealt with as a result. This issue has been going on for a while.

The people of the province now are particularly concerned, knowing full well that winter is coming upon us and the serious detriment weather forecasting could have, especially on our people who live close to the water, not just the fishermen but all these people. *The Globe and Mail* reported earlier this month that due to Mr. Efford's absence the Prime Minister said he would take an active role — and this is the Prime Minister — in advancing the province's concerns.

Could the leader then make inquiries and tell us what action the Prime Minister has taken over the last several weeks with respect to this Gander weather office?

Senator Austin: Honourable senators, the Prime Minister has said that he would represent in cabinet the interests of Newfoundland and Labrador. Again, I cannot tell you whether this particular issue that has now been brought to us by Senator Cochrane has been drawn directly to the Prime Minister's attention. I will draw it to his attention and ask him for his guidance.

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting a delayed answer to an oral question raised in the Senate on November 3 by Senator Forrestall, regarding the alleged bust of a Salafist Group for Call and Combat in Toronto.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

ALLEGED EXPOSURE OF TERRORIST CELL

(Response to question raised by Hon. J. Michael Forrestall on November 3, 2005)

On November 3, 2005, Stewart Bell, a reporter for the *National Post*, wrote an article quoting a senior CSIS counter terrorism official who told a closed-door national security workshop in Toronto during the week of October 31 to November 2, 2005 that CSIS had dismantled a suspected terrorist cell in 2004.

The article stated that the cell consisted of four Algerian refugee claimants who had lived in Canada for as long as six years and were alleged to be members of a radical Islamic terror faction called the Salafist Group for Call and Combat (GSPC), and that the leader of this cell had received explosives training at an al Qaeda training camp in eastern Afghanistan.

Mr. Bell wrote that the senior CSIS counter terrorism official told the closed-door "National Security Workshop 2005", a federal initiative that brings together security officials and representatives of Ontario industries involved in critical infrastructure, that three of the four individuals were deported during the summer of 2005, as they were inadmissible to Canada under the Immigration and Refugee Protection Act, and the fourth left voluntarily in March 2004, after being questioned by CSIS.

CSIS highlighted the case in its presentation as being a prime example of inter-agency cooperation. The presentation was unclassified.

The government has informed the public that there is currently no imminent threat to Canada or Canadians. Should such a threat emerge, the government will take appropriate action. It should be noted that the government added the GSPC to Canada's list of banned terrorist entities in November 2002. One of the consequences of being listed is that the GSPC's property can be the subject of seizure/restraint and/or forfeiture.

It should also be noted that for privacy reasons, we do not discuss specific cases.

As CSIS noted during its presentation, its investigation is ongoing. Consequently, it would be inappropriate to provide further information.

QUESTION OF PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, yesterday, Tuesday, November 22, Senator Spivak rose on a question of privilege to complain about the answer she had received to a series of written questions she had placed on the Order Paper. Under our rules and practices senators are entitled to ask written questions soliciting information from the government on any matter that comes within its jurisdiction or administrative authority. In this particular case, Senator Spivak had posed a number of questions regarding the boundaries of Gatineau Park, which is controlled and managed by the National Capital Commission. I will refer to it as the NCC.

[*Translation*]

According to Senator Spivak, the answers provided by the NCC through Canadian Heritage were contradictory. Her complaint is based on the fact that the responses that she received were different in material respects from those made to identical questions asked by a member of the other place. Senator Spivak explained that, in three specific instances, the information given to her about the boundaries of Gatineau Park was inconsistent with the answers provided elsewhere.

[*English*]

The failure to prepare complete answers that are accurate and consistent is, in the senator's view, a serious breach of privilege since it deprives parliamentarians of the information they need to do their job properly. To prove her point, Senator Spivak mentioned the work that she is doing on a draft bill relating to Gatineau Park for which solid data on its boundaries is important.

[*Translation*]

Following the senator's remarks, I indicated that I would seek to provide a ruling as soon as I was able on the question of privilege, to determine if a prima facie case had been established. I have considered the matter carefully and am prepared to make my ruling now.

[*English*]

Senate rule 43 outlines the criteria that I must use to determine a question of privilege prima facie. I am satisfied that the matter has been raised at the earliest opportunity, but I am less clear about the remaining criteria. It is not obvious to me how an inconsistent response provided by the NCC through Canadian Heritage constitutes a matter that directly concerns the privileges of the Senate, a committee or a senator.

While the senator has made a good case that the information received from the NCC is not consistent with the information it has provided elsewhere, I do not see how this, in itself, is a matter of privilege or contempt. As the senator herself stated in the opening of her intervention, parliamentarians often complain that answers from the government are slow or incomplete. None of these instances would normally give rise to a question of privilege.

In addition, no evidence was presented to suggest that these errors or inconsistencies were deliberate. I am also uncertain about whether it is the information that was provided to the senator or to the other parliamentarians that is inaccurate.

Honourable senators, may I have order while I go through this ruling?

Had a compelling case been made that the NCC had sought to mislead the senator deliberately, my ruling would have been different. As it happens, however, with respect to this case, other means are readily available to seek some clarification about the NCC information. For example, the matter could be taken up again by another written question, or perhaps by hearing officials from the NCC at a Senate committee. These alternative approaches would be in keeping with the traditional oversight function of the Senate and would be more suitable than having the matter considered as contempt.

[*Translation*]

Having reviewed the complaint based on the criteria stipulated in rule 43, I am unable to support the contention that a prima facie question of privilege has been established.

• (1430)

[*English*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

MOTION TO EXTEND WEDNESDAY SITTING AND AUTHORIZE COMMITTEES TO MEET DURING THE SITTING ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 22, 2005, moved:

> That, notwithstanding the Order of the Senate of November 2, 2004, when the Senate sits on Wednesday, November 23, 2005, it continue its proceedings beyond 4 p.m. and follow the normal adjournment procedure according to rule 6(1); and
>
> That committees of the Senate scheduled to meet on Wednesday, November 23, 2005, be authorized to sit even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Hon. Madeleine Plamondon: Must I grant permission on that?

The Hon. the Speaker: As a matter of information, this is a motion of which notice was given yesterday, and it is now before the Senate for debate and determination. Does the honourable senator wish to speak to that motion?

Senator Plamondon: There could be a vote?

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, it is debatable and then votable.

Senator Plamondon: The matter is debatable and then votable, but we cannot put the question immediately.

[*English*]

Senator Prud'homme: Honourable senators, you may have heard me explain that it was both votable and debatable.

I will be very blunt: I strongly object to the comments made by some senators last evening to the effect that I could manipulate Senator Plamondon and say no to certain permission being asked. I am not prepared for it but I am angry enough.

Senator Plamondon is not a person one can manipulate. There is only one person I have controlled all my life, and that is me: my vote, my decision. It would be unkind to put on record the names of those who came to me last evening and said that I was manipulating the honourable senator. I think it is my duty as an elder, as an older parliamentarian, to explain plainly what this is all about. I just did, and you overheard me: "No, no, it is debatable and votable. You cannot say no today."

I think it is the duty of each of us not to dictate, and never have I done that. When Senator Cools was sitting in front of me and, according to some, she was uncontrollable, I was constantly approached to speak to her. I would look at her and say "Anne," and some of the time she would listen. One day she put me in my place by saying, "Do not 'Anne' me today."

Senator Plamondon — and I say this in English out of anger, but I should say it only in French —

[*Translation*]

She has a reputation in Quebec of thinking for herself. She is not a woman one can order around. There will always be, in the coming days and months, people like Ms. Plamondon, Marcel Prud'homme and several others. In the difficult days, months and years to come for Quebec, you English speakers will not have to deal with this situation. We will need people who can think for themselves to talk to all the other French-Canadian Quebecers.

[*English*]

Not the West Island people. I know how to vote. I represent the majority of French Canadians.

I take strong objection. I hope the honourable senator rises to say that she has no orders to receive from Senator Prud'homme. I have shared my opinions with her as to the rules, to the best of my ability because I am still learning every day from the chair, the Clerk, and Mr. O'Brien. I do not think it is fair to ask someone else to do what I can do alone. If I wanted to say "no" yesterday, I would have said "no" to you, Senator Austin, and to you, Senator Rompkey. I can take my responsibility. I will not be blackmailed by comments such as: "If we do not do this, we will sit on Saturday." Well, that is fine. The only thing that makes me unhappy is not to be attending my sister at the moment, who needs me. Between my duty to the Senate and my duty as a brother, my duty to the Senate will take over.

I resent this with a passion, so do not do it ever again or you may never again hear me speak English in this institution. I may sit differently as an independent, and you may not be happy. I am fed up with these stupid rumours of manipulation. Maybe some of you are experts in manipulating people, but you will not manipulate me and you will not manipulate Senator Plamondon. She is a big girl. She knows what she wants to do.

On the motion, I totally oppose it. I totally oppose that the Senate sit while committees are sitting. Why? There are important pieces of legislation scheduled to be discussed here this afternoon and my duty is to be at the Foreign Affairs Committee. What do I do? While I am at the Foreign Affairs Committee, perhaps someone will pass a bill I do not agree with.

I have always said that our duty is to the Senate first. I am sorry that some people do not know how to arrange the affairs of the Senate. The Senate is not the House of Commons. The Senate is the Senate, regardless of the events in the House of Commons.

Therefore I will ask for a vote on this issue. It takes only two senators to ask for a vote. It is debatable. I have debated it. I will say why I object. We came to terms with each other that, on Wednesdays, in order for committees to sit, we would adjourn at 4:00 p.m. That was the best, most intelligent and civilized way to deal with the Senate.

Now we want to bypass that agreement because there is some event coming next Monday or Friday night. I object to that. The motion is debatable. I have just debated it. If no one else debates it, His Honour will put the question and I will rise. One other senator might stand; perhaps it will be Senator Plamondon. It takes only two senators to stand and ask for a registered vote. I will ask for a registered vote and, as a democrat, I will bow to the wishes of the majority.

[*Translation*]

Hon. Jean Lapointe: Honourable senators, the question I asked Senator Prud'homme was why he did not vote against the motion.

[*English*]

The Hon. the Speaker: Would the honorable senator take a question?

[*Translation*]

Senator Lapointe: I was quite simply asking for some information and I got my answer: it is debatable and then votable. So, first, it can be debated. Then, I would like the Honourable Senator Prud'homme to share his views with us. I believe that, to some extent, he is absolutely correct.

Senator Plamondon: Honourable senators, I sit on only one committee, the one on banking. This is the committee that interests me, and I never miss a meeting.

I also have a perfect attendance record in the Senate chamber. I would not want to be absent from either place. I am opposed to any arrangement that would keep me from either the Standing Senate Committee on Banking, Trade and Commerce or the Senate.

By the way, there are a few things I want to say about attendance in the Senate. When we are sworn in as senators, we are told that our first duty is to the Senate.

• (1440)

I would not want to be whip, not for all the money in the world, because of absenteeism. Today, due to the circumstances, there are fewer senators absent but, all too often, we can see the whip looking worried, looking for his or her senators. We should all make it our duty to be present in the Senate chamber. Committees should never sit at the same time as the Senate. Whether during statements by senators, notices of motions or speeches, I always learn something new by listening carefully to each person who rises.

I do not think that this sort of item should even be put on the order, because it forces us to make a choice that is inconsistent with the oath we have taken.

Senator Prud'homme: Am I being manipulating the honourable, senator?

Senator Plamondon: Those who know me know that I get down on my knees before no one but God and that my mother always had the words "It is better to die standing than to live on your knees" posted above the phone.

[*English*]

The Hon. the Speaker: Since no other senator is rising, I will ask if honourable senators are ready for the question.

Hon. Senators: Question!

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay".

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: With two senators rising, we will call in the senators. Is there agreement on the bell? It will be a fifteen minute bell, senators, so the vote will be held at five to three.

• (1455)

Motion carried on the following division:

YEAS
THE HONOURABLE SENATORS

Atkins	Joyal
Austin	Kenny
Bacon	Keon
Baker	Kinsella
Banks	Lavigne
Bryden	LeBreton
Callbeck	Losier-Cool
Campbell	Lovelace Nicholas
Carstairs	Maheu
Chaput	Mahovlich
Christensen	Massicotte
Cochrane	McCoy
Comeau	Meighen
Cook	Mercer
Corbin	Milne
Cordy	Mitchell
Cowan	Moore
Day	Munson
De Bané	Nolin

Di Nino
Dyck
Eggleton
Eyton
Fairbairn
Forrestall
Fraser
Furey
Gill
Grafstein
Harb
Hubley
Pépin
Peterson
Phalen
Poulin
Poy
Ringuette
Robichaud
Rompkey
Stollery
Stratton
Tkachuk
Zimmer—62

NAYS
THE HONOURABLE SENATORS

Plamondon
Prud'homme
St. Germain—3

ABSTENTIONS
THE HONOURABLE SENATORS

Andreychuk
Angus
Champagne
Lapointe
Trenholme Counsell—5

• (1500)

FOOD AND DRUGS ACT

BILL TO AMEND—THIRD READING

Hon. Terry M. Mercer moved third reading of Bill C-28, to amend the Food and Drugs Act.

The Hon. the Speaker: Honourable senators, are you ready for the question?

Hon. Senators: Question!

Motion agreed to and bill read third time and passed.

WAGE EARNER PROTECTION PROGRAM BILL

SECOND READING

Hon. Bill Rompkey (Deputy Leader of the Government) moved second reading of Bill C-55, to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts.

He said: Honourable senators, I rise to speak to Bill C-55, to establish the Wage Earner Protection Program Act, to amend both the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act, and to make consequential amendments to other acts.

[*Translation*]

The bill proposes an ambitious, comprehensive and balanced reform of the insolvency system in Canada. It will have a significant impact and positive effects on both the economy and individuals. We believe that this bill enjoys relatively widespread support, and I urge all honourable senators to support it so as to ensure it speedy passage.

[*English*]

The bill is the product of significant consultation with stakeholders, and many of its provisions were drawn from the report prepared by my honourable colleagues in this chamber entitled *Debtors and Creditors: Sharing the Burden*, a review of the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act, released in November 2003.

Since the introduction of the bill, stakeholders from a broad spectrum of interests have studied its implications. The reaction has been positive. Of course there have been suggestions for further improvements. I think there will be a number of senators who will say that this is not a perfect bill. However, it is clear that the bill has considerable support and will impact positively the thousands of Canadians who rely on the insolvency system to protect their interests in situations of financial distress.

I should like to highlight a few of the reforms proposed in Bill C-55. Most significantly, the bill proposes changes to ensure that workers are better protected in the case of insolvency of their employer. It proposes the creation of the wage earner protection program, an unlimited super-priority for unpaid wages that will combine to protect workers without creating undue risks for creditors or enticing strategic behaviour that would have been unfair to taxpayers. The wage earner protection program will be a safety net, paying up to $3,000 of lost wages owed to workers whose employer goes bankrupt or is put into receivership. This type of program is not radical or new. Many countries already have a similar program to protect their workers, countries such as the United Kingdom and Australia, and it is time now for Canada to have one, too.

The government expects to recover up to half of the money paid out by the program by acting as a creditor to the employer. The government will assume workers' claims against their employers' estate, including their right to use the new, limited super-priority for unpaid wages. As suggested in the Senate report, this limited super-priority is capped at $3,000 and will only apply to current assets in order to mitigate potential impact on credit.

The proposed reforms will result in better protection to pensions, an issue of critical importance to many Canadians. In a bankruptcy, a receivership, a proposal or a CCAA filing, regular contributions that an employer should have made or that were deducted from an employees' paycheque will be required to be paid into the pension plan for the benefit of workers before most other creditors are paid.

The status of collective agreements during a corporate restructuring is also of great importance to workers. This reform will allow employers and unions to renegotiate collective agreements under the relevant labour legislation, but the changes are explicit. If there is no agreement between the employer and the union, the existing collective agreement remains in force. A court may not unilaterally change a collective agreement.

In addition to better protecting workers, this bill also represents a substantial overhaul of our insolvency laws. One of the key objectives of this bill is to foster the use of reorganization as an alternative to bankruptcy. Debt reorganization in most cases is a better alternative than a bankruptcy. It helps debtors avoid the stigma of bankruptcy, provides better return for creditors, and, in the case of businesses, it protects jobs.

To meet this objective, the CCAA will be substantially rewritten. The reforms will ensure greater transparency in the process, allow parties to better defend their interests, codify rules for important restructuring elements such as interim financing, the termination of assignment of contracts, the sale of assets outside the ordinary course of business, governments' arrangement of the debtor company, including the ability to remove directors, and the application of regulatory measures. The bill will provide guidance and certainty, while preserving the flexibility that has made the CCAA such a successful restructuring vehicle. Most restructuring of large insolvent companies is carried out under the Companies' Creditors Arrangement Act. Bill C-55 is a major step forward in ensuring that the CCAA reflects the needs of the marketplace and provides the necessary degree of predictability to all parties involved. It is useful to note that the CCAA has not been brought up to date since 1930.

• (1510)

Businesses and individuals can also restructure their debts by making a proposal under the Bankruptcy and Insolvency Act. A number of changes included in Bill C-55 will make the proposal process more effective and attractive to debtors. On the corporate side, many improvements made to the CCAA are replicated in the BIA to ensure consistency. For individuals, the changes are designed to make it easier to use consumer proposals as an effective means to regain financial stability.

Honourable senators, Bill C-55 will also better protect individual Canadians who face bankruptcy. For example, the bill will exempt RRSPs from seizure in a bankruptcy, subject to certain conditions. Until now, this protection has not been offered to RRSPs under the Bankruptcy and Insolvency Act. Protection for RRSPs varies based on provincial rules, resulting in unequal protection across the country. Bill C-55 will correct this disparity.

Student loan debt will be eligible for discharge after seven years and, in the cases of undue hardship, the bankrupt may apply to the court to obtain the discharge after five years. The bill also prohibits the use of ipso facto clauses in contracts whereby a debtor faces automatic termination of an existing contract for the sole reason that he or she is bankrupt.

At the same time, Bill C-55 contains a number of provisions that will prevent potential abuse of the insolvency system. New rules will make it more difficult to use bankruptcy as a means to avoid paying debts. Honest but unfortunate bankrupts will receive their discharge, but those who attempt to abuse the system will not.

On a technical note relating to the treatment of deemed trusts for taxes, the bill makes no changes to the underlying policy intent, despite the fact that in the case of a restructuring under the CCAA, sections of the act were repealed and substituted with renumbered versions due to the extensive reworking of the CCAA.

Honourable senators, Bill C-55 will greatly improve the administration of Canada's insolvency system through a number of changes affecting the role and duties of trustees, receivers and monitors. The role of the Office of the Superintendent of Bankruptcy Canada will also be clarified and will include maintenance of a central registry of CCAA cases. Bill C-55 will make certain that Canada's insolvency laws help to create an environment where there are safety nets for individuals in financial difficulty, where all parties are treated fairly and where workers are protected.

These rules will ensure that Canada remains an attractive place for investors and promotes entrepreneurship and innovation. I am confident that the measures proposed in this bill will have broad support among Canadians, and I urge all honourable senators to support this important legislation and its swift adoption.

Hon. Michael A. Meighen: Honourable senators, I am pleased to join the debate at second reading of Bill C-55. I thank Senator Rompkey for his remarks.

Honourable senators, the bill is almost 150 pages in length. Reduced to the bare essentials, the bill makes several changes to the laws governing bankruptcy and insolvency. It creates the wage earner protection program to ensure that employees of bankrupt entities receive their unpaid wages in a timely manner. It reduces to seven years from 10 years the period during which a student debt may not be discharged through bankruptcy.

Furthermore, the legislation ensures that locked-in RRSPs will no longer be part of the assets that can be taken in a bankruptcy and that providers of services such as utilities and car leases will no longer be able to discontinue those services.

Bill C-55 also begins the process of addressing a number of other critical issues. Among them are facilitating the restructuring of financially troubled companies, better protecting unpaid wages in insolvency situations, making the system fairer and preventing abuse, and improving administration.

It has been clear to all of us for some time that both the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act require significant amendment. In this context, I note that Bill C-55 was preceded by no less than three significant studies.

[*Translation*]

First, the amendments made in 1997 to the Bankruptcy and Insolvency Act allowed for a review by a parliamentary committee five years after the revised statute came into force. The Standing Senate Committee on Banking, Trade and Commerce concluded this in-depth review in November 2003 and formulated 53 recommendations in its report entitled *Debtors and Creditors: Sharing the Burden*.

[*English*]

Second, consumer insolvency issues were examined by the Personal Insolvency Task Force established in 2000 by the Office of the Superintendent of Bankruptcy with membership from the principal stakeholder groups. This panel reported in August 2002.

Third, Industry Canada published its report on the operation and administration of the Bankruptcy and Insolvency Act and the Companies Creditors Arrangement Act in September 2002. Canada's main law governing bankruptcy is the Bankruptcy and Insolvency Act, which sets out rules to govern business and consumer bankruptcy and rules for proposals made to creditors by an insolvent firm or individual. As honourable senators are well aware, larger firms have the option of reorganizing under the Companies' Creditors Arrangement Act. Unhappily, though, numerous companies' individuals find themselves declaring bankruptcy every week in this country, with approximately 11,000 businesses and 100,000 individuals making use of the BIA on an annual basis.

I am pleased to note that the bill at least includes some of the recommendations of the Standing Senate Committee on Banking, Trade and Commerce such as the inclusion of income trusts and the ipso facto provision and protection for RRSPs. In the case of the definition of a "consumer bankruptcy," it raised the ceiling on bankruptcies to $250,000 of net debt from $75,000, going beyond the Senate recommendation to raise this to only $100,000.

Honourable senators, numerous other parts of our committee report were either watered down or ignored. The committee called for a student loan to be eligible for discharge after five years, or sooner in case of undue hardship. This bill provides for a minimum of seven years for discharge, or five years in the case of undue hardship.

The committee called for Registered Education Savings Plans to be exempt from the list of assets that may be taken in a bankruptcy. Bill C-55 deals only with RRSPs.

The government has not acted on the Senate Banking Committee recommendation to prohibit reaffirmation agreements. In such cases a bankrupt who continues to make payments on a debt through error or inadvertence becomes responsible for the entire debt, in spite of bankruptcy.

Also missing from the bill is a recommendation to establish a list of federal exemptions outlining the assets that a bankrupt may keep in a bankruptcy. Under the Banking Committee's proposal, the bankrupt would have decided whether to apply the federal or the provincial exemption to his or her bankruptcy. Currently, the list of exemptions differs dramatically by province.

The government ignored as well the Banking Committee's recommendation prohibiting the use of non-purchase money security interests in personal exempt property. These concerned personal effects such as clothing and furniture taken as security for a loan.

Clearly, honourable senators, there is substantial room for improvement, either immediately or during our consideration of the bill, or for future changes to the underlying legislation.

[*Translation*]

This enactment proposes the creation of distinct legislation, the Wage Earner Program Protection Act, on wages owed by an employer who is bankrupt or subject to receivership. Wage earners will receive up to $3,000 from the government, which will then act on behalf of the wage earners in order to recover the wages owed by the employer.

• (1520)

[*English*]

The purpose of this program is to provide employees with a more timely and certain outcome than at present. Currently, three years may elapse before unpaid wages are collected. Since wages now rank behind other debts, an average of only 13 cents on the dollar is now recoverable. Bill C-55 also provides unpaid wages and vacation pay of up to $2,000, with priority above secured creditors of current assets such as cash, inventories and accounts receivable. Currently, wages due to employees rank behind secured creditors.

When it comes to labour contracts, a debtor company can ask a court to order the collective agreement be opened for renegotiation if this renegotiation would facilitate a restructuring.

Turning now to consumer issues, individuals with more than $200,000 in personal income tax debts, representing more than 75 per cent of their unsecured liabilities, will not be eligible for an automatic discharge from bankruptcy. This is meant to prevent high income earners from using bankruptcy to clear tax debts. Locked-in registered retirement savings plans will be exempt from seizure, as I noted earlier.

[*Translation*]

First-time bankrupts will be required to pay prescribed amounts of their surplus income for a period of nine months following the bankruptcy and perhaps even an additional year. Second-time bankrupts will have to make payments for a period of two years and perhaps even three. Trustees will no longer be able to recommend that the bankrupt pay an amount lower than that determined by the Superintendent of Bankruptcy, by directive. For a family of four in 2005, surplus income is defined as 50 per cent over and above a monthly limit of $3,223.

[*English*]

A discharge, honourable senators, releases the bankrupt from any further obligation to creditors. Currently, first-time bankrupts may apply for automatic discharge after nine months, but others must seek a discharge through the courts and must even appear when there is no opposition to the discharge. This can lead to considerable delay in areas where the courts are backlogged. Bill C-55 will allow second-time bankrupts to be eligible for an automatic discharge 24 months after bankruptcy, provided they complete mandatory counselling and have made payments from their surplus income to creditors.

Finally, many contracts contain an ipso facto clause that allows one party to end the contract if the other party enters into insolvency proceedings. Bill C-55 extends the rules that currently limit the use of ipso facto clauses in cases of consumer proposals to include consumer bankruptcies. This means providers of services such as gas, telephone, electricity and car leases will not be able to cut services after bankruptcy.

Those are things I think that all honourable senators would applaud. However, in conclusion, let me turn briefly to what is perhaps the troubling aspect of this legislation. Simply put, honourable senators, once again the government has dropped the legislative ball and has put this chamber in a lose-lose situation. We lose as senators if Canada's wage earners do not receive, without further delay, the protection they deserve and which is provided for in this bill. We lose again if we simply close our eyes, hold our nose and pass this legislation without serious examination.

Frankly, I have serious reservations, as I know many senators have, about unceremoniously rushing any bill — let alone such a complex and voluminous one as this — through the parliamentary process. Its complexity deserves a meticulous review. Having said that, I think the portion dealing with the protection of wage earners is fully supportable, even if a couple of amendments might be appropriate.

This aspect of the bill is one that ought to be given the highest priority. To that end, I believe this bill should have been split into two parts — or should be split into two parts — so that the wage earner protection program could be passed without delay, and the complex, voluminous, detailed remainder could be studied thoroughly and conscientiously.

Although there are some deficiencies in the wage earner protection program, its passage is a priority for Canada's workforce. One cannot help but wonder why such an important and intricate piece of legislation was not made a priority and introduced earlier in this session. Indeed, the rush was such that even committee hearings in the other place were cut short.

Full and thorough committee hearings are a must, honourable senators, if we are to take our work in this place seriously — and more importantly, if others are to take our work seriously. Legislation such as this deserves thoughtful consideration and not a rubber stamp.

Let me refer to the views of The Insolvency Institute of Canada, a group of 125 leading insolvency professionals from across the country that have no particular axe to grind, other than to get much-needed reforms to existing insolvency legislation.

> The IIC supports the move to better protect wage earners, believes that the proposed legislation is flawed in this and other areas and that, without amendments, the legislation will not achieve its intended objectives, and, indeed, could even be detrimental to businesses in general.

Also according to the IIC,

> This legislation is poorly drafted, reflecting perhaps the haste with which it came about, and could make it more difficult for small and medium businesses to borrow money and, in the view of unbiased experts, will lead to higher costs of capital.

Other organizations have expressed serious reservations in correspondence that many honourable senators may have received. They include the Canadian Bankers Association, which was not even heard in the other place, the Canadian Association of Insurance Premium Finance Companies and the Canadian Life and Health Insurance Association. The Canadian Bankers Association goes so far as to say:

> There are numerous flaws in this bill and a number of provisions which will have a major negative impact on the economy of our country.

Even though the CBA is supportive, as am I, of the wage earner protection program, the association believes that the remainder of the bill could seriously harm Canada's economy.

As honourable senators can see, passing this bill without thorough study would be irresponsible. Not only is it far from a perfect bill, as mentioned by my colleague, Senator Rompkey, but many respected commentators feel that it represents a giant step backward, with the result that Canada will no longer meet global standards.

This crucial piece of legislation was passed in the other place without listening to Canadians. Someone needs to give Bill C-55 some sober second thought. Who better than us, honourable senators?

Hon. David Tkachuk: Honourable senators, I, too, wish to say a few words about Bill C-55. I was the Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce when we did a review of the bankruptcy laws. I think I was the only
non-lawyer in the bunch. We will miss the chairman of that committee, Senator Richard Kroft, who did such an admirable job in leading us in the study of the bankruptcy laws. I think he left the Senate too early; he should have been here for this debate.

The laws governing bankruptcy are a key part of Canada's business framework legislation. Prior to agreeing to any changes to these laws, both Houses of Parliament owe it to both the business community and consumers to exercise due diligence as we carry out our work.

The government tells us that proposed amendments in Bill C-55 have four main objectives: to facilitate the restructuring of viable but financially troubled companies; to better protect unpaid wages in insolvency situations; to make the system fairer and prevent abuse; and to improve administration.

This bill has been rushed to us out of political concern for one of these objectives, that of better protecting unpaid wages. It has been rushed to us in spite of a host of other concerns that we have in several other parts of bill, and we have been asked to rubber-stamp it and to rush it through committee. The Senate was not created as a rubber stamp. I hope we will not act in that fashion, but that we will find a way out of this situation and give the bill the study it deserves.

I would like to bring the Senate's attention to a letter that I received from the Canadian Life and Health Insurance Association, one of many letters that we have received on this bill.

Essentially, Bill C-55 will reduce creditor protection for millions of current and future holders of registered retirement savings plans and registered retirement income funds issued by life insurance companies.

• (1530)

Mr. Gregory Traversy, president of the association, wrote the following to me, and I believe to other senators on the committee, on November 16:

> Saskatchewan is unique among Canadian provinces in providing creditor protection for RRSPs and RRIFs issued by all financial institutions.
>
> Regrettably, section 57 of Bill C-55, together with the proposed regulations which would set out the pre-conditions for the creditor protection in bankruptcy to apply, would eliminate Saskatchewan's current provincial credit protection for all RRSPs and RRIFs.
>
> These protections would be replaced with a much reduced protection.
>
> Furthermore, the proposed new scheme would retroactively reduce creditor protection for RRSPs and RRIF contracts that have been in place for years.

As a Saskatchewan senator, I find this a bit alarming. It is certainly not part of the spin on this bill, but it deserves to be explored further. It may not be only a Saskatchewan problem. This could be the case elsewhere in Canada where the proposed new law would eliminate long-standing creditor protection for life insurance, RSPs and RRIFs. The association makes a valid point calling for an amendment to fix this problem.

The insurance industry is not alone in arguing for the bill to be improved. In a brief to the Industry Committee of the other place, the Canadian Bar Association identified several areas in which the bill could be improved and then concluded by drawing to the committee's attention several things that were outlined in the report of our Standing Senate Committee on Banking, Trade and Commerce that did not make it to the final bill. They said that the Canadian Bar Association:

> ...recommends adoption of the Senate Committee recommendations relating to reaffirmation agreements, non-purchase money security interests in exempt property, recognition of cross-border personal insolvency discharges, and family law recommendations relating to addressing technical deficiencies in the 1997 support amendments to the BIA, exempting assets, preventing the bankruptcy trustee from intervening in matrimonial litigation, and creating a bankruptcy remedy against the fraudulent or malicious dissipation or concealment of property to defeat family property claims.
>
> With these suggested modifications, the CBA Section believes the BIA and the CCAA will better reflect the intention behind the various provisions, ensure that they are effective, and will reduce any unintended consequences negatively affecting the rights of debtors and creditors.

We need to hear from the Canadian Bar Association, and we should have the opportunity to amend this bill to reflect their testimony if we believe that their position is more valid than that of the government. This is just one of many groups that have found problems with this bill.

The International Swaps and Derivatives Association has identified what they say is a technical flaw in the bill that needs to be amended as well. Although perhaps through an oversight, Canada's bankruptcy laws will no longer protect termination and netting.

I received a detailed email from the Canadian Bankers Association outlining what would happen if this bill passed. It says in part:

> It is politically attractive, of course, to be able to say that workers have been given a priority status to the extent of $2,000 per employee. But we urge you to achieve worker protection without adversely impacting the credit availability in the economy, i.e., use a Workers Protection Fund and not rely on super priorities.
>
> Just how much liquidity could be expected to be taken out of the system if the super priorities were passed?
>
> The amount of $15 to $20 million is being cited when discussing Bill C-55. But, that's just the amount that the government itself might have to pay.
>
> The fact is that the reduction in credit availability would be exponentially higher.

The bankers go on to a detailed set of calculations to show how the credit available to a single large employee could be reduced by as much as $1 billion.

Another group with concerns is the RESP Dealers Association of Canada. They sent a letter to the minister last month, which states:

> With the parent as the subscriber, the opportunity to seize RESP proceeds during bankruptcy proceedings threatens the viability of parents making these important investments in the first place. RESPs have played a critical role for families wishing to establish a financial base for their children's higher learning. The plans have been shown to increase the probability of a child going on to post-secondary education.

Honourable senators, the Insolvency Institute of Canada and the Canadian Association of Insurance Premium Finance Companies have also found fault with the bill. It seems strange

that almost the entire business sector that this bill is supposed to serve has serious concerns about it. Yet, here we sit, five days before an election call, asked to hold our noses and vote for an entire bill so the one part, the wage earner protection program, can be made law.

A better solution would be, as Senator Meighen has said, to split the bill into two parts as we have done in the past with other complex or controversial bills. Bill C-37A could create the wage earner protection fund, while Bill C-37B could form the basis of a new bill that could be reintroduced with improvements by a new government after the election.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I, too, wish to participate in the debate on this bill at second reading. I trust all honourable senators have read all 147 pages of the bill. From my first read of the bill, I believe there is a lot of credence in the suggestion of the Honourable Senator Meighen that this bill could very nicely be split. The first 13 pages deal with the matter that I think is urgent and should be moved on right away, that is, the wage earner protection program act. There are a couple of consequential elements in the back of the bill that would be attached to that as well.

I am distressed about the context in which we have this bill and the pressure on this chamber to deal with it as expeditiously as possible. There are three other bills in the same category, and we have those bills in committee.

Honourable senators, yesterday the government made the decision to stand this bill. They stood the bill. We have lost one whole day. That day is very important, and I will explain why. I think that the suggestion I have made is logical if this house is to fulfil its duty as a house of review. I think we can deal with the analysis of the first 13 pages, but I do not think that even all the collective wisdom in this place would be able to give the other 134 pages the serious study they deserve. If we attempt to proceed with such a study, rather than being a house of review we would become somewhat fraudulent.

I wish to underscore my support for the wage earner protection program section of the bill. My proposal to the government representatives on the other side is that we will support the bill in principle to get it to committee if the government gives us an indication that it will support or indeed introduce a motion, after we send the bill to committee, to send an instruction to the Banking Committee — as I believe it has been agreed that this is the committee to which the bill will be referred — to divide the bill along the lines indicated by myself, Senator Meighen and Senator Tkachuk.

I happen to know that many members of the Banking Committee, from all sides of the house, are of like mind. However, we are caught in a political and contextual box. In the public interest, it is important that we sometimes expedite legislation. However, we also have an obligation to look hard to determine if there is a way in which we can expedite legislation without undermining the whole banking system or the responsibility of this chamber to do a review of the legislation. I think there is a solution in what I am suggesting.

• (1540)

I will not take up any more time to argue why I believe the wage earner protection program part of the act is so important. I will simply underscore that the bankruptcy and insolvency part of the bill is beyond my grasp after one day of reading. No doubt, it is well within the capacity of all other honourable senators. The Senate Banking Committee has already given us the signal that this bill might not have it all right, or at least that part of the bill. I think there is a lot of merit in the idea. I would appreciate an indication from the government as to whether it would support sending this bill to committee with an instruction that the bill be divided so that it could be reported back here very quickly and sent to the House of Commons. In this way, they might be able to adopt that amendment prior to three o'clock Monday afternoon.

Senator Rompkey: Honourable senators, as much as I think there is a lot of merit at first blush in the recommendation that has been made, I do not think we have the time to do what is being asked. We did explore that possibility. As a matter of fact, that was one of the reasons we took the day, to explore that possibility. Given the rules in the House of Commons and the time available to us, and given the way the bill is structured so that one section depends on the other to do what is necessary to provide wage protection to workers, I do not think that the proposed solution is possible within the time frame that we have in front of us.

There is agreement on both sides that work needs to be done to improve the bill. I am not disputing that fact. There are very knowledgeable people on our side who have ideas that they want to put forward, including the Chairman of the Banking Committee and other members of that committee. I do not think there is a disagreement among members of the Banking Committee on either side of this house. They know more about this subject matter than I do. They have studied it and know what needs to be done. As a chamber, we must find a way to let them do that within our rules and the rules of the House of Commons. I suggest that we let the bill go to that committee because I think other things can be done to ensure that, sooner rather than later, what is at fault here is corrected. There are ways to do that. I would suggest that this committee is the best place to explore those options. I wish I could accede to the request of Senator Kinsella, but as I tried to explain, I do not think it is an option that we have the luxury of following right now.

Hon. Terry Stratton (Deputy Leader of the Opposition): When the Deputy Leader of the Government said other things could be done, I am curious. What other things could be done? I think the chamber should be given an idea of what those other things are.

Senator Rompkey: As I said, I am not as conversant with this bill as are other senators. I do not think I want to or can get into the alternatives at the moment, but I think there are alternatives. I know there have been discussions across the chamber with those people who are on the committee and are knowledgeable about the contents of this bill. I believe if we leave it to them, they can come up with a way to do this. We would be prepared to support whatever is reasonable. Whatever can be done, we would be prepared to support. I do not want to suggest things specifically. Given my own inexperience, I would yield to the superior knowledge of those senators who are members of the committee.

Hon. W. David Angus: Honourable senators, I rise in the same spirit as my colleagues, Senators Kinsella, Tkachuk and Meighen, to join this debate on second reading of Bill C-55. It is curious, to say the least, that there are no senators from the government side, other than the deputy leader, to extol the merits of this bill.

It has been made adequately clear by Senators Meighen and Tkachuk and the members of our party here and throughout the other place that we support and continue to support the wage earner protection provisions of Bill C-55, which are a very small part of that bill. I believe they are severable but maybe not in three days. The problem is that this particular provision, in a nutshell, means that there will be increased security given to wage earners in the case of a bankruptcy. They will be ranking up high with the governments and bank security holders. As anyone who knows bankruptcy law will confirm, this hierarchy, if you will, of security holders, is listed and would enhance the position of the wage earner. We are very much in support of it.

The problem is that we are faced with framework legislation. From May 1, 2003 until late November of that year, the Banking Committee reviewed at great length the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act and all the related statutes and regulations that make up our insolvency legislation in this country. This matter was referred to the Banking Committee, following long studies by stakeholders, because Canada's insolvency legislation was so vastly out of date.

The committee had the benefit of learned counsel and a host of witnesses. I cannot remember the exact number. The committee report was tabled in this house in November 2003. The recommendations from the Banking Committee and other input that was deemed appropriate by the government led to the drafting of Bill C-55. It was just starting its passage through this Parliament. It was before the committee of the other place when it became evident to committee members — and I am reliably informed — that there were many glitches or inaccuracies, drafting errors and problems with the bill that were to be dealt with by the government. Representatives of the Department of Industry were to make the appropriate amendments at that committee and that was the place to do it. Now, this bad legislation is being foisted upon us by the other place and we are asked to deal with it quickly.

I have a problem with the low regard afforded to senators and to this institution by many Canadians. The reasons are many and varied and probably mostly wrong. They do not all arise from the fact that we are appointed rather than elected, or in some peoples' minds "unaccountable" in their definition of the word "accountable." Our image, rightly or wrongly, is poor. It is not what we would like it to be even in an imperfect world. As we know, perception usually elevates to reality sooner or later. The way we act in certain cases, usually just before dissolution of Parliament, frequently comes in for criticism because of our obvious failure to do our constitutional duty, namely, to study, review and give sober second thought to legislation sent to us by the House of Commons. This is a classic case, honourable senators, where sober second thought and review is needed.

• (1550)

As the Deputy Chairman of the Banking Committee, I can tell honourable senators that we had this matter on our agenda for February of next year. I do not want to misrepresent the number, but I think we had some 70 witnesses lined up to testify, including experts, and we were planning a thorough review. When we heard there were flaws and glitches, we were hopeful the bill would come to us already amended in a substantial way, which would obviate some of the need for study.

Honourable senators, I have often pointed out the problem of the Senate rushing bills through and not doing our constitutional duty, which is why our image takes a big hit at times like this. The last time was in May of last year and, in this year, Bill C-15 was whipped through without amendments being allowed to be made at committee after several weeks of study and many witnesses. The bill was whipped through and we could not even make amendments. It turns out there is a vast body of opinion that this bill was bad law and maybe even unconstitutional, and it is already being challenged in the courts. The ink is hardly dry on the bill. This gives us collectively a very high hill to climb if we want to clean up our act.

When I came to the Senate in June of 1993, I think the image of senators was at an all-time low. It was following the GST debate. My relatives said, "How can you possibly go to that place?" I can remember long discussions here, and we set up a committee to deal with how to improve our image, what kind of PR program we should bring forward, and what kind of education we needed for ourselves. Then we fall back into the same old ways, which makes no sense.

Honourable senators, this bill is not our fault. It is not a matter of party. This bill came to us from the other place. The House of Commons interrupted their work and sent it to us in a terrible shape. It behoves us to hold them to account and not accede to their request.

I did sit on the committee through all the hearings in 2003. I am a lawyer and I do know something about bankruptcy. It is certainly not my field of expertise, but it is that of our learned colleague Senator Goldstein, who was the counsel to the Senate Banking Committee for those hearings. It does not show respect to our new colleague to put him in the position where he would have to put his moniker on something like this.

Starting about five o'clock yesterday afternoon, I and Senator Meighen and others in this place started to receive phone calls, letters, emails and messages. I know that Senator Grafstein, the chairman of the committee, did as well. I have never had anything like this happen as long as I have been a senator.

There are technical problems and drafting problems with the bill. There are things that could be fixed easily but which have grave consequences. We are trying to find a solution. On our side, we would like to split the bill. We do not know the technical reasons, but we take it on good faith that the other side has tried and cannot do it. Another thing that could be done, and which has been referred to, would be to simply bite the bullet and defer this bill. It is wrong for us proceed.

My colleagues have referred to a number of specific problems with the bill. We all know that if amendments are introduced in the Banking Committee and come back to this place, we will be faced with the same problem again of having to split the bill. There is no point kidding ourselves that we can study the bill in the Banking Committee and fix it because we will be faced with the same problem. Senator Grafstein said that we have a crisis of conscience because we take our job seriously. We think, rightly or wrongly, that the Banking Committee has great credibility in the financial services sector and the business community, and it would be a laughingstock if it put a rubber stamp on this bill.

Honourable senators have all heard that this bill deals with a very complicated part of the financial services business — the structured products industry, derivatives, swaps and all of the products that are involved with hedging. Canada is a big player in this global industry. I will read something wherein I am told that if the bill passes, it will destroy completely the derivatives and swaps and the structured products industry in Canada. It would be a terrible black eye for Canada. An expert wrote to me and stated that it is very important that bankruptcy legislation include exemptions from statutory and court-ordered stays on the acceleration or termination of contracts and the protection of netting rights if entities from that jurisdiction are to participate in the securities lending, repo and derivatives markets. This is a requirement of the BIS standards, which is the Bank for International Settlements, in Basel, implemented in every country. Canada does have those termination and netting protections in all of its insolvency legislation. That is the legislation presently on the books.

He went on to say that Bill C-55 has a glitch because certain amendments have been made to the CCAA within the terms of Bill C-55 without thinking about the termination and netting exemption for these contracts. In a nutshell, the CCAA currently has an exemption for eligible financial contracts from the general stay power of a judge in a CCAA proceeding.

This is what keeps Judge Farley in business, and Senator Smith knows very well what goes on up there.

This is currently the only stay power a judge has under the act. The new stay powers are in section 11 and section 34 — section 34 being an automatic stay on accelerating contracts. This is actually the more important stay with respect to derivatives contracts because termination and acceleration are exactly the actions that must be taken under an EFC, which is one of these kinds of contracts, and this is what BASEL-2 requires to be enforceable in an insolvency proceeding. Section 34 has a parallel provision in the BIA proposed provisions and in the BIA bankruptcy, but only with respect to individuals in bankruptcy.

In other words, the drafters or officials made the amendment in Bill C-55 for the BIA section, but they forgot to do it with respect to CCAA. I am told by the stakeholders that this oversight was brought to the attention of Industry Canada, and they said, "Oh, yes, we will fix it in the House committee," which did not happen.

The expert went on to say that if this is not changed, Canadian banks and financial institutions will not be able to obtain legal opinions which they will only lend against in terms of these kinds of contracts and the industry will be destroyed.

I will not go on. This is very technical stuff, but it is an example of what we would be collectively enacting. Many of us are from Missouri on these kinds of things, but I am telling you that we were ready and were planning to do a full study in the new year on this bill. I think that is the solution if we cannot split the bill. We would love to split the bill, and I endorse what everyone has said in that regard, but if we cannot, I am afraid it will have to be done next year.

I hope honourable senators will take these comments as they are meant. They are meant seriously, and they are in all of our interests. This is serious stuff, and it goes to our constitutional duties as senators and members of this place. I would conclude by moving adjournment of the debate.

[*Translation*]

Hon. Madeleine Plamondon: Honourable senators, I support the adjournment motion. I would just like to explain why.

Senator Prud'homme: Certainly.

Senator Plamondon: Before I came to the Senate, my career was in the field of consumer affairs.

• (1600)

[*English*]

The Hon. the Speaker *pro tempore***:** Honourable senators, it is moved by the Honourable Senator Angus, seconded by the Honourable Senator Eyton, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore***:** Those opposed to the motion 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***:** Call in the senators. Is there agreement on the bell?

Hon. Rose-Marie Losier-Cool: Could we agree to a fifteen-minute bell?

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

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: The bell to call in the senators will sound for 15 minutes.

• (1620)

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Johnson
Angus	Kinsella
Carney	LeBreton
Champagne	McCoy
Cochrane	Meighen
Comeau	Nolin
Di Nino	Plamondon
Eyton	Stratton
Gustafson	Tkachuk—18

NAYS
THE HONOURABLE SENATORS

Austin	Hervieux-Payette
Baker	Hubley
Banks	Joyal
Biron	Lapointe
Bryden	Lavigne
Callbeck	Losier-Cool
Campbell	Mahovlich
Carstairs	Mercer
Chaput	Milne
Christensen	Mitchell
Cook	Moore
Corbin	Munson
Cordy	Pépin
Cowan	Peterson
Dallaire	Phalen
Day	Poulin
De Bané	Poy
Downe	Ringuette
Eggleton	Robichaud
Fairbairn	Rompkey
Fraser	Smith
Furey	Stollery
Gill	Tardif
Goldstein	Trenholme Counsell
Grafstein	Watt
Harb	Zimmer—52

ABSTENTIONS
THE HONOURABLE SENATORS

Prud'homme—1

The Hon. the Speaker *pro tempore*: Resuming the debate.

An Hon. Senator: Question!

The Hon. the Speaker *pro tempore*: The motion is defeated. Resuming the debate, Senator Plamondon.

[*Translation*]

Senator Plamondon: Honourable senators, I would have liked to have been able to take advantage of the adjournment to prepare for speaking on bankruptcy from the consumer's point of view. Before I came to the Senate, I headed a consumer group, and budget consultation was a daily occurrence. When giving budget advice, one does not try to push people into bankruptcy. That is the last option. The first thing one does, when dealing with a consumer in difficulty, is to try to balance the budget, to find enough money to pay off the creditors, which sometimes involves calling them and trying to negotiate the debt. If people do have to declare bankruptcy, they do it with reluctance, because it is perceived as a failure in their life. It is a black mark on their credit rating. No one rejoices at having to declare bankruptcy.

There is always a cost. As I listened to the speeches by my colleagues, I would have liked to have seen the minutes of the standing committee that sat just before I arrived here. Reference has been made to the Standing Senate Committee on Banking and Commerce, and I have not had time to look at the document. You can see what a size it is. It seems to me that it would have been fair to allow me the opportunity of a single day's adjournment so that I could start by consulting some consumer groups and then study the conclusions of the briefs presented by consumer groups. I do not know whether some of those groups also contacted the House of Commons. It would be important to find out the opinions of consumer groups involved in budget consultation before passing a bill as important as this one without any reference to daily experience. I am familiar with what is done in Quebec. I think that, in the rest of Canada, they are called credit counselling agencies or something of the sort. We do not have the benefit of those witnesses.

Without wanting to seem impolite, I must say that I find it indecent to pass a bill on bankruptcy without consumer input. I do not have the statistics at hand. There is a campaign being carried out at this moment in Quebec that has a catchy title in French about being in it up to one's neck. People are getting deeper and deeper in debt. We will be seeing bankruptcies. There are major plant downsizings being announced, and people will end up forced into bankruptcy.

I will not talk again about the bill that would have people caught in the clutches of finance companies. It would be tempting to say that, when banks turn down a budget arrangement, finance companies hasten to do so, knowing that the loans will become delinquent and income can still be generated from exorbitant interest rates.

I would have liked to have had a little time and to be able to speak after I had read this massive document and consulted a few consumer groups. I do not know whether a further adjournment may be requested but, on the off chance that it can, I request it. I ask that the debate be adjourned.

[*English*]

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

An Hon. Senator: Question!

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, Senator Plamondon referred to this massive document. The reason for her appointment to the Senate is no mystery. Whether some honourable senators find it questionable or not, the Right Honourable Jean Chrétien was always the cleverest of politicians.

You can see that I came unprepared, I am not trying to hold things up here, so, please bear with me. Some honourable senators do not even know what I am talking about because they do not speak French and they are not even hooked up to the simultaneous translation system. This goes to show that we are often wasting our efforts in the Senate, and I find that regrettable. The Senate is not the House of Commons. This is pretty strange.

You may have noticed that I watch and I observe. Soon I will put my observations in writing as part of my 42 years as a parliamentarian. I have seen and heard hope, despair, deception, a bit of everything. I know we could pay a little more attention to people who have more experience, like Jean Chrétien, who appointed Senator Plamondon to the Senate. She is certainly not known in Vancouver, except in a few circles. She probably is not known on the West Island of Montreal except by a few, like Senator Goldstein, who was Senator Kolber's adviser on the banking committee, on which I had the honour of sitting. He thought I had a lot of judgment at the time. This did not stop me from voting against bank mergers, which proved that I may not have been so wrong.

I see a great gentleman, the grandson of a prime minister here today, who saved my honour by saying: "I am sorry, but I do not agree with the views of Mr. Prud'homme, I do not agree with his position. I was at the Standing Senate Committee on Banking, Trade and Commerce and what Mr. Prud'homme just said is true." I commend Senator Michael Meighen for his integrity. Some people questioned whether I had voted against the bank merger bill. I thank him again. I am not afraid to thank people in public, and if I insult people, I am not afraid to apologize in public.

• (1630)

However, Senator Plamondon is known in the rest of Quebec. I said it earlier with a little more enthusiasm, which I am now losing for reasons you well know. She is known in the rest of Quebec and has good connections. You do not watch French television, and I do not blame you. When Senator Plamondon appears on French television in Quebec, she is appearing in a very closed market. English speakers have access to a huge international market. You have access to a variety of television and radio stations, but in some places in Quebec, people watch only two or three television stations. Unilingual francophones do exist. You think that there are only unilingual anglophones in Canada. There are still millions of unilingual francophones in Quebec, and these people will have to be convinced to vote Liberal, but I will not be the one to do it. I would be happier to vote for the Conservatives but not for the Bloc Québécois — not me, not now.

Senator Plamondon has the power to convince, because she is always being invited on the most popular television shows and we are not. So, I tend to listen to her when she talks about something she knows.

She is what we call hard-headed. She is known for this in Quebec. I do not want insult you. In other words, she is stubborn. When she knows her subject, she is relentless. She knows what she is talking about. She is the great champion of consumer rights in Quebec. She is tuned in. When will you tune in to what I am saying? Instead of trying to push her around, just try to convince her. There is no harm in listening.

The Senate is a place of reflection. I see Senator Andrée Champagne, who has just joined us. She has something to contribute. She was once a minister. She is very familiar with CBC, the Crown corporation. We all have something to contribute to this country. We are senators; we are protected. When we have the misfortune of not following the lead of petty leadership in the Senate, people try to crush us by any means possible.

You on the opposite side have tried to destroy me for years and you have failed. My term is almost up, and I will be leaving. However, as long as I am here, I will not allow people to destroy someone just because they do not like what they hear. All Senator Plamondon wanted was one more day. She would have had time to call her consumer associations. She would have had time to get a better idea of this massive document, as she so aptly said.

[*English*]

I am sure that what I am about to say will be music to the ears of Senators Austin and Rompkey.

[*Translation*]

I am sure that, with some patience, you could change the honourable senator's mind about the upcoming agenda but you are going about it the wrong way. I can tell you now that you will not have much success. I am not going to tell her what to do, but if she asks me how this rule works, then it is my duty and the duty of all parliamentarians to tell her. It is not up to me to tell people how to vote. I do not like being told how to vote, but I do not know much about this topic.

I am telling you, Senator Goldstein, you saw me work on the banking committee. I am a peacemaker. I know that people would like us to fight one another to make the debate interesting.

[*English*]

I will not fight you, because I know that you will not fight me. The honourable senator knows that the honourable senator knows her subject. I do not. Senators who are never present usually say that they do not know what we are talking about. I like to listen to people who have knowledge and understanding, and then I make up my own mind, as a good senator should. That is what we should do.

However, I regret to tell Senator Plamondon that, according to the rules, she cannot ask for an adjournment. I could move an amendment, and then she could speak again. Honourable senators know that I could do that under the rules. I could even move the adjournment of the Senate. However, that would be a waste of energy because that would only provide a 15-minute break.

In life, sometimes we need to back off and cool off. I will do that and not move an amendment, as I could, just to annoy a couple of senators, although it is very tempting to do so.

Madame Speaker can now proceed to do her duty, but honourable senators must remember that there are rules, although the Liberals, in particular, have repeatedly abused them. Senators Tkachuk and LeBreton will love what I am now about to say. The Liberals have no lesson to teach anyone. When I was chairman of the Liberal caucus in the other chamber, I used to sit in the gallery here, watching you, and I saw the Liberals repeatedly abusing the rules. Now, whoever knows the book can make life miserable for the Liberals. I suggest that, in the time available to us, senators read the book.

[*Translation*]

The little catechism of French-Canadian Catholics from Quebec.

[*English*]

If Senator Plamondon learned all the rules of the Senate, she could stop the proceedings of the Senate. I know an ex-Prime Minister who would greatly enjoy watching that.

I will go no further than to ask that accommodation be given to people who feel strongly about an issue. I do not wish to tutor anyone or to be paternalistic. However, that is my feeling with regard to accommodating the government's agenda. I am trying to negotiate publicly. There is too much negotiating behind the curtain. I know the government's agenda and I am trying to help reconcile what seems irreconcilable. There are bigger problems in the world: There are people dying of poverty; there are people dying of torture. I think we can find a way to harmoniously conclude our work here in the Senate, as Canadians expect us to do, even if they cannot in the House of Commons.

I regret to inform Senator Plamondon that she cannot move the adjournment, nor can I. Neither will I move an amendment, although I am surprised that no Conservative senator has done so, but I do not wish to give them ideas.

Hon. Jack Austin (Leader of the Government): Honourable senators, out of respect for Senator Plamondon and Senator Prud'homme, I will say that the public policy issue here is a trade-off between the interests of a senator in further studying the bill and the urging of various communities in the Canadian public that want us to address the bill aggressively. It seems to me at this moment that the appropriate action by the chamber is to send the bill to the Standing Senate Committee on Banking, Trade and Commerce. Senator Plamondon is a member of that committee and, of course, she is fully aware that she can speak again on third reading debate in this chamber to present her views to us.

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

Some Hon. Senators: Question!

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

Hon. Senators: Agreed.

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

• (1640)

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore***:** When shall this bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

BUSINESS OF THE SENATE

MOTION TO AUTHORIZE SATURDAY SITTING ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 22, 2005, moved:

> That when the Senate adjourns on Friday, November 25, 2005, it do stand adjourned until Saturday, November 26, 2005, at 9 a.m.

The Hon. the Speaker *pro tempore***:** Is the house ready for the question?

Hon. Senators: Question!

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

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore***:** I do not see two senators rising. Are you asking for a vote, Senator Plamondon?

Hon. Madeleine Plamondon: Yes, because I do not agree with the motion.

The Hon. the Speaker *pro tempore***:** I had asked if the house was ready for the question, senator.

Hon. Marcel Prud'homme: If I may, honourable senators, Senator Plamondon said that she would like to adjourn further debate on the item.

Senator Plamondon: No.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted to hear Senator Plamondon again?

Some Hon. Senators: No.

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

Motion agreed to.

MOTION TO AUTHORIZE MONDAY SITTING ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 22, 2005, moved:

> That, notwithstanding rule 5(1), when the Senate sits on Monday, November 28, 2005, it shall meet for the transaction of business at 9 a.m.

Motion agreed to.

PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

MOTION TO REFER TO BANKING, TRADE AND COMMERCE COMMITTEE ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 22, 2005, moved:

> That the Standing Senate Committee on Banking, Trade and Commerce be authorized to undertake a review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (S.C. 2000, c. 17) pursuant to Section 72 of the said Act; and
>
> That the committee submit its final report no later than June 30, 2006.

Motion agreed to.

[*Translation*]

TELECOMMUNICATIONS ACT

BILL TO AMEND—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Transport and Communications (Bill C-37, An Act to amend the Telecommunications Act, with amendments and observations), presented in the Senate on November 22, 2005.

Hon. Joan Fraser moved the adoption of the report.

She said: Honourable senators, rule 99 states that:

> On every report of amendments to a bill made from a committee, the Senator presenting the report shall explain to the Senate the basis for and the effect of each amendment.

Bill C-37 amends the Telecommunications Act to allow the creation of a national do not call list. The Senate referred the bill to committee on November 2, 2005.

We heard witnesses on Wednesday, November 15, 2005. In four hours of hearings, we heard 20 witnesses. We also received written submissions and follow-ups in writing from witnesses who had appeared.

Clause-by-clause review of the bill took place on November 22. Three amendments were taken into consideration, two of which were passed unanimously and are contained in the report before us today.

[*English*]

There are observations attached to the report, which I will address briefly in a moment. First, I will speak to the two amendments. The amendments are simple, senators. The first one applies to a clause of the bill that had proposed that the Minister of Industry table the CRTC's annual report on the operation of the do-not-call list in the House of Commons only. As honourable senators know, when this kind of process creeps into a bill that comes to us from the other place, we correct it. In that way when a document is tabled in one House, we require that it be tabled in both Houses. We insist that both Houses be treated equally, as is the constitutional right. The amendment in question ensures that the bill respects the position of both Houses by requiring that the report be tabled in each House of Parliament.

The second amendment is almost as simple and, in the view of the committee, equally necessary. As it came to us from the other place, the bill called for fines if violations of the proposed legislation were to occur. The fines were to be a set flat amount of $15,000 per violation in the case of corporations and $1,500 per violation in the case of individuals.

When one considers the intent of a do-not-call list, one can imagine a small company unwittingly breaking the law 20 to 40 times before realizing what it was doing. That small company would be liable for a total amount in fines that could drive it out of business. That is not the object of the bill, which is designed primarily to curb those terribly annoying telemarketers whose job is to harass us at suppertime.

Your committee adopted an amendment that would set those fines as maximums, so that the fine would be up to $15,000 per violation for a corporation and up to $1,500 for individuals. These amendments, which were proposed by the Honourable Senator Tkachuk, were adopted unanimously in committee.

We also attached some observations that I should address. It is important to realize that Bill C-37 is subject to a three-year review. That is important because like many such bills, it has complicated implications. It will be important to assess how it has worked. In addition, the CRTC, which is charged with implementing the bill and with setting up the mechanical and regulatory framework for implementing the bill, will hold a wide-ranging consultation before the bill comes into force.

Therefore, our observations say that during its consultation, the CRTC should gather information and prepare recommendations for the eventual three-year review. The review would suggest ways in which the legislation could accommodate some calls that are not exempted currently under the bill. Those would be calls based on personal relationships — in other words, you call somebody you know on behalf of a non-profit agency; business to business calls, and calls based on referrals. The latter was a point that was raised in particular by the insurance industry.

• (1650)

We also note that as the CRTC is developing its regulations, it will need to give particular attention to clarifying what it means when referring to "a pattern of abuse." This is not in the bill, but it is the term that was used by the representative of the CRTC who appeared before us. He explained that they would be most unlikely to bring the full weight of the law to bear in the case of somebody who had made one phone call that was not permitted by the law; that they would require a pattern of abuse to be established. However, they have not told anybody what that pattern of abuse is. Therefore, we are telling them, in our observations, that they must be very clear about what that means.

Finally, we asked them to collect statistics on complaints that they receive under the terms of this legislation, and on complaints that they receive about calls that are not prohibited by the legislation. As you know, there are some broad categories of exemptions under this bill. This bill does not affect calls made by registered charities, political parties, newspapers or businesses with which the person being called has a business relationship established within the preceding 18 months. We thought it would be important, when the three-year review comes around, to have some indication — which is not now available; statistics do not exist — of the kinds of calls that prompt complaints to the CRTC.

That is the work that your committee now submits to you for your consideration.

Hon. David Tkachuk: Honourable senators, no one has a problem with Bill C-37 in principle. Its purpose was so that people could be removed from a list and so that other people would not call them to solicit — whether it be cash or business or messaging in the case of political parties, or for people whom you do business with, who have other business that they may wish to sell you.

It is a strange situation because we all put our names in the phone book and then we are really upset when people call us. I have never understood the logic behind do-not-call lists. I always thought if you do not want people to call you, you pay the telephone company $2 a month and your name will not be in the phone book, nor will it be available through information. The only people who will call you are the people you want to call you.

Nonetheless, we have the situation; and this bill came before us, which is full of exemptions. It needed a technical amendment, which Senator Fraser has already spoken to, and we adopted that. Therefore, it was open because it had to go back to the House of Commons for further amendments.

The exemptions in this bill, which include political parties, charities and people you do business with on a regular basis over an 18-month period, means that you will still get between 68 to 80 per cent of the calls that you already get. There will be no removal list to go to. People will still be able to call you.

If Canadians think that over the Christmas holidays there will be peace and quiet in their homes, they are badly mistaken. This bill is like a catch-22. It will prevent do-not-call, even though you have your name in the phone book, but people will still call you anyway. That is the kind of legislation that we have before us.

We have the other great exception, which is newspapers. They, too, are exempt; they can phone you. They convinced the people in the other place that they serve a great public good. Life insurance companies and disability companies do not, but newspapers do.

On the basis that the House had already accepted the principle of exemptions, I took it that we should just exempt everyone. I tried to do that. I tried to get the life insurance companies in there as well, and I will tell you a little bit about that in minute.

In the bill, they also had fines. The officials and the parliamentarians responsible seemed to have a shaky grasp of the content themselves. While they told us that the fines levied by the bill would be on a sliding scale, the legislation made no allowance for this. It stipulated a fixed figure of $1,500 for individuals and $15,000 for incorporated businesses.

They said that they would not necessarily act after a complaint. You get on the list and then you have to complain if people call you that you are exempted from, and there has to be a pattern of abuse. What was a problem is that they were not able to define what a "pattern of abuse" would be. We did talk about that quite a bit, and all of us were concerned because this would mean that officials and bureaucrats would get to determine pattern of abuse, and politicians would not be able to step in for a period of three years.

We did move an amendment. I do not want to spend too much time on this since we have another bill over at the Banking Committee. The Liberals will be happy that I do not intend to spend too much time on them. Therefore, I will go to the amendment that I tried to move, which was to exempt insurance companies. The insurance companies had a particular problem. When you work for an insurance company, the first people you approach are your family. You phone cousins and people like that. You develop a direct marketing program around families and friends; those are the first people to whom you try to sell insurance. They may be buying insurance, or they will say, "I already have some, but Senator Gill does not have insurance. Would you like to phone him?" That is what they do, and this legislation prevents them from doing that, so I attempted to move an amendment for that.

What happened is that there were two of us and there were six Liberal senators. We moved the motion to amend the bill, and I thought we had won the amendment because it was two to one. However, they convinced me that Senator Tardif had raised her hand. It was then two to two, so it fell. However, we had the vote anyway because no one else voted. Either they had abstained or were not sure about what was happening.

The interesting part was that there was an amendment to the amendment. I moved it and it passed. The amendment to the amendment passed, and then all the Liberals voted against the original amendment. As a result, the life insurance industry lost a very important amendment and they are hoping this bill fails when it gets to the House of Commons.

An amendment that our side put forward did pass, which was to have a sliding scale of penalties. The penalties were set up so that it could be interpreted as $1,500 per call. In other words, if you made 10 bad calls, you could be fined $15,000 — or $150,000 for a business. We clarified that and that amendment was supported by all members of the committee.

I support this bill with a great deal of reluctance. However, in the grand scheme of things, it is not the most important thing in the world. After the election that is coming in January, we will make all the crucial amendments that are necessary to this bill.

• (1700)

Senator Fraser: Under the rubric of commenting on Senator Tkachuk's brilliant remarks, I will make a correction to my own remarks. I said that both the amendments that we adopted were proposed by Senator Tkachuk. In fact, the first of them was proposed by Senator Tardif. The record will show that the disputed vote was eventually resolved by roll call vote.

Senator Tkachuk: In my previous speech on Bill C-55, I said that I was the only non-lawyer on the committee. Of course, Senator Massicotte gave me heck. I always wondered why he was so smart, but he is not a lawyer, either. I would like to correct that for the record.

Hon. Larry W. Campbell: Honourable senators, for some reason my honourable friend believes that putting your name in the phone book makes you eligible for verbal abuse right around suppertime. Anyone who has more than three friends will probably want to have their name in the phone book, because some may forget your phone number.

The option to voting for this bill is to simply do nothing, of which we have had many years. This is not the way to address an ongoing and growing problem. I believe that, as the senator said, the bill should be implemented, and I believe that the Liberal Party will be happy to fine-tune it after the next election.

I have never had a relative try to sell me insurance. Maybe that does not happen in British Columbia, or maybe it is because I live such a dangerous life that no one will insure me.

I do not believe that some of these examples hold up in the real world and I would ask that we go forward and vote on this legislation.

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

Motion agreed to and report adopted.

The Hon. the Speaker *pro tempore***:** When shall this bill, as amended, be read the third time?

Hon. Marcel Prud'homme: At the next sitting.

Hon. Claudette Tardif: Now.

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

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore***:** It is moved by the Honourable Senator Tardif —

Senator Prud'homme: At the next sitting. There is no leave.

The Hon. the Speaker *pro tempore***:** I asked if leave was granted.

Senator Prud'homme: You asked when the bill will be read the third time, and I said, "At the next sitting."

The Hon. the Speaker *pro tempore***:** Senator Tardif asked that the bill be read the third time now.

Is leave granted to proceed to third reading now?

Some Hon. Senators: Agreed.

Senator Prud'homme: The next time I will bring a big microphone. Long before Senator Tardif, whom I like very much, got up, I said, "At the next sitting."

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore***:** The Honourable Senator Tardif moved, seconded by the Honourable Senator Fraser, that the bill, as amended, be read the third time now.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I rise on a point of order. Perhaps Madam Speaker did not understand. When the question was put, Senator Prud'homme said, "At the next sitting." That was clearly an indication that leave was not given to proceed today.

The Hon. the Speaker *pro tempore***:** Senator Tardif's motion was to proceed immediately to third reading. That required an answer before —

Senator Stratton: Unanimous consent is required to do that, and Senator Prud'homme said, "Tomorrow."

The Hon. the Speaker *pro tempore*: I am sorry. Am I correct that Senator Prud'homme does not want to give unanimous consent?

Senator Prud'homme: I said, "At the next sitting of the Senate." I think that is clear.

Hon. Sharon Carstairs: Three times the Speaker *pro tempore* asked, "Do we have leave?" At no time did Senator Prud'homme say "no," which is the correct response when you are not prepared to give leave. The Speaker *pro tempore* asked once, twice, and a third time. Honourable senators, if Senator Prud'homme wanted to say "no," he should have said "no."

Senator Prud'homme: I very much like being tutored by Senator Carstairs. When we come back, I want to work on the special committee on ageing, so I do not want to fight with her now.

I think that saying "no," and saying, as the rules provide, "At the next sitting," are equivalent. I leave that in your hands. You have a good adviser. In my view, "At the next sitting" means not now.

Senator Stratton: Because some of us on this side heard and understood Senator Prud'homme, some on this side said "no" to clarify the situation, at least three times.

The Hon. the Speaker *pro tempore*: Leave is not granted. Therefore, the bill will be placed on the Order Paper for consideration at the next sitting of the Senate.

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

[*Translation*]

PERSONAL WATERCRAFT BILL

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Andreychuk, for the third reading of Bill S-12, An Act concerning personal watercraft in navigable waters.—(*Honourable Senator Lapointe*)

Hon. Jean Lapointe: Honourable senators, be warned that I am going to waste less time than Senator Prud'homme. I am just being funny, perhaps not very funny, but then neither is Senator Prud'homme all of the time.

When we sit long hours and follow the orders of Parliament which sends us bills at the last minute, you can see how many senators attend. You will notice that, instead of adopting a regular procedural policy, we are always in a last-minute rush. Now we are going to sit Friday, and Saturday and Sunday while we are at it. I do not mind. I will be here.

That said, in connection with this Bill S-12 concerning personal watercraft in navigable waters, I must start by congratulating Senator Spivak for her hard work on this and her devotion to helping improve the quality of life for those who live along our country's waterways.

That said, I must point out that, between the time this bill was first introduced and this stage, the watercraft industry has made several rather major changes in response to the concerns and problems of those living along waterways. Bombardier Recreational Products has made substantial progress in the design, creation and manufacture of machines that are cleaner, quieter and safer.

As far as the environment is concerned, a number of studies have demonstrated that the impact of personal watercraft on aquatic plants, fish and animals is slight, if not non-existent. What is more, these studies indicate that the noise levels of personal watercraft are lower than those of conventional motorboats and that they produce the same atmospheric emissions as similar motorboats. What is more, the industry has introduced new, two-stroke motors which are far less polluting than the previous four-stroke ones, and this will radically change the emission levels of personal watercraft.

As for safety, I have learned from a number of documents I consulted that the Coast Guard would be prepared to consider requests to restrict or ban the use of personal watercraft on certain bodies of water using the existing procedures under the Boating Restriction Regulations. These regulations cover the safe use of all types of vessels, including personal watercraft, thereby making the bill we have before us pointless.

• (1710)

Honourable senators, I will conclude by emphasizing that the problem with personal watercraft is not the watercraft but lack of good citizenship on the part of certain users.

[*English*]

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

Hon. Senators: Question!

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: I heard a "no." On division.

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

CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Ferretti Barth, for the second reading of Bill S-43, An Act to amend the Criminal Code (suicide bombings).—(*Honourable Senator Rompkey, P.C.*)

Hon. Roméo Antonius Dallaire: Honourable senators, I wish to —

Hon. Terry Stratton (Deputy Leader of the Opposition): May I make a point? I understand that Senator Dallaire is the second speaker. I would like to reserve the 45 minutes as the second speaker for the official opposition, if I may.

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

Hon. Senators: Agreed.

Senator Dallaire: I stand before you to pursue the debate on Bill S-43, to amend section 83.01 of the Criminal Code on suicide bombings, making it, per se, a criminal offence. The aim of this amendment to the Criminal Code is fundamentally to close a loophole in regard to one of the crimes against humanity that is becoming more and more current in this era. Furthermore, it is to reinforce our position in regard to continuing an assault on impunity: that is, impunity of those who continue to use the civilian population as targets in an attempt to change the situations in their country.

My particular interest in arguing or presenting arguments in support of this bill comes from my experience with the International Criminal Court. Through that court it has been my experience that much documentation is referred to when we attempt to bring to solution and bring to justice those who commit crimes against humanity. It is not just the act but so often also the documentation by which we can bring these individuals to justice that is the reference that we need to prosecute them and ultimately to create such an atmosphere where impunity is no longer acceptable. By doing these things, we reduce the possibilities of crimes against humanity that turn into humanitarian catastrophes that ultimately end not only in ethnic cleansing but go all the way to genocide.

We are in a new era not of security but insecurity. The era of the Cold War provided us with a certain balance of where we stood in regard to the possible threats to our nation. However, since the end of the Cold War, we have entered a new era of what one might even say is disorder, contrary to what George Bush Sr. said would be an era of order. In this era, the nature of conflict and also the threat to our security has radically changed. It is no more the classic warfare of grand armies on our four frontiers or in far-off lands to which we would participate in protecting our country. On the contrary, we find ourselves wrapped up in conflicts in which the sense of insecurity is now rendered even more intolerable by the fact that it is nearly impossible to identify or determine the threat. At least in the Cold War we knew who would press the button that would ultimately send us into oblivion under a nuclear threat. We knew their ethos. We knew their mantra of conviction. However, in this era, conflict has become exceptionally complex and ambiguous. It is not an era where it is clearly the good guys and the bad guys, an era of the white hats and the black hats.

We have entered an era of conflict where the general population in so many of these nations is the instrument of war, and conflict is being exported beyond those nations that are in conflict. Now, in this time frame, we have seen ourselves moving from what used to be interstate conflicts to intrastate conflicts, and where we find the expression of conflict in a variety of fashions and some of those fashions most ignoble and barbaric. We also find ourselves in an era where we use children as instruments of conflict. In the extreme, children are even used as suicide bombers. We are now in an era where the civilian population is no more on a side of the conflict where the militaries have gone at each other over the years. On the contrary, we are in an era where the civilian population is an instrument of the conflict and is used by those in conflict to influence the outcome.

Primary strategies used by extremists in this era are to instil horror and terror, using barbarism, and in so doing, create fear, and in fear, gain control. That control permits them to manoeuvre their populations and create intolerable consequences, mostly on the humanitarian side and certainly in the arena where human rights are totally abused, and we find ourselves in front of crimes against humanities in the ultimate abuse which leads us even to genocide.

The issues of suicide bombers, recruitment and indoctrination of those willing to carry out terrorist attacks, particularly important in the case of suicide terrorism, must be looked at and deterred. In 2004, Gareth Evans, a former Australian foreign minister and now head of the International Crisis Group, argued that suicide bombings are now the weapon of choice for terrorism. The Iran terrorism expert, Bruce Hoffman, has argued that the fundamental characteristics of suicide bombing and its strong attraction for the terrorist organizations behind it are universal. Suicide bombings are inexpensive and effective. They are less complicated and compromising than other kinds of terrorist operations. They guarantee media coverage. The suicide terrorist is the ultimate smart bomb. Perhaps most importantly, coldly efficient bombings tear at the fabric of trust that holds societies together. All these reasons doubtless account for the spread of suicide terrorism from the Middle East to Sri Lanka, Turkey, Argentina, Chechnya, Russia, Algeria, and now even to the United States in North America. Suicide bombing is the most fearful of all weapons. While physical defence measures and other cooperation are necessary in an attempt to neutralize the weapons of suicide terrorism, the real key is to realize that the bomber is only the last link in the long chain. Increased intelligence cooperation is necessary in an attempt to disrupt this chain, particularly focusing on those who recruit, train and prepare bombers.

The ultimate aim of this bill is to bring another tool of deterrence to those who might not only use that weapon but ultimately those who actually do use that weapon. More broadly, countries around the world must condemn all such attacks, whether suicide or not, that target innocent civilians and use political circumstances or religions to justify them.

• (1720)

Honourable senators will recall that, after 9/11, Pope John Paul II brought together the heads of the great religions of the world in January of 2002. They sat in Assisi, Italy, for two days and at the end of that one and only conference where the world's great religions were brought together, the Pope was able to extract the concluding statement from the leaders that no religion calls upon people to kill other human beings in the name of religion. It does not exist as a premise.

Honourable senators, all governments, publicly and through diplomatic channels, should refrain from any action that appears to encourage, support or endorse suicide bombings or other attacks against civilians, and should use all possible influence with the perpetrator groups to make them cease such attacks immediately and unconditionally. This is why this amendment is significant. It reinforces that even an attempt to conduct a suicide bombing is a criminal offence under this bill.

More basically, we must always address the root causes that make the recruitment of terrorism and such bombings easier. There is no doubt that terrorism is the expression of rage by the developing world and, despite the walls and instruments that we create in our defence, ultimately the best defence is not a defence around our areas of interest but, rather, by going aggressively to the source of this rage and, ultimately, eliminating it. One of the primary instruments for doing that is not only the application of justice but also the more forceful, useful and quantitative application of international development.

Honourable senators, I present the argument that there is no room for any permission or any possibility for someone to use the civilian population and its destruction as a tool to achieve his or her aims. We must use this bill to close the loophole that allows the possibility for this horrific weapon to continue to exist because it is becoming more and more popular.

Hon. Noël A. Kinsella (Leader of the Opposition): Would the honourable senator take a question?

Senator Dallaire: Yes.

Senator Kinsella: My question speaks to the motivation of the suicide bomber and the propensity, as reported, of some community leaders to glorify suicide bombing as an activity. Honourable senators who were serving on the Special Senate Committee on Anti-terrorism to review the anti-terrorism legislation were briefed on a new piece of legislation adopted by the House in Westminster about one week ago. Under their new law, the glorification of acts of terrorism, such as suicide bombing, is a criminal offence. Would the honourable senator agree that this should be considered for Canada?

Senator Dallaire: Honourable senators, I deem it most innovative of that House to have moved in that direction. The whole idea behind it should be one of eliminating the doctrine that espouses the use of the civilian population as a tool of conflict in order to achieve political, or sometimes power, goals. Any instrument that could eradicate that doctrine would be good.

In the case of the doctrine that espouses the use of children as a tool in conflict, the goal is not to find the social and economic tools that would prevent children from being recruited but, rather, to eradicate those who so much as think of that doctrine in the first place.

Genocide is an instrument that has been used. The ultimate goal in that case is not to bring those who perpetrate it to justice but to eliminate the gestation of such a concept of genocide. In so doing, any such proactive tools to wrest that initiative from those who would use such horrific weapons should be endorsed and pursued.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I am a long-time friend and I have great respect for our retired general and colleague Senator Dallaire. What is going on is horrific. He has addressed the issue very well. I have yet to determine which of the two is worse: to glorify madness or utmost despair.

The honourable senator would apply the same criteria, as a general, not as a senator, to places where the military, for example, would not hesitate to jeopardize civilians used as human shields by the enemy. We have examples. I chaired the Committee on National Defence for 15 years, under Mr. Trudeau. I have met chiefs of staff under previous governments who told me horrific stories where the enemy could be seen, but not the civilians in front of the enemy. The criteria we are discussing today also apply to what I just described.

Second, what lessons from the honourable senator's experience could be drawn from these kinds of blind bombings in Iraq, where, in attempting to hit a specific target, the civilian population ends up suffering the most? We know that more than 30,000 have died in Iraq. It is all hush-hush, of course. We know that it is a tragedy that will not heal. It is sad to say. Those who are familiar with that part of the world know that it can only get worse. I am sorry to say so, and you know I am.

I would appreciate the honourable senator's help in my personal reflection on how far one can go in being modern and saying that some things happened that cannot be condoned and others are taking place which are unacceptable, like the glorification of suicides, for instance. I totally agree with him on that.

The Hon. the Speaker *pro tempore***:** Honourable senator, your time has expired. Perhaps Senator Dallaire could just give a short answer.

Senator Dallaire: Honourable senators, it is rather difficult for a general who has a microphone to be brief, and now that he is a politician, it is almost impossible. As regards the nature of the conflict in which we find ourselves, I will take the example of General Patton, during the Second World War. He stated that, as a principle, the objective is to make the other one die for his

country. However, in the situation in which we find ourselves now, the other one, when dying for his country, often takes you with him, because suicide bombings are frequently used as weapons. We no longer have a scenario where the enemy is easily identifiable. The enemy is often integrated into the population. This is why a civil war is the worst possible scenario. In the current context, the fundamental principle is that we have no authority to wilfully use the civilian population, the non-combatants, as instruments to achieve military goals or objectives of power. That is the fundamental humanitarian law.

[*English*]

On motion of Senator Stratton, debate adjourned.

CANADIAN HUMAN RIGHTS ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Meighen, for the second reading of Bill S-45, An Act to amend the Canadian Human Rights Act.—(*Honourable Senator Rompkey, P.C.*)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I know that Senator Lovelace Nicholas would like to speak to this motion, having discussed it with her earlier today. However, because she is not now in the chamber, I would like to reserve the right to protect her place in speaking to this motion which, I understand, is extremely important to her.

• (1730)

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

Hon. Senators: Agreed.

DEPARTMENT OF JUSTICE ACT
SUPREME COURT ACT

BILL TO AMEND—DEBATE CONTINUED

On the Order:

> Second reading of Bill S-34, to amend the Department of Justice Act and the Supreme Court Act to remove certain doubts with respect to the constitutional role of the Attorney General of Canada and to clarify the constitutional relationship between the Attorney General of Canada and Parliament.—(*Honourable Senator Cools*)

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, due to the heavy workload and the fact that Senator Cools is not here, I would like to restart the clock on this issue.

Hon. Bill Rompkey (Deputy Leader of the Government): Agreed.

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

EXCISE TAX ACT

BILL TO AMEND—SECOND READING—
POINT OF ORDER—DEBATE SUSPENDED

On the Order:

> Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, for the second reading of Bill C-259, An Act to amend the Excise Tax Act (elimination of excise tax on jewellery).
> —(*Honourable Senator Rompkey, P.C.*)

Hon. Jack Austin (Leader of the Government): Honourable senators, the private member's bill before us was introduced in the House of Commons on November 3, 2004. It came to this chamber on June 16, 2005. Since receiving this bill, much has changed. This bill has been overtaken by events; I am referring to Bill C-43, an act to implement certain provisions of the budget tabled in Parliament on February 23, 2005, which we passed on June 28, 2005 and which was given Royal Assent on June 29, 2005.

In passing Bill C-43, the Senate took the decision to eliminate the excise tax on jewellery in stages over four years. Having made that decision, I am obliged to say that this bill, which proposes the immediate elimination of excise tax on jewellery, should not remain on the Order Paper. The Senate already in this session has pronounced itself on this matter. The authorities are quite clear that we should not contemplate in the same session the question for which we have already made our decision.

Erskine May, Parliamentary Practice, twenty-first edition, page 468, chapter 21, states:

> There is no rule or custom which restrains the *presentation* of two or more bills relating to the same subject, and containing similar provisions. But if a decision of the House has already been taken on one such bill, for example, if the bill has been given or refused a second reading, the other is not proceeded with if it contains substantially the same provisions; nor could such a bill be introduced on a motion for leave.

Beauchesne's Parliamentary Rules & Forms, sixth edition, citation 624(3) is identical to Erskine May but adds:

> But if a bill is withdrawn, after having made progress, another bill with the same objects may be proceeded with.

Bourinot's Parliamentary Procedure, fourth edition, chapter IX, section IX, states:

> When a motion has been stated by the speaker to the house, and proposed as a question for its determination, it is then in the possession of the house, to be decided or otherwise disposed of according to the established forms of proceeding. It may then be resolved in the affirmative or passed in the negative; or superseded by an amendment, or withdrawn with the unanimous consent of the house. It is, however, an ancient rule of parliament that "no question or motion can regularly be offered if it is substantially the same

> with one on which the judgment of the house has already been expressed during the current session" (*w*). The old rule of parliament reads: "That a question being once made, and carried in the affirmative or negative, cannot be questioned again, but must stand as a judgment of the house" (*x*). Unless such a rule were in existence, the time of the house might be used in the discussion of motions of the same nature and contradictory decisions would be sometimes arrived at in the course of the same session.

The prohibition against dealing with the same subject matter in the same session also finds a prominent place in *Rules of the Senate of Canada*, and I refer to rule 63(1), which states:

> A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, unless the order, resolution, or other decision on such question has been rescinded...

In his ruling of October 29, 2003, Speaker Hays stated:

> The purpose of the same question rule is to avoid the wastage of time and effort in reconsidering a question that is already a decision of the House.
>
> ...Within this context, the same question rule applies only to questions that are moved and decided in the Senate.

On February 27, 2001, the Speaker ruled on the same question regarding Bill C-43, an act respecting abortion, and Bill S-7, an act to amend the Criminal Code (protection of the unborn child). He said:

> Although Bill S-7 and C-43 have different objectives and represent alternatives on the subject of abortion, the Chair feels, in that they both deal specifically with amendments to Section 287 of the Criminal Code, a strong case may be made that they are "the same in substance."...

He went on to say:

> I recognize that what defines the term "the same in substance" is a question of judgment and that there may be Honourable Senators who disagree with my opinion and I respect that. The issue itself is an emotional one and feelings understandably run high. The Senate has pronounced itself this session on the question of abortion. Given that the substance of Bill S-7 has been considered and disposed of during the debate on Bill C-43, it is not in order to proceed any further with S-7. The order for second reading should be discharged and the Bill removed from the Senate Order Paper.

Honourable senators, I contend from the precedents and the rulings that I have quoted that it is not in order to proceed with Bill C-259. Our chamber, in examining and adopting Bill C-43, has taken a decision on how to deal with the excise tax on jewellery in this session. Bill C-259 should now be removed from the Senate Order Paper and a message should be sent to the other place forthwith to inform them of our decision.

I am asking, Your Honour, for a ruling. If the ruling should be found not to favour my submission, I would then agree that the bill should proceed to committee. However, if the ruling favours my submission, and I believe strongly that it should, then the matter would be disposed of.

The Hon. the Speaker *pro tempore***:** Are there other senators who wish to participate?

Hon. Consiglio Di Nino: Honourable senators, obviously, it is not a surprise that I would disagree with my honourable colleague opposite as to whether this bill is substantially the same as Bill C-43, the budget bill. I think it is an enormous stretch to suggest that these two bills, although dealing in general terms with the same subject matter, are substantially the same.

I want to remind honourable senators that this bill has been sitting here for five months, as Senator Austin said. We are obviously at a point in time in the life of this Parliament where the government has decided to deal with this issue by what I would suggest is an inappropriate manner. Procedural shenanigans are not the way to deal with substantive issues, particularly when they affect thousands of people across this country directly and millions across this country indirectly. Every city, town and village has a jewellery store. Major department stores sell these kinds of trinkets for two, three, five or ten dollars. This is not a luxury tax.

• (1740)

This is an unfair tax that the rest of the world has said should not exist. We are the only country left that still has it.

Bill C-259 is supported by a pretty wide majority of members in the other place, including some three dozen of the members of my colleague's party on the Liberal side. I think it is a ploy by the government to try to defeat this bill without having the courage to stand up and say, "We do not want this bill" and vote on it.

My position is clear. I do not think it is substantially the same. To you, Your Honour, I suggest that it is an enormous stretch. Obviously, if the government side wants to kill this bill, let them have the courage to stand up and vote against it.

Hon. Noël A. Kinsella (Leader of the Opposition): I take it, honourable senators, that we are at the stage where we are debating a point of order. The Leader of the Government in the Senate did not say he was raising a point of order, but I think the substance of what he was saying is that he is raising a point of order. Am I correct?

Senator Austin: Yes, and I asked for a ruling from the Speaker on the point of order.

Senator Kinsella: On the point of order, rule 63(1) reads:

> A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative...

This is the rule to which the Leader of the Government in the Senate has drawn our reference.

In our companion to the *Rules of the Senate*, I refer honourable senators to some citations on page 187.

What Senator Di Nino said is absolutely right. We must be focused on whether or not Bill C-259 is of the same substance as the bill that the minister made reference to. It is a totally different bill. It is interesting that both bills came from the same other place and that there are no members in the other place who have raised the question. There were two matters before that House that were on the same substance.

More important — and regrettably, in my view — this point of order is raised at this particular time in this chamber. We have had this bill here for some time. This is the first time that an attempt has been made to suggest that it is out of order because it speaks to the same question that another bill dealt with. One has to wonder why that is being raised at this point in time.

Canadians are wondering why we are dealing in the way in which we are dealing with a lot of things this week. I think that it is regrettable that the timing of this point of order is today. It looks very much like a delaying tactic; that if the Speaker has to take a day or so to review this matter, then the matter will not be dealt with and moved on for further consideration by a committee.

During this whole week, we in the opposition have been attempting to be as supportive of moving legislation along as expeditiously as possible, recognizing the political realities in Ottawa and what will happen probably this weekend. We have tried to balance moving things along quickly with maintaining our responsibility of examining legislation, and we have attempted to be as cooperative as we could.

Therefore, I do not understand why the government, at this stage, would come up with this kind of an objection to delay this bill, and not have it go to committee. If it does not go to committee today, by the time there is a ruling from the chair, it will be too late. It looks like a delaying tactic, unless a much stronger argument can be made that somehow this bill is out of order pursuant to rule 63(1), because frankly, it is not.

Hon. Eymard G. Corbin: Honourable senators, I support entirely the argument made by the Leader of the Government in the Senate, but I have a greater concern. It is a touchy matter and I do not want to make it a personal matter, but the Leader of the Government in the Senate has asked the Speaker *pro tempore* to make a ruling as to the acceptability of the bill under the rules.

The Speaker occupies a particular position in this house in terms of his or her participation in debates on matters before the house. As a matter of practice, the rules also provide for the Speaker to vote. If he or she so decides, he or she is usually the first to vote on any motion put before the house.

The situation we have here today raises a number of questions in my mind. The person who is the Speaker *pro tempore*, who has now been asked to make a ruling on this matter, was supportive of the legislation. In fact, the Speaker *pro tempore*, in terms of her ability to participate in debates when she is not in the chair, expressed her intention to vote in favour of Bill C-259. She expressed that view in the very first words of her speech. She ended her speech — I have the French text here — by saying:

[*Translation*]

> I urge my colleagues to finally discard early 20th century tax policy by quickly moving to support Bill C-259.

We have the highest respect for our colleagues who must preside over our proceedings this evening, namely the Speaker of the Senate or the Speaker *pro tempore*. However, I think that, under the circumstances, to avoid any perceived conflict of interest, the Speaker *pro tempore* should personally decide not to rule on the issue raised by Senator Austin. Considering the involvement of the Speaker *pro tempore* in Bill C-259, it should be up to the Speaker himself to rule on the point of order raised by the Leader of the Government in the Senate. To proceed in this fashion would be a very cautious way to deal with this matter.

• (1750)

Otherwise, regardless of the ruling, but particularly if Senator Austin's point is rejected, would the perceived objectivity criterion be respected? I do not know. I am saying this with all due respect for the individuals who sit in the chair. I often sat in it myself. We are often put in tense and even conflicting situations. I invite my honourable colleagues to reflect on my comments.

It is my belief that the person who is in the chair right now should not rule on the point of order raised by Senator Austin.

[*English*]

Senator Kinsella: Honourable senators, Senator Corbin has raised an interesting situation. When dealing with other types of issues, while the Speaker is taking time to reflect on the orderliness of the matter, the debate and the process continue. Perhaps under the circumstances, while awaiting the return of the Speaker, we should allow this bill to continue at second reading stage and perhaps further, depending upon how the Senate decides to deal with it. In that way, the point of order would not hold up the proceedings of the chamber on the matter. It would also help avoid the circumstance that Senator Corbin has brought to our attention.

Hon. Bill Rompkey (Deputy Leader of the Government): I wish to clarify the point of Senator Kinsella. Do I understood correctly that he is suggesting that debate should continue but that there should be no disposition of the matter until the Speaker returns and makes a ruling?

Senator Kinsella: Yes, in the same way as we do when there is a question of whether a Royal Recommendation is required. We often let the Speaker take time to study the matter while proceedings on the item continue.

Senator Di Nino: For clarification, unless we move this forward, that is what will happen in any event. Senator Austin has asked for a ruling from the Speaker. The item will stay on the Order Paper unless we move it forward.

I thought Senator Kinsella had said that, with the agreement of the other side, we would conclude second reading and send the bill to committee, but I do not think that is what was heard on the other side.

Senator Kinsella: I am suggesting that we carry on with second reading debate. If the debate is concluded, there will be a vote taken on whether the bill is accepted at second reading. If it is accepted at second reading, a motion will be made to refer it to a committee. If someone moves the adjournment of the debate, and that meets with the pleasure of the house, the debate will be adjourned. If that does not meet with the pleasure of the house, which would be seen to be another delaying tactic, a vote will be taken on that issue.

Senator Austin: I am not prepared to ignore the point of order that I have presented to the chamber. That must be dealt with. I have no objection to the debate at second reading continuing, which is what I thought Senator Kinsella said in the first instance. If he is suggesting that we should send the bill to committee and await an academic or theoretical decision to come, that is not acceptable. The rules are real, and the rules should be applied.

It is my responsibility to ensure that the rules of this chamber are applied to our processes, which is why I raised this question. It is not a question of the government delaying. The government was operating on a legislative agenda that foresaw an election call before the end of February. There was more than adequate time to deal with this bill on its merits, if it is in order. The timetable has been dramatically altered by events in the other place. That is not an issue for which I will take responsibility.

To answer Senator Kinsella, we are doing our best to deal with bills sent to us by the other place that we know, because they sent the bills to us, the members of that place believe are in the public interest to review, examine and, hopefully, pass. However, we are doing so with public notice that the Leader of the Opposition in the other place will put a motion of non-confidence tomorrow. This is the reality, and it changes the dynamics of the time in which we can deal with various public matters.

Senator Di Nino: The Leader of the Government in the Senate said that we are dealing with bills that came from the other place which members of the other place believe are in the public interest. Is he suggesting that this bill, which passed by a comfortable majority in the other place with support from all parties, is not in the public interest?

Senator Austin: Honourable senators, I am only suggesting that this bill has to proceed in accordance with our rules. I have said that if the ruling is that the bill is not the same in substance as a bill with which this chamber has already dealt, then of course we would be prepared to proceed with the bill expeditiously. However, I do not believe that that is the case, and I believe our rules should be enforced.

It is not unusual for the Leader of the Opposition or the Deputy Leader of the Opposition to rise and argue for the enforcement of our rules. It may be slightly more unusual for the Leader of the Government to do so, but it is my obligation.

Senator Di Nino: This order has been before us since June. Some members opposite responded, but no one presented the government view, or spoke in opposition to this bill to this time. There has been absolutely no response until now from those who may not wish to see this bill go forward.

As Senator Austin has said, and I have a great deal of respect for him, this bill came from the other place where it passed by a wide margin with all-party support, including a large numbers of supporters from his party. The bill is in the public interest and we should have dealt with it, but obviously the honourable senator believes otherwise.

Senator Austin: I am not addressing the merits of this bill and I am not asking for a ruling from the Speaker on its merits. I am asking that consideration be given to the point of order I have raised. After that, we can begin arguments on the merits of the bill.

Hon. Joan Fraser: Honourable senators, I wish to make two points. First, if my memory serves me correctly, Senator Plamondon spoke briefly but eloquently against this bill yesterday.

Second, the Leader of the Government in the Senate and Senator Corbin have both made very serious points. I do not know what the eventual ruling will be. I agree with Senator Corbin that we will place the Speaker *pro tempore* in a very difficult position if we ask her to make the ruling. However, I would like to focus on the fact that second reading is not an empty formality.

Sending a bill to committee is not an empty formality with which we can proceed while awaiting the ruling, regardless of whether it comes from the Speaker *pro tempore* or the Speaker. Second reading is a very important process. It indicates approval in principle of a bill. It is one of the most important things we can do, and it seems to me that, with an objection as substantive as that which has been raised by the Leader of the Government, we owe it to the integrity of the institution not to take that step until we have a ruling on the legitimacy of the bill. Debate is one thing, but I really do not think that the vote should occur until we have a ruling.

Debate suspended.

BUSINESS OF THE SENATE

The Hon. the Speaker *pro tempore***:** Honourable senators, it being six o'clock, is it your wish that we not see the clock?

Hon. Bill Rompkey (Deputy Leader of the Government): I propose that we not see the clock.

Hon. Madeleine Plamondon: No.

The Hon. the Speaker *pro tempore***:** Leave is not granted. I will leave the chair and return at eight o'clock this evening.

The Senate adjourned.

• (2000)

The sitting was resumed.

FIRST NATIONS COMMERCIAL AND INDUSTRIAL DEVELOPMENT 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-71, respecting the regulation of commercial and industrial undertakings on reserve lands.

Bill read first time.

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

Hon. Tommy Banks: I move that the bill be read the second time at the next sitting of the Senate.

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

Some Hon. Senators: Agreed.

Hon. Terry Stratton (Deputy Leader of the Opposition): We, on this side, have been reasonably cooperative in the situation with which we are faced. We accept that some bills have to be fast-tracked for particular reasons. It was our understanding that four bills, in particular, were required, plus bills that were coming out of committee. Now we are being asked to fast-track two more bills and we have not been given substantial reasons for this, although we can understand the reasoning for the other four.

If John Lynch-Staunton were standing here today, you would get a 15-minute lecture from him on the rule requiring two days' notice for second reading. We believe that, unless a case can be made, we need two days. We are not being stubborn; this is the chamber of sober second thought, which is what we are here to provide. If we break that practice, when will it end? Governments of every party will get into the habit of pushing everything through at the last minute with one day's notice or less, which is wrong for the proceedings of this chamber.

I object, unless someone on the other side can tell me why this bill should proceed with only one day's notice.

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Stratton makes a valid point. The House of Commons has sent us Bill C-71, and I believe Bill C-57 will also be brought before us today. In addition, as honourable senators know, the other place has approved a ways and means motion that provides for personal and corporate tax reductions. Those two bills are not before us at the moment, but they could be while we are in session.

It is a matter of our understanding the public policy issues that are presented by legislation. It is absolutely true that as a chamber of review we would rather take the time to be careful in our work. It is also true that there are public constituencies in this country that, having done a great deal of work with political parties in the other place to achieve legislative approval for certain proposals, are now hoping that their work was not in vain and will not be thrown away. It is in our discretion to decide what to do at this stage.

• (2010)

Bill C-71 is a First Nations-led initiative developed by a team of Aboriginal First Nations in Alberta, Saskatchewan, Ontario and British Columbia. To put it relatively simplistically, the bill essentially provides authority to a group of First Nations to make the regulations that they need to ensure that their economic projects can move forward.

As has been said in this chamber —

Senator Comeau: Is this a second reading speech?

Senator Austin: I have been asked for an explanation, and I believe that the request is proper because we are being asked to move this legislation forward quickly, and I think the chamber should know the public policy behind that request.

One of the real problems in the Aboriginal system is that a number of these communities do not have regulation-making capacity. The provinces cannot make regulatory provisions for them because they do not come under provincial jurisdiction. Therefore, there needs to be created a capacity through federal legislation to allow communities that wish to opt in to have the authority to make regulations that provide for economic security to lenders and investors with respect to economic projects.

That is the basic purpose of this bill, although it has other purposes. These communities have worked very hard to bring this legislation to this point in order to get on with the economic growth that our Aboriginal Affairs Committee has been working to bring to the attention of the Canadian public, something about which Senator St. Germain has spoken often.

Honourable senators, I would like the chamber to hear, at second reading debate tomorrow, the details of this bill and to make a judgment on whether there is sufficient urgency and common good for the Aboriginal community for us to move forward on it.

Senator Stratton: Did I understand correctly that there are two bills, or is there only the one bill?

The Hon. the Speaker *pro tempore***:** There are other bills, but we are dealing with just this one.

Senator Stratton: If we agree to one day's notice, we would have speeches at second reading tomorrow, Thursday. Then the bill would go to the Aboriginal Affairs Committee. The Aboriginal Affairs Committee does not meet until Wednesday at 6:15, I believe. Therefore, if the government falls or the Prime Minister calls an election, it will not proceed. If we have second reading tomorrow, being Thursday, we would have to have a special meeting of the committee on Friday morning to report the bill back on Saturday.

Senator Austin: You are right, Senator Stratton. That would be the plan.

Senator Stratton: That would be the schedule. In other words, we would be standing on our heads to push something through that we have not even seen, and we would have essentially 24 hours to look at.

There are one or two more bills expected, perhaps tonight. The one that particularly worries me is the tax reduction bill, which we may get tomorrow. If we get it tomorrow, we will be asked to grant leave to have second reading immediately in order to get it through. In other words, we will be asked not only to stand on our heads, but to stand on our heads supported by one hand.

There is a point at which we have to say, for the sake of this chamber, that enough is enough, that we cannot do this. We owe a responsibility to this chamber to examine bills in the appropriate way, to study them thoroughly as they should be studied, because, as we have learned, the other place does not do that. For that reason, unless the leader can make his case in a better fashion, I see no reason to agree to one day's notice.

Senator Austin: Honourable senators, I do not dissent from the concerns that Senator Stratton expresses. This is not a comfortable process for us, but we are ultimately here as trustees for the Canadian people to act in their interest, and we cannot simply take an arbitrary decision that it is uncomfortable; it is rushed; we do not want to put ourselves out because we did not get the bill in an orderly way. We must look at each piece of legislation and make a public policy decision on whether it is in the interests of the Canadian public for us to deal with this issue.

The chamber has not brought on the time constraints under which the Parliament of Canada is now working. We must look at the legislation and we will only really understand it when it is presented at second reading.

With respect to the reference to the ways and means motion and the tax reduction legislation that flows from that, I would have to tell honourable senators that they would have to make a very serious case to this chamber not to give Canadians tax relief if the government proposes to do that.

[*Translation*]

Hon. Madeleine Plamondon: Honourable senators, is leave required to consider a bill tomorrow, or could an objection be raised? I raise an objection, and ask that the bill be considered at second reading two days hence.

[*English*]

Senator Banks: Honourable senators, I would like to add to what the Leader of the Government has said, although it is presumptuous of me to do so. I share the concern of Senator Stratton. I have said so loudly in other places and have sometimes made myself unpopular by so saying.

However, as the leader has said, no aspect of this problem is of our making. The impetus and the initiative for this bill come from the Aboriginal people. It does not create anything, as we will hear whenever we hear the speech of the sponsor of the bill at second reading. The impetus comes from those people, and it is to them that we will be doing a disservice if we do not deal with this bill.

The things contained in this bill are things for which the First Nations have asked. I know that we should not be crass and talk about dollars but, with respect, of the economic development that will accrue to the benefit of the First Nations involved. The cost of not proceeding with this legislation now will be a direct cost to them that will be measured in the billions. That is the scale of direct benefit to First Nations, which advantage will not simply be deferred. I am talking about the cost of deferred development in two specific areas.

Hon. Gerald J. Comeau: Honourable senators, I rise on a point of order. We are at first reading stage, if I understand correctly, and I believe that Senator Banks is into debate. I believe there was a motion on the floor.

Senator Austin: Yes, and we are debating it.

Senator Comeau: Oh, we are debating the motion.

The Hon. the Speaker *pro tempore***:** Given the importance of the issue, we will listen to the rest of the senators who would like to have input on this matter.

Senator Banks: I will not say more, but I was not debating the bill. I was answering Senator Stratton's question about why we ought to proceed in an unusual way with this bill. I think there are good and cogent reasons in this case to do that.

• (2020)

Senator Plamondon: I thought that when I objected I was not granting leave and that was it. Are we still debating at this point even though I did not grant leave?

The Hon. the Speaker *pro tempore***:** Senator Banks has moved that the bill receive second reading at the next sitting. Is leave granted?

Senator Stratton: Senator Plamondon has said no.

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

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

A BILL TO AMEND CERTAIN ACTS IN RELATION TO FINANCIAL INSTITUTIONS

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-57, to amend certain Acts in relation to financial institutions.

Bill read first time.

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

Hon. Bill Rompkey (Deputy Leader of the Government): At the next sitting of the Senate.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

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

INTERNMENT OF PERSONS OF UKRAINIAN ORIGIN RECOGNITION 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-331, to acknowledge that persons of Ukrainian origin were interned in Canada during the First World War and to provide for recognition of this event.

Bill read first time.

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

Hon. Marcel Prud'homme: Honourable senators, I would like to know how many more messages the Senate can anticipate to receive.

Hon. Jack Austin (Leader of the Government): This is a private member's bill.

Senator Prud'homme: I do not care. How many people will we apologize to and beg and plea with? This is becoming a farce.

As a senator, I want to be recorded as protesting very officially and vigorously. I never believed I would work in the Senate of Canada with a gun to my head or a knife to my throat being told to vote or else we will sit until midnight or on Saturday or on Monday. I do not care if we sit on Monday, if honourable senators so desire.

I want to know how many more surprises are in store so we can organize our minds, our agendas and our research. I do not know, but surely the Leader of the Government in the Senate is aware. I say that very courteously to the honourable senator. He is a member of cabinet. What are they up to?

We know there will be an election. Private member or not, I am sure the Leader of the Government in the Senate, with all due respect to my long-time friend since 1961, Mr. David Smith, surely the leader must know what is going on. What is going to happen? That is all I want to know.

Senator Austin: Honourable senators, I have stated already in this discussion that there are two government bills which we were seeking to move forward because of what we believed to be urgent public necessity. In addition, there is the possibility that the House may send us two tax reduction bills as a result of the approval of the ways and means motion today.

The bill the Speaker addressed is a private member's bill. I have no knowledge of what is coming from the House of Commons. It is not a matter of government policy with respect to private member's bills.

Senator Prud'homme was in the House of Commons, and they are sending us bills. If we listen to the Speaker, we will know how many bills there are and what they are about.

The Hon. the Speaker *pro tempore*: When shall this bill be read the second time?

Hon. Terry Stratton (Deputy Leader of the Opposition): Since we have a strange way of presenting bills, and I realize government bills must be presented first, I move that the bill be read the second time at the next sitting.

Senator Austin: Second reading on what? Why make an exception for this bill? Explain the reason.

Senator Kinsella: We like the bill.

Senator Austin: We like the other bills.

Hon. Madeleine Plamondon: Leave is not granted.

The Hon. the Speaker *pro tempore*: We have not asked for leave yet, Senator Plamondon.

Hon. Francis William Mahovlich: I would like to bring to the attention of honourable senators that all of these bills have been approved by all parties in the House of Commons.

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

An Hon. Senator: No.

The Hon. the Speaker *pro tempore*: When shall this bill be read the second time?

Senator Forrestall: Shortly after I get my lighthouse bill.

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

It is moved by Senator Kinsella, seconded by the Honourable Senator Stratton, that this bill be placed on the Orders of the Day for second reading two days hence.

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

Senator Stratton: I object to being recorded as the seconder. I wanted the bill read the second time at the next sitting. If it is to be two days hence, please identify someone else.

The Hon. the Speaker *pro tempore*: Senator Andreychuk? Senator LeBreton? Senator Comeau?

Senator Comeau: No.

The Hon. the Speaker *pro tempore*: Senator Plamondon? We have Senator Plamondon seconding the bill.

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

EXCISE TAX ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, for the second reading of Bill C-259, An Act to amend the Excise Tax Act (elimination of excise tax on jewellery).—(*Honourable Senator Rompkey, P.C.*)

The Hon. the Speaker *pro tempore*: We are now resuming debate on the point of order that was before us at six o'clock. Do any other senators wish to speak to this issue?

Hon. Madeleine Plamondon: Honourable senators, someone said that I spoke against the bill, but I only made a comment. I did not speak against Bill C-259. I wanted to make that clear.

SPEAKER'S RULING

The Hon. the Speaker *pro tempore*: Honourable senators, when the second reading of Bill C-259 was reached today, the Leader of the Government in the Senate raised a point of order questioning the propriety of proceeding to the resumed debate on this bill. Citing several rules, decisions and authorities, Senator Austin argued the case that Bill C-259 should not be allowed to proceed. Other senators also spoke to the matter contesting the proposal that debate on the bill should not continue.

I wish to thank honourable senators for the views that were expressed on this point of order. I have considered the arguments that were made and have reviewed the matter sufficiently to make a ruling which I am prepared to give now. In making this decision, I am exercising the authority granted to me under rule 11 and rule 12 of the *Rules of the Senate*, and this authority is no different in its effect and validity than that of the Speaker.

• (2030)

Rule 63(1) stipulates, in part, that "A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative..."

The point of order that has been raised deals with the suggestion that Bill C-259, which deals with the elimination of the excise tax on jewellery, is substantially the same as Bill C-43, a budget implementation bill that was enacted by Parliament last June. To make the case, it should be possible to identify the subject matter or clauses in both bills that address the same subject.

Bill C-43, which is now chapter 30 of the Statutes of Canada, 2005, contains an amendment to Schedule I of the Excise Tax Act that will phase out the excise tax on jewellery through a series of rate reductions over the next four years. Among the items to be affected by this tax change are articles of all kinds made of various materials, including ivory, coral, jade, onyx and semi-precious stones. Other items to benefit from this tax reduction include personal objects made of real or artificial diamonds, as well as gold and silver jewellery.

Of particular interest for the purposes of this point of order is the tax reduction that will be given to clocks. Chapter 30 specifies that the phase-in tax reduction will apply to the following items when their value exceeds $50:

> Clocks and watches adapted to household or personal use, except railway men's watches, and those specially designed for use of the blind.

Bill C-259 is a one-clause bill that provides an immediate 10 per cent reduction for

> Clocks adapted to household or personal use, except those specially designed for the use of the blind ...

if their sale price or duty-paid value exceeds $50.

There is little doubt that these two clauses resemble one another, but they are also different in certain critical respects. The question to be determined is whether they are sufficiently the same to disallow further consideration of Bill C-259 or whether they are sufficiently different to allow Bill C-259 to proceed.

In seeking to answer this question, it should be noted that practice has changed over the years to accommodate the reality of extended sessions that continue through several years. This change has had the consequence of requiring a greater degree of similarity between two items before a bill or other business will be ruled out of order on the basis of the "same question rule."

With respect to this issue, I refer honourable senators to page 898 of *Marleau and Montpetit*. In a ruling by Speaker Fraser made in 1989, with respect to items proposed by private members, that is with respect to items not proposed by the government, the Speaker explained that for two or more items to be substantially the same, "they must have the same purpose and they have to achieve their same purpose by the same means." I am prepared to take this approach as a guide to the consideration of similar items, whether they are sponsored by the government or by senators.

In taking this position, I am also mindful of British practice, which is very clear. *Erskine May* states at page 580 of the twenty-third edition: "There is no rule against the amendment or the repeal of an Act of the same session."

Bill C-259 amends the application of the excise tax on clocks at an accelerated rate in comparison to the proposal enacted through the budget implementation bill adopted earlier this year. The means, therefore, are not the same. If the Senate adopts this bill and it is made law by Royal Assent, it will have the effect

of changing the rate of tax reduction now in place through the enactment of Bill C-43. I do not regard this measure to be the same, based on the criteria established by the decision of Speaker Fraser. The same end is not achieved by the same means. The two measures are substantially different, and I am prepared to rule that debate on Bill C-259 can continue.

Resuming debate, Senator Stratton.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I should like to move second reading.

The Hon. the Speaker *pro tempore***:** Is the house ready for the question?

An Hon. Senator: Question!

The Hon. the Speaker *pro tempore***:** It was moved by the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, that this bill be read the second time. 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 *pro tempore***:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Stratton, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

STUDY ON INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS

INTERIM REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

On the Order:

> Resuming debate on the consideration of the nineteenth report (interim) of the Standing Senate Committee on Human Rights, entitled: *Who's in Charge Here? Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*, tabled in the Senate on November 3, 2005.—(*Honourable Senator Rompkey, P.C.*)

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, on behalf of Senator Andreychuk, chair of the Standing Senate Committee on Human Rights; Senator Carstairs, the deputy chairman; and particularly in honour of Senator Landon Pearson, I move that the nineteenth report of the Standing Senate Committee on Human Rights tabled in the Senate on November 3, 2005, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Foreign Affairs, the Minister of Justice and the Attorney General of Canada, and the Minister of Canadian Heritage being identified as ministers responsible for responding to the report.

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

Hon. Senators: Question!

The Hon. the Speaker *pro tempore***:** It was moved by the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton, that this report be adopted. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY

INTERIM REPORT OF AGRICULTURE AND FORESTRY COMMITTEE ADOPTED

On the Order:

> Resuming debate on the consideration of the seventh report (interim) of the Standing Senate Committee on Agriculture and Forestry, entitled: *Cattle Slaughter Capacity in Canada*, tabled in the Senate on May 19, 2005. —(*Honourable Senator Fairbairn, P.C.*)

Hon. Joyce Fairbairn: Honourable senators, I am glad to have a final word on the state of our cattle industry, as outlined in the report tabled in this house last May by the Standing Senate Committee on Agriculture and Forestry. As all of us know, never has our industry taken a blow as devastating as the discovery of the existence of bovine spongiform encephalopathy, BSE, in the remains of an animal in Alberta in the spring of 2003. This discovery caused countries around the world to slam their doors against our cattle and beef, with none more painful than the border closure by the United States of America. I will not go into the well-known details and profound frustration, if not fear, which followed that event, other than to note that the manner in which this country responded to the crisis at every level has resulted in a gradual reopening of several of those borders, one by one. Last week, the United States Department of Agriculture indicated that it is putting the finishing touches on a rule that will lift the remaining restrictions on Canadian beef sometime next year. That rule will cause barriers to go down, enabling North American products to move freely among many other countries such as Japan. Canada and all of its trading partners will be wiser and safer as a result of lessons learned during those three difficult years.

• (2040)

Throughout this period, our committee has produced two reports, based on some of the most productive hearings I have participated in during my 21 years sitting with that committee. I want to thank all of the members, and particularly our former chair, Senator Len Gustafson, and Senator Don Oliver, for their leadership in difficult times.

This last report came out soon after the American judicial process, as a result of a court case in Montana, ruled that the border between the U.S. and Canada remain closed, even though the American government, from the president down, was strongly supportive of bringing down the barriers because of our mutual science-based agreements on elements of protection that would govern the health and well-being of the cattle and the process between our two countries. Our committee was holding meetings in Washington on that day, last March 2, when the judgment to keep the border closed was announced in Montana, and we have followed the process closely ever since. All of us profoundly hope that the latest announcement of firm action by the American government will produce a positive conclusion in the New Year.

However, in the meantime, we have moved forward in Canada with ever-increasing cooperation between all levels of government and the industry, working closely together as never before, along with the Canadian people, who have risen to the challenge and consumed even more beef since the border closure paralyzed the trade and forced every part of the industry and government to creatively prepare for that reality.

Our committee is pleased to note that some of our proposals have been followed and, indeed, changes in the system made, stemming from suggestions from witnesses while our hearings were in progress. First among our recommendations was that the industry shift from being live cattle oriented to becoming meat and processed product oriented, which meant an immediate increase in Canadian-based meat processing capacity, a capacity which over the years had dwindled across this country so that most of the domestic processing was done out of two large multinational slaughterhouses in Alberta.

However, as packing plants in the United States began to stop production and lay off workers, in Canada our packing industry responded quickly to the new market conditions, principally by building domestic slaughter capacity, which increased from less than 3.5 million animals in 2003 to nearly 4.5 million by April of this year. At the time of our report, the U.S. border was still closed to all live cattle and meat from animals older than 30 months. Fortunately for our producers, the situation has changed and, since last July, producers have been able to ship livestock under 30 months across that border for feeding and slaughter.

During our hearings, many witnesses stated that confronting U.S. competition when the border fully reopens would be their next major challenge. However, if we learn from this crisis, returning to the same traditional dependence on exports of live cattle is not really the only option for the long-term sustainability of Canada's beef industry. Canadian packing capacity is still growing and is expected to reach 4.9 million animals annually by next month, up from 4.5 million in June of this year.

I feel very strongly, as did all members of our committee, that our challenge is to enhance our slaughter capacity to the point where our producers, feeders, processors and truckers will never again be held hostage to another border closing.

It is true that the consolidation of our meat-packing industry has allowed our processors to increase efficiency and profitability, and enabled the industry to compete internationally. However, consolidation is not the only option. There is also room for smaller packing plants if they can secure their supply of cattle, raise adequate start-up capital and target special niche markets in response to consumer desires at home and abroad.

Through the emergence of these smaller-scale plants, the government could give more power to producers, and they in turn would have more options when they market their livestock and would be able to move up that value chain, a direction which we strongly recommended in an earlier committee report on the value-added processes in agriculture. We want a restructured industry where small-scale plants can thrive alongside consolidated, commodity-based processors to the benefit of cattle producers. I am told that some 17 plants have been built or are in the negotiation period at this time.

We called for more flexibility in federal financial assistance programs for new plants, for plant expansions, and farmer-owned co-ops. We asked government to enhance the existing loan loss reserve program with a matching capital program to address the need for start-up capital. On October 25, we were pleased to learn of the Federal Ruminant Slaughter Equity Assistance Program, under which Agriculture Canada and Agri-Food Canada will contribute up to one half of a producer's investment in a federally registered slaughter capacity.

Clearly, in addition to adequate start-up capital, sound business plans are crucial to the sustainability of new packing capacity, and we suggested that the government allocate funds to enable farm groups to obtain that guidance and get going. Again, we were pleased on August 17 when the government announced a $1-million Ruminant Slaughter Facility Assessment Program to help producer-led groups undertake the preliminary assessment for developing viable slaughter operations.

The committee wanted to ensure that new packing companies have the capacity to meet the highest standards of food safety and that the government work closely to ensure that there be no undue bureaucratic roadblocks in meeting those standards as we had heard from witnesses. By the time we had issued our report, the Canadian Food Inspection Agency, with an allocation of new resources, had already made a number of improvements to streamline and regionalize the process.

We want those new plants to thrive in the best operating environment possible, and the industry faces a rather peculiar challenge under which the current standard for interprovincial trade in meat products is the same as for foreign export trade in those products. Although Canada's provincial packing capacity is relatively small, we asked that the Canadian Food Inspection Agency undertake a legislative review leading to proposals for changes to the relevant acts and regulations in order to develop a domestic standard that will allow trade in meat products among the provinces. Naturally, such a change would have to be carried out with due consideration of all international trade implications, but we hope that that can be managed.

Another recommendation, which already is being tested, is the traceability of food products from the farm of origin to the dinner plate, a process that will become required more and more in world markets. As we heard earlier in Senator Callbeck's speech,

Atlantic Beef Products Inc., which is already operating in Prince Edward Island, has obtained funds from Agriculture and Agri-food Canada and the Atlantic Canada Opportunities Agency to implement a full traceability system for its products. The viability of those results may well lead to development of a traceability program across this country, and we would recommend that the Canadian Food Inspection Agency be given the resources to allow the industry to have such systems in place by 2010 in order to keep our industry ahead of its competitors.

• (2050)

Because of the international respect that Canada has gained with regard to food safety requirements and testing, the committee feels it is important that the federal government facilitates the work of meat-packing plants in terms of quick access to procedures like hot-boning and the removal and disposal of bovine specified risk materials in an environmentally responsible way.

We also hope that Agriculture Minister Mitchell will be able to successfully review Canada's regulations on a continuing irritant that is bothering a vocal group of United States producers concerning our import requirements related to blue tongue and anaplasmosis, two other existing diseases that affect cattle. This is not our issue; it is their issue and it would be helpful to get it out of the way.

To date, our country has faced an unexpected nightmare with courage and innovative thinking among federal and provincial governments, and on the ground through small communities whose very existence rested on a continuing future based on the cattle industry — the ranchers, the feedlots, the packing plants, the truckers — all of which come together in my corner of southwestern Alberta. Certainly, that closed border, which from Lethbridge we can see on a clear day, along with the mountains, has struck fear in the hearts and minds of those who live in the small towns and villages surrounding our cities. Without this basic industry and the commerce it produces, the future of this historic area, and others all across this country, is in grave danger of drifting away; and we are by no means alone in Alberta.

We are proud of our cattlemen and all they represent. We are glad they are now sitting around the tables in Ottawa contributing to the decisions that have been made within government.

We fully support the federal initiative announced last March of a $50-million contribution to the Canadian Cattlemen's Association Legacy Fund to launch an aggressive marketing program to reclaim and expand markets for Canadian beef. The federal government must work hand in hand with industry to further enhance our packing capacity in Canada. Not only will our cattle industry benefit, these measures will also help revitalize rural communities and increase employment, bringing benefits that will be felt all across our society and our economy.

We are proud of the manner in which all levels of government have put aside disagreements and worked warmly and closely together, not just in Alberta but in every part of Canada that has been touched by this issue.

Our committee, of which I am very proud, has worked hard to act as a connecting link between those on the ground and those in the government who have come before us as witnesses. I am enormously thankful to each one of them, the thought and the effort which our senators offered brought the voices of the regions into that committee room. We profoundly hope we will not have to face this particular crisis again, but honourable senators, we will be ready for whatever comes our way.

In conclusion, I would move that this report be adopted by the Senate.

Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore*: Senator Fairbairn, are you moving the adoption of the report?

Senator Fairbairn: Yes.

The Hon. the Speaker *pro tempore*: I am sorry, I did not hear you. It is moved by the Honourable Senator Fairbairn, seconded by the Honourable Senator Mahovlich, that this report be adopted. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

TELECOMMUNICATIONS ACT

BILL TO AMEND—REPORT OF COMMITTEE— REQUEST FOR GOVERNMENT RESPONSE

Leave having been given to revert to Reports of Committees, No. 1:

> Resuming debate on the consideration of the nineteenth report (interim) of the Standing Senate Committee on Human Rights, entitled: *Who's in Charge Here? Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*, tabled in the Senate on November 3, 2005.

The Hon. the Speaker *pro tempore*: Honourable senators, with your permission, I would like to return to Reports of Committees, No. 1. When Senator Stratton moved the adoption of Senator Andreychuk's report, he asked that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Foreign Affairs, the Minister of Justice and the Attorney General of Canada, and the Minister of Canadian Heritage being identified as ministers responsible for responding to the report. I neglected to add that particular part to the question, that we are asking the government to respond, and I apologize.

Is it your pleasure to adopt that part of the report?

Hon. Senators: Agreed.

[*Translation*]

INFLUENCE OF CULTURE

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Léger calling the attention of the Senate to the importance of artistic creation to a nation's vitality and the priority the federal government should give to culture, as defined by UNESCO, in its departments and other agencies under its authority.—(*Honourable Senator Champagne, P.C.*)

Hon. Andrée Champagne: Honourable senators, on my very first day in the Senate, as luck would have it, one of the items on the Order Paper was the importance of culture in the life of a country. It will come as no surprise to you that I wanted to take part in the debate arising from Senator Léger's inquiry.

[*English*]

It has been said that luck is preparation meeting opportunity. I am quite prepared to speak about culture, and I thank you for the opportunity. I guess that makes me lucky.

I do believe that it is of the utmost importance that all of us who are fortunate enough to sit in this chamber do our best to foster all aspects of our Canadian culture. Our culture makes us who we are. It also determines who our children are, and what our grandchildren will become.

[*Translation*]

To complement the points made by the three honourable senators who spoke before me, I have chosen to address a somewhat more down-to-earth aspect of the lives of our artists, whatever the artistic discipline to which they devote their energy. I can only hope that you will conclude with me that, if the Senate decided to conduct an in-depth review in the field of culture, we could certainly make a useful contribution, provided, of course, that the government then lent us an attentive ear and sympathetic consideration.

Arts, culture and cultural industries play an important part in our society. In 2001, spinoffs from this sector neared $38 billion, or 3.8 per cent of our GDP. It accounted for more than 600,000 jobs; that is more than 4 per cent of our labour force.

However, total government spending in the same sector totalled $7 billion, the lion's share going, as we all know, to Radio-Canada/CBC. I will come back to that a little later in my remarks.

[*English*]

Honourable senators, what do artists and artisans need to survive, to succeed? Of course they need talent, but perseverance is also an important ingredient. Most of all, they need hope. Hope is their muse, and as long as their hope is alive, we all benefit.

Now where do artists and artisans find hope? In my experience, there are three main sources. First, they believe in tomorrow, when they perform; when they have the opportunity to create, to be recognized, then they have hope.

Allow me to give a small example of how we can so easily destroy their will to create. Artists and artisans are proud when credits are properly shown at the end of a production. They are hurt when, at the end of a film or a television program, a network chooses to split the screen and use the better half to promote an upcoming production, making the artists' names impossible to read. The hope of being recognized as professionals is crushed.

• (2100)

Second, like anyone else, artists believe that their work allows them to feed themselves and those who depend on them. They rely on television networks, theatre companies, film producers, art galleries, editors, concert goers and, yes, patrons. To survive they often have to create their own job opportunities. They might have to risk capital that they do not have, but then they have hope.

[*Translation*]

In addition to talent, artists must also have perseverance. The hard times must one day end or else, after starving for too long, artists have no choice but to do something else. This happens quite frequently, all too frequently, in fact, and it is our great loss. I want to give a few examples.

Pablo is a magnificent tenor with a great stage presence. Originally from Venezuela, he is a new Canadian and speaks five languages. He graduated from McGill. Today, if you travel abroad, he may be the one serving you coffee at 12,000 metres. He could just as easily sing you *La Donna e mobile* or, since you are in space, *E lucevan le stelle*.

Anaïk is a mezzo-soprano with such a rich range that we are reminded of Maureen Forrester. She graduated from Julliard, in New York. Since her return to Canada, she has been running a small translation company.

Five years ago, Isabelle won the International Stepping Stone Competition, the top competition in all categories in Canada. Today, she teaches saxophone at a college in Montreal.

Finally, I want to tell you about Marjolaine, a fine watercolorist who has had a number of showings. Today, she works for a digital marketing company. She almost never takes out her paints and brushes any more. These artists are in their early thirties. Sad? Yes, to the point of tears!

Third, there is hope for our artists when they believe that we are preparing the next generation and that we are setting aside sufficient funding.

Before every show, young painters must buy their colours and canvas, and just the frame for their work costs a fortune. What about the materials that sculptors need? Musicians and singers need to buy scores, and naturally we are not going to encourage photocopying. Writers of novels or plays still have to pay rent and eat. Yes, the Canada Council helps, but it cannot meet all the needs.

In 2004, the annual cost of the Canada Council was $4.77 per Canadian. That funding represented 0.1 per cent of the government's overall spending. It allows our major performing arts companies to count on government assistance for 25 per cent of their revenues. Meanwhile, their counterparts elsewhere were receiving the following amounts: U.K., 53 per cent; France, 97 per cent; Australia, 40 per cent. Might one conclude that Canadian governmental assistance to the performing arts makes us look like the poor relatives?

Could we not, as individuals and as a nation, do better than that? One might perhaps suggest a small percentage of some of that budget surplus. Art and artists are a good investment.

[*English*]

Fortunately, Canada has a few devoted art patrons. Their help is so precious to young artists. Finding new ways to encourage these generous people to help young artists would be a most valuable task for honourable senators. Recently, Montreal became the recipient of the marvellous new Schulich School of Music at McGill University. That same week, I read about a rich American who spent the equivalent to that cost, $20 million, to fly in a Russian spaceship. Mr. Schulich, you make me proud to be Canadian.

Others truly try to bring good music to ears that would not otherwise feel that soothing pleasure with the help of the Canada Council, provincial funding, the Musicians' Performance Trust Fund and a few private sponsors. George Zuckerman has organized tours to the farthest communities in our country. I know that over the last three years, he and three other musicians have visited almost every school in Nunavut and Nunavik. With proper funding, this kind of entertaining workshop could be held in every school in Canada, and why not?

[*Translation*]

Far be it from me to deny our government the right to participate in the cultural field. Of all the monies invested in culture, we all know that a large portion goes to our libraries and museums, and that CBC and Radio-Canada take a big chunk of it. But I am worried.

What help does that network, particularly the French side, give to culture and to our artists today? Over the years, Radio-Canada has made an amazing about-face. It used to produce theatre, concerts, ballets, opera — its live broadcast of the *Barbier de Seville* won an Emmy in New York City — and now it has totally abandoned its cultural mission and bowed to market forces. Our future stars disappeared when *Singing Stars of Tomorrow* was done away with, and it was up to the private networks to pick up the slack with *Star Académie* and *Canadian Idol*. Without a helping hand from radio and television, where will the next generation in our concert halls, our museums, our art galleries, our libraries come from? Where will our young people learn about music, about opera, if not by beginning to pay attention to the lyrics of a song?

Radio has been no better. Even with two FM stations, promoting young Canadian artists is no longer one of Radio-Canada's goals.

Not so long ago, Radio-Canada built professional sound studios filled with expensive instruments. Today, these studios are silent, and the instruments covered in dust. Barely 15 years ago, seven half-hour shows a week were devoted to introducing our artists. None of these programs have survived.

These shows were an opportunity for young instrumentalists and young singers to make a name for themselves. A recital on Radio-Canada often resulted in a public concert in Winnipeg, Calgary, Vancouver, and vice versa. Music is the only language without borders. Young artists gained experience and, in down to earth terms, they were able to pay their rent and eat a bit better and a little more often.

This created generations of artists who lived well and had an excellent national career, from coast to coast; but above all, we gave them hope.

In the 21st century, these same time slots are filled by five or six people playing CDs and, without any warning of any kind, a Mozart quartet ends just as Loco Locass begins. This show is called *Espace musique*. It comes as no big surprise then that nearly 60,000 people have already signed a petition asking the CRTC for a Canadian cultural radio station.

[*English*]

Honourable senators, as I close my first contribution to our house, allow me to reaffirm my complete devotion to culture in our everyday life and my love for those who need our help so that they can create in peace. Honourable senators, if we only try, we can uncover ways to make our government do more and do better to encourage the arts, the artists and their devoted patience. We must find new ways, which we can do and will do.

• (2110)

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I am very pleased to get to take part in this debate. I will provide some historical background. When the Right Honourable Jean Chrétien left the Liberal Party in 1986, the Right Honourable John Turner appointed me to replace him as the official foreign affairs critic. My career was very long. After an intense discussion with him following a phone call with Mr. Milton Harris from Toronto, I negotiated my departure from my appointment as foreign affairs critic, which was my lifelong dream. I told you I would recount my memoirs here and not write them. I agreed to become the arts critic appointed by Mr. Turner. I had always been a faithful servant to this great party that I loved and I became the arts critic. I remember very clearly informing the Right Honourable Prime Minister Brian Mulroney in my first speech. I told him: "Tomorrow I am going to beat up — pardon the expression — your Minister of Culture, Marcel Masse." My speech lasted an hour. The honourable senator's comments remind me of my responsibilities. She pointed that out quite well.

I am keeping the rest of my time to better prepare myself in an intelligent manner. I do not have the staff available to me that the large political parties might have, but I will reiterate what I said in

my speech in 1986 or 1987, when I said that Canadians are ignorant not to realize the importance of culture and job creation at little cost to the public. She touched on this point in particular. I am going on memory.

I was appointed and relieved, with my consent, of the duties that were my lifelong dream, and agreed like a good servant to serve as the arts critic.

With leave of the Senate, I would like to adjourn this very important debate in our country, first in terms of the importance of culture in every respect for our national identity and, second, in terms of job creation.

Senator Champagne: Honourable senators, I would like to add to what Senator Prud'homme said. If you bother to read what my female colleagues have said because, until now, only women had spoken on this issue, you will see that we really chose to talk about culture, about the beauty of culture in a country. After spending 50 years immersed in the world of culture, I decided to use the somewhat more down-to-earth side of things to explain what the life of an artist is really like. That was my choice.

On motion of Senator Prud'homme, debate adjourned.

ASSASSINATION OF LORD MOYNE AND HIS CONTRIBUTIONS TO BRITISH WEST INDIES

INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cools calling the attention of the Senate to:

(*a*) November 6, 2004, the sixtieth anniversary of the assassination of Walter Edward Guinness, Lord Moyne, British Minister Resident in the Middle East, whose responsibilities included Palestine, and to his accomplished and outstanding life, ended at age 64 by Jewish terrorist action in Cairo, Egypt; and

(*b*) to Lord Moyne's assassins Eliahu Bet-Tsouri, age 22, and Eliahu Hakim, age 17, of the Jewish extremist Stern Gang LEHI, the Lohamei Herut Israel, translated, the Fighters for the Freedom of Israel, who on November 6, 1944 shot him point blank, inflicting mortal wounds which caused his death hours later as King Farouk's personal physicians tried to save his life; and

(*c*) to the 1945 trial, conviction and death sentences of Eliahu Bet-Tsouri and Eliahu Hakim, and their execution by hanging at Cairo's Bab-al-Khalk prison on March 23, 1945; and

(*d*) to the 1975 exchange of prisoners between Israel and Egypt, being the exchange of 20 Egyptians for the remains of the young assassins Bet-Tsouri and Hakim, and to their state funeral with full military honours and their reburial on Jerusalem's Mount Herzl, the Israeli cemetery reserved for heroes and eminent persons, which state funeral featured Israel's Prime Minister Rabin and Knesset Member Yitzhak Shamir, who gave the eulogy; and

(*e*) to Yitzhak Shamir, born Yitzhak Yezernitsky in Russian Poland in 1915, and in 1935 emigrated to Palestine, later becoming Israel's Foreign Minister, 1980-1986, and Prime Minister 1983-1984 and 1986-1992, who as the operations chief for the Stern Gang LEHI, had ordered and planned Lord Moyne's assassination; and

(*f*) to Britain's diplomatic objections to the high recognition accorded by Israel to Lord Moyne's assassins, which objection, conveyed by British Ambassador to Israel, Sir Bernard Ledwidge, stated that Britain "very much regretted that an act of terrorism should be honoured in this way," and Israel's rejection of Britain's representations, and Israel's characterization of the terrorist assassins as "heroic freedom fighters"; and

(*g*) to my recollections, as a child in Barbados, of Lord Moyne's great contribution to the British West Indies, particularly as Chair of the West India Royal Commission, 1938-39, known as the Moyne Commission and its celebrated 1945 Moyne Report, which pointed the way towards universal suffrage, representative and responsible government in the British West Indies, and also to the deep esteem accorded to Lord Moyne in the British Caribbean. —(*Honourable Senator Prud'homme, P.C.*)

Hon. Marcel Prud'homme: I do not want to deprive Senator Goldstein of his time. I will offer my comments on this very important motion in due course. I like to be the one to calm the storm. I will keep my comments for later; after all, this is only the eighth day on the Order Paper. So I would ask to have this matter stand.

Order stands.

PROVINCE OF ALBERTA

INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Mitchell calling the attention of the Senate to the Province of Alberta and the role it plays in Canada. —(*Honourable Senator Prud'homme, P.C.*)

Hon. Marcel Prud'homme: Honourable senators, once again, everyone knows my attachment to Alberta. Those who understand this attachment to Quebec and Alberta, understand that this is real federalism.

[*English*]

It is federalism at its best. Ottawa is only a servant of the creator. I would like Senator Mitchell to be here when I make my speech to celebrate my joy at being a French Canadian from Quebec who is a friend of Alberta. Therefore, I ask that the order stand.

Order stands.

[*Translation*]

INTER-PARLIAMENTARY UNION

INQUIRY—ORDER STANDS

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Fraser calling the attention of the Senate to the work of the IPU.—(*Honourable Senator Prud'homme, P.C.*)

Hon. Marcel Prud'homme: Honourable senators, I have become the unpaid adviser to all the inter-parliamentary associations, and I have a great deal to say about this, particularly with regard to the Inter-Parliamentary Union, which I have always found problematic. So, I want to stand the debate in order to restore a sense of calm, but I will not be very kind when the time comes to continue my remarks.

Order stands.

[*English*]

NEED FOR INTEGRATED DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Andreychuk calling the attention of the Senate to the need for a strong integrated Department of Foreign Affairs and International Trade and the need to strengthen and support the Foreign Service of Canada, in order to ensure that Canada's international obligations are met and that Canada's opportunities and interests are maximized. —(*Honourable Senator Andreychuk*)

Hon. A. Raynell Andreychuk: Honourable senators, in light of the political climate, I simply wish to adjourn the matter in order to rewind the clock.

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

Hon. Senators: Agreed.

On motion of Senator Andreychuk, 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 Day*)

Hon. Joseph A. Day: Honourable senators, I will take a cue from my colleague opposite. Much has been happening in the last 15 sitting days since I took the adjournment on this matter. I ask honourable senators to allow me to adjourn the matter and rewind the clock.

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

Hon. Senators: Agreed.

On motion of Senator Day, debate adjourned.

• (2120)

[*Translation*]

YEAR OF THE VETERAN

CONTRIBUTIONS OF ABORIGINAL VETERANS—INQUIRY—DEBATE ADJOURNED

Hon. Aurélien Gill rose pursuant to notice of November 22, 2005:

> That he will call the attention of the Senate to the National Year of the Veteran and the contribution of Aboriginal Peoples.

He said: Honourable senators, I know it is late and everyone is tired. I will, with your indulgence, attempt to proceed as quickly as possible. I have a duty to transmit this important message to you this evening.

Honourable senators, as you are no doubt aware, the Government of Canada declared 2005 to be the Year of the Veteran, with its culminating point being Remembrance Day on November 11.

As part of the important official events during this year of commemoration, the Department of Veterans Affairs, under the Honourable Albina Guarnieri, organized ceremonies in Belgium and in France between October 24 and November 3 to honour the memory of Aboriginal soldiers who lost their lives in the tragedies of the first and second world wars.

I had the privilege and honour to be part of the Canadian delegation, along with Her Excellency the Governor General, Minister Guarnieri and a number of representatives of Canada's Aboriginal peoples: veterans, elders, artists, young people and representatives of several Aboriginal organizations and members of the press.

I must admit that I felt a great deal of satisfaction at having been able to take part in these days of commemoration as a senator. I would like to thank the Leader of the Government in the Senate. In a way, that trip was an opportunity for the Canadian State to recognize officially, properly authorized by the Minister of Veterans Affairs, the Aboriginal contribution to the Canadian armed forces.

Sixty years after the events, Canada finally paid tribute to the sacrifice of the several thousands of my Aboriginal fellow citizens who died in action, most of whom had enrolled voluntarily, knowing full well what they were getting into, to defend freedom against unbridled tyranny.

As an Aboriginal, I have to say openly that I am proud of having been part of such a group of individuals fully deserving of the tribute they were paid. It was high time that the outstanding valour of Aboriginal veterans, who have shown a remarkable sense of responsibility for the well-being and freedom of nations, be recognized.

Today, I take advantage of these ceremonies overseas, ceremonies which are filled with memories and strong emotions, to draw attention to and update, on behalf of all my people, and paraphrasing Martin Gray in so doing, the irreplaceable and all too often ignored contribution of historical Canada's first peoples.

I would like to tell you, honourable senators, about the true meaning of the sacrifice made by both my Aboriginal and non-Aboriginal fellow countrymen in the wars. In combat, the bonds between all soldiers were close. They were indeed all equal on the battlefield and equal before death, but when they came home, it was a different story. Many Aboriginals were not even considered Canadian citizens. In many cases, an Aboriginal soldier dying in action meant nothing more, nothing less than falling into complete oblivion. Many of those who came home were not paid any compensation for services rendered.

Allow me to quote Charlie St. Germain, age 81, born in Alberta, who served with the Calgary Highlanders in France, Belgium, Holland and Germany during the war of 1939-45.

[*English*]

> Coming back here hurts me more than anything else I've ever done.
>
> All this being done now. Why wasn't anything done back then? Why wait so long? There's a hell of a lot of them that are now dead. Uncles, fathers, brothers are all gone and they didn't see this. Lost souls. In our thoughts and beliefs, it would have been taken care of long ago.
>
> We joined freely, they didn't have to draft us. They should have given us more considerations. Over here we didn't feel any sense of differences between White, Metis and First Nations. Why were we treated so differently when we got home?
>
> Some got nothing when they were discharged. If you looked Indian they said to apply to Indian Affairs and was turned down. Indians never got more than their Treaty Land. I gave so much to the war. I lost my brother and I got nothing. Three hundred dollars at my discharge, nothing more. I couldn't even join the legion. Some Metis could if they looked white enough. I need dental work done and they won't pay. They won't pay for all my glasses charges, my new frames I needed.

[*Translation*]

These comments speak for themselves. Some political ideologies are softer than others, but are nonetheless full of segregation, exclusion or assimilation.

Fortunately, Canada has changed for the better. It is my firm intention to stay positive, with a strong vision for the future, but I would be remiss if I did not repeat loud and clear how necessary and urgent it is to do everything possible for Aboriginals in Canada to be considered as full citizens, and to give them the means to establish their own institutions.

You should see the huge arch of the Menin Gate in Ypres, Belgium. The monument's walls are covered with the names of soldiers from the Commonwealth countries who died in combat during the great wars. Since the end of the Second World War, a remembrance ceremony has been held there every night at 8 p.m. When I was there, it occurred to me that a similar monument should be erected in Canada with the names of all the Canadian soldiers who died in Flanders Fields, including Aboriginal soldiers, of course.

In this year when Parliament passed a veterans' charter by enacting Bill C-45 last May, the least Ms. Guarnieri's department can do is to create a special committee of Aboriginal veterans. By receiving complaints from Aboriginals, this committee could correct a number of the injustices that never should have happened in Canada.

We have a duty to remember. I want to point out that, in October, the First Nations, the Metis and the Inuit of Canada left a very special mark on France: an inukshuk made of stones given by the First Nations, Metis and Inuit communities across Canada in memory of the soldiers who lost their lives on Vimy Ridge and on Normandy's beaches. The work is by a famous Inuit sculptor from Nunavut, Peter Irniq. This sculpture, in the traditional Inuit style, immortalizes the memory of all Canadian soldiers by including Aboriginals. There is an opening in the inukshuk's head to allow the spirits of those who died on foreign soil to reunite, across the ocean, with the spirits of their ancestors who stayed in their native land.

I would be remiss if I did not congratulate and sincerely thank the Honourable Minister Guarnieri for all the speeches she gave during the official ceremonies in Belgium and France. I must

admit that her words made me extremely glad and proud. I could say a great deal about her extraordinary speeches delivered with such eloquent sincerity, but I will just say that, through her voice, the Government of Canada has at last significantly recognized the exceptional human greatness of these Aboriginal men and women who joined up to go and defend freedom in distant lands while frequently deprived of it on their own lands and in their own country.

If I may have your indulgence, honourable senators, on the occasion of this Year of the Veteran and in light of the numerous observations made to me during my recent trip on the horrors of war, I will share with you a few reflections concerning the role our country must play in connection with peacekeeping.

• (2130)

In the course of my career, I attended a training program at the National Defence College in Kingston. That unforgettable experience afforded me an opportunity to meet some exceptional people, particularly Sister Peggy Butts, later to become a senator herself, and Norm Bélanger of the RCMP, both of them sadly no longer with us.

This program exposed us to some 600 lectures, studies, travel and numerous meetings, and the three of us came away with a nearly identical view of what peacekeeping is all about.

Our trio was known for its positions during heated debates, and we were dubbed the Peaceniks. Not Beatniks, but Peaceniks.

You will recall that we were in the midst of the Cold War at that time, the late 1970s, and the world was weighed down by the terrible threat of a ridiculous arms race. You can well imagine that the subject of the day at that college in Kingston was nearly always the rivalry between the two blocs, the east and the west.

I remember a U.S. army colonel who shocked me when he said that he had been trained to kill the enemy and was dreaming of the day he could practice what he had learned.

The more we talked about it, the more we were convinced that Canada had no other choice but to make a greater commitment to peaceful action by becoming a world leader in the development of peace among peoples.

I can tell you, honourable senators, that my commitment to peace has not changed. How many times since then and during my last trip did I not hear a veteran or a wise elder say in reference to war, "never again."

"Never again" is a powerful call for peace and reason, a mantra I have had the pleasure of hearing on numerous occasions during these historic commemorative ceremonies for the First Nations of Canada.

Given the ever-present threat of the global destruction of mankind, we must strive for it, say it and repeat it now more than ever: "never again," "never again"! Weapons are not what make the world a better, fairer and safer place. As some periods during the 20th century have proven, it takes strong and determined but peaceful action in favour of fundamental human rights to bring about change, to make the world a better, fairer and less dangerous place.

My time in Kingston put me in touch with various members of the Canadian Forces' international mission. I will always remember the peacekeeper at the Suez Canal who told me how proud he was to be Canadian and to belong to this country whose reputation for its actions and positions in favour of peace is unequalled.

However, he condemned the fact that his training as a soldier was not designed to help him develop knowledge and skills to promote peace. This peacekeeper had reached the same conclusion as the Peaceniks: the Canadian army has to train soldiers not for war but rather for sustainable peace and development work.

How could I fail to mention here the war in Iraq? In this regard, Canada has become a model for the rest of the world. In my opinion, despite strong diplomatic pressure, the Canadian government made the only choice possible by not taking part in the invasion of Iraq alongside the American forces. War leads to war, not to peace. "Never again," "never again." Security in the Middle East, as elsewhere, is only possible through peaceful and united action that fosters sustainable development.

For a long time I have had the very strong conviction that we have all the resources necessary to become the peacemakers the world needs. Devoting my entire life to the development of the First Nations of Canada has reinforced this conviction. Is it not obvious that, as long as we hold fast to justice and peace within Canada, we can play an exemplary role on the international scene?

Of course, we must recognize that much has been done in Canada to improve the situation of the first peoples. The very strong conclusions and recommendations of the Erasmus-Dusseault Royal Commission are eloquent testimony to this.

We must, however, follow the course on which Canada has embarked, right to the very end. The wrongs done to Canada's Aboriginal peoples must now be righted, starting of course with veterans. In addition, the First Peoples must now find a way out of the very poor social and economic conditions in which many of them still live.

Everything is in place for this to happen. We are not at an impasse, but at a crossroads leading to the creation of institutions and partnerships consistent with the principle of self-government for First Nations. We owe this, among other things, to the selfless sacrifice of Aboriginal soldiers for freedom.

Peaceful and fair toward its citizens, our country could play an historic and huge role in the world, a role of development, justice and peace in a climate of respect for cultural differences and of dignity.

Honourable senators, such is the role our Aboriginal peoples are asking you to take. In the past, they welcomed newcomers with this sense of justice and peace and respect for cultural differences. It was so that Canada could live up to the cause of peace that our veterans remained loyal to their country and defended other countries in the world when needed, sticking together despite the injustices toward them.

In closing, I want to commend General Dallaire, recently appointed to the Senate of Canada. The publication of his book *Shake Hands With The Devil,* after his involvement in the brutally tragic events that took place in Rwanda in 1994 and the unbearable helplessness he faced, lead me to believe that Senator Dallaire is in a much better position than I to speak of the importance of the sacrifice made by veterans and the human disaster that can result from wars and conflicts.

When one has the courageous generosity to aim at lofty and true ideals, the means for their achievement come quite easily. Is it not true that, if the Government of Canada freed itself of the financial burden associated with the mindset of military armament, the monies freed up would surely give us some powerful ways to unify the people of Canada, thereby becoming an international model and instrument of peace?

Honourable senators, in conclusion, I must tell you the main thing I learned from the elders and veterans during my trip. I heard a message of justice and peace, one which Canada has a duty to carry to the rest of the world and one that requires Canada to give our peacekeepers the necessary training, tools and other means necessary to allow them to continue intervening effectively in conflicts, as a constant reminder of the message we must never forget: "Plus jamais la guerre/Never again."

Hon. Roméo Antonius Dallaire: Honourable senators, I would like to request adjournment of the debate.

Hon. Marcel Prud'homme: Honourable senators, would Senator Dallaire allow a comment first?

The Hon. the Speaker *pro tempore***:** Honourable senators, Senator Gill's time is up.

[*English*]

Senator Prud'homme: I want to make a comment on the honourable senator's speech. I will not delay. Generally, you will want to adjourn the debate. Is there consent?

[*Translation*]

The Hon. the Speaker *pro tempore***:** Honourable senators, is there unanimous consent?

Some Hon. Senators: No.

[*English*]

The Hon. the Speaker *pro tempore***:** We do not have consent.

Senator Prud'homme: This is important when you have a debate. I am just asking to make a comment, and then Senator Dallaire can adjourn the debate. I know one person is very impatient and would like to leave. They can leave. This is the first time I have seen someone refusing.

The Hon. the Speaker *pro tempore***:** I am sorry, senator, permission is not granted.

Senator Prud'homme: I did not hear that.

The Hon. the Speaker *pro tempore***:** Permission was not granted.

Senator Prud'homme: Did the honourable speaker *pro tempore* ask the question?

The Hon. the Speaker *pro tempore***:** Yes.

On motion of Senator Dallaire, debate adjourned.

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

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