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**OFFICIAL REPORT**
**(HANSARD)**

## Thursday, November 23, 2006

**THE HONOURABLE NOËL A. KINSELLA**
**SPEAKER**

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# THE SENATE

**Thursday, November 23, 2006**

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

Prayers.

## SENATORS' STATEMENTS

### QUESTION OF PRIVILEGE

NOTICE

**Hon. Anne C. Cools:** Honourable senators, pursuant to rule 43(7), I hereby give oral notice at this time that later this day I will raise a question of privilege. To satisfy rule 43(3), earlier today, I gave written notice to the Clerk of the Senate.

This question of privilege is in respect of words stated and actions taken during Senate proceedings yesterday on Bill C-2. That is on the notice but I can happily let people know where I am going.

Honourable senators will recall the debate about notices. Since the ruling at the time, the consensus is that not much is needed in the notices, but I prefer to given more information than less.

### OFFICIAL REPORT

CORRECTION

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Honourable senators, it gives me great pleasure to rise and say that yesterday I misled, or I may have misled this chamber and I want to correct the record.

As we were on the verge of adjourning, in the discussion about the message that was sent to the House of Commons and sent back to the Senate on Bill C-2, I said that I thought we might have made an error in the message sent from the Senate after third reading of Bill C-2.

I am pleased to tell you that we made no such error. I want to apologize to honourable senators, but above all, I want to apologize to the table and to the law clerk staff who worked long hours to ensure that every single semicolon in what we sent to the House of Commons was, in fact, appropriately inserted. It was; and let the record show that I was wrong and they were right.

### AUTISM SPECTRUM DISORDERS

**Hon. Gerry St. Germain:** Honourable senators, I rise to speak about a social issue that has caused, and continues to cause, a growing number of Canadians and their families a great deal of hardship. That issue is autism or autism spectrum disorders, ASD.

Perhaps some honourable senators have also met with individuals and families who deal with the challenges of ASD. Every day is a challenge for these people and their families. Every day is exhausting and every day presents yet another demand on their financial situation.

These stresses can become so great that many families find they can no longer carry the burden, and the effect on their marriages is unfortunate. Figures for divorce rates vary between 75 and 80 per cent.

Two days ago, the federal government announced it will continue to provide funding and work with its provincial counterparts. As well, the government intends to sponsor symposiums, fund additional research focusing on effective treatment and intervention and fund additional information-sharing mechanisms.

My concern is that our government's intentions and efforts to date have left those afflicted and their families with insufficient treatment and coping mechanisms. I speak in a non-partisan vein when I say that. Autism is a complex disorder and the needs of individuals and their families vary greatly. I have witnessed autism personally in my own family.

Governments need to reassess their positions as to how we support these needs. Canada needs to develop a national autism strategy, funded to provide the resources, treatment and supports necessary so that all autistic Canadians have the support that they require throughout their lives.

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

### PUBLIC SAFETY

PROPOSAL TO ABOLISH LONG GUN REGISTRY

**Hon. Lorna Milne:** Honourable senators, I was disappointed to hear that the Minister of Public Safety remains committed to abolishing the federal long gun registry and to refunding $120 million to gun owners. He reasons it is inefficient and costs too much to operate, even though he failed to provide any statistics on how much the government would save by killing the program when he appeared before the Standing Committee on Public Safety and National Security in the other place on November 2.

Honourable senators will be interested to know that it now costs Canadians about $14.6 million a year for the registration of all firearms in Canada, including handguns, long guns and other restricted firearms.

**Senator St. Germain:** We have heard that story before.

**Senator Milne:** Under questioning, a deputy commissioner of the RCMP noted that the long gun portion of the activity accounts for about 20 per cent of what is done in the registry right now — 20 per cent of $14.6 million is $2.9 million per year.

• (1340)

I am sure that spending $120 million in waivers and refunds to save $2.9 million was not what the Public Safety Minister had in mind when he told Mike Duffy, on May 17, "What we're doing is getting rid of this hugely expensive and ineffective long gun registry."

Perhaps it is time for this government to start governing based on facts and not on election rhetoric. The facts are these: Fact, 300 fewer Canadians now are killed annually with guns than in 1995 — 300 fewer; fact, murders with guns have plummeted while other murders have not; fact, police use the system 5,000 times a day — last year, it supported 3,000 affidavits and thousands have had their licence denied or revoked; fact, the more rural an area is, the more likely its inhabitants are to die by the gun; fact, in the Yukon and the Northwest Territories, where almost 70 per cent of homes have guns present, the death rate by firearms is even higher than in the U.S.A.; and fact, Canadians are far less likely to be shot to death now than they ever were before the long run registry was introduced.

When I read the transcript for that committee meeting I thought of people like the family of Marianne Schmid. It was with great sadness that I learned of her death on Monday, November 6. According to her family, the 67-year-old loved her daily hike in the woods near her home west of Tottenham, Ontario. She was a prudent woman and rarely embarked on these walks during hunting season since she was wary of the hunters in her area. Unfortunately, she was unaware that hunting season had begun on the day she was accidentally shot by a deer hunter, even though she was wearing a bright red sweater.

**Senator Segal:** How would registration help that?

**Senator Milne:** After reading her story and attempting to understand what her family is going through right now, I thought: What if the hunter in question had abandoned the scene of the accident? Would that person be easier to find if their weapon was registered?

Honourable senators, I leave you with this one final question.

**Senator St. Germain:** Hunters have arms.

## GREY CUP 2006

### CONGRATULATIONS TO CITY OF WINNIPEG

**Hon. Rod A. A. Zimmer:** Honourable senators, on Sunday, November 19, the world stopped for three hours to celebrate an historic annual tradition in our country: The 2006 Grey Cup. As Senator Campbell explained, waxing eloquently yesterday, we had the honour, under great duress, to attend on your behalf.

I must add a point of clarification that Senator Campbell was an honourable representative on behalf of all senators, especially when he displayed his chameleon Campbell skills. Through his metamorphosis, as the evenings progressed into the wee hours, he transformed from senator to Mountie to coroner. Believe me, he knew where the bodies were buried. As the clock went up, the liquids went down.

At CFL Commissioner Tom Wright's brunch on Sunday, Senator Campbell's road-map eyes would put any GPS system in the world to shame.

I must clarify, honourable senators, that we represented you proudly and held up the good name of this honourable chamber.

**Senator Segal:** I saw you staggering around!

**Senator Zimmer:** On behalf of all the honourable senators from Manitoba — Senator Carstairs, Senator Chaput, Senator Spivak, Senator Johnson and Senator Stratton — I want to congratulate my home city of Winnipeg for organizing and hosting such an outstanding week. From the parade to the cultural and social entertainment to the game itself, I was proud of the conduct of the fans, officials and organizers.

For the whole week, the tradition of this sporting event not only provided a venue for celebration but it is an annual catalyst for Canadian unity.

Aside from the game, the highlight of the week was when General Rick Hillier addressed CFL Commissioner Tom Wright's brunch on Sunday and proudly inspired us with his remarks about the men and women who serve our country around the world. He received a long and loud applause.

On behalf of all honourable senators, today I take this moment to congratulate the City of Winnipeg, the Province of Manitoba and in particular, Mayor Sam Katz, Premier Gary Doer, from the steering committee, Co-Chairs Gene Dunn and David Asper, and President and CEO Lyle Bauer, and most importantly, the thousands of volunteers. You did us proud.

Finally, to Senator Campbell and the Lions, I tip my hat. Congratulations on winning the Cup. You limped to victory. As folklore goes, and as was said of the mighty Casey at bat, my beloved Alouettes struck out.

• (1345)

## ALLIANCE OF THE CANADIAN ARTHRITIS PROGRAM

**Hon. Art Eggleton:** Honourable senators, over 4 million Canadians suffer from arthritis. Arthritis imposes major costs on many aspects of the lives of Canadians: It diminishes the pleasure of our leisure; it forces many of us to leave our places of employment for disability; and it places great strains on the financial and human resources of our medical system.

Today, members from the Alliance of the Canadian Arthritis Program, ACAP, are in Ottawa working to help raise arthritis awareness and to discuss innovative standards of care for patients. I had the pleasure of participating in a breakfast this morning and seeing the active participation of other senators and MPs in this event. The ACAP team offered screenings for all interested participants.

Screening, honourable senators, is vital because some Canadians do not know that they have arthritis, attributing their aches and pains to growing old. As a result of this point of view, arthritis sufferers do not always get the appropriate and adequate help that they require as early as they need it.

ACAP is committed to the improvement of the lives of those who have arthritis by raising awareness. I would like to commend them on their efforts and encourage them to continue to fight for this worthy cause on behalf of Canadians.

### THE LATE JACKIE PARKER

**Hon. Francis William Mahovlich:** Honourable senators, I rise today to remember one of Canada's greatest football players, Jackie Parker, who passed away on Tuesday, November 7, 2006, at the age of 74, losing his battle with throat cancer.

Born on January 1, 1932, in Knoxville, Tennessee, Jackie Parker started his football career at Jones County Junior College, and then went on to play for Mississippi State University, where he led the all-American college football point standings with 120 points, including 16 touchdowns. He was selected as both the All-American and Academic All-American player.

Jackie Parker joined the Edmonton Eskimos in 1954, four years before the WIFU and the Interprovincial Rugby Football Union officially became the Canadian Football League.

With the Eskimos, Parker contributed to three Grey Cup victories in 1954, 1955 and 1956, and quickly became a fan favourite. His most famous single play was during the 1954 national final when he recovered a fumble by Alouette halfback Chuck Hunsinger. With just minutes left in the game and the Eskimos down by five points, which then was the point value of a touchdown, Parker snatched up the ball and tore down the field for a touchdown. The Edmonton Eskimos went on to win the Grey Cup, defeating the Alouettes by one point.

Jackie Parker was also remembered for his quick speed and smart moves. His skinny lower limbs coined him the nickname "Spaghetti Legs," as they made tackling him like trying to grip freshly cooked pasta al dente.

Parker's honours as an amazing athlete are numerous. He was inducted into the Edmonton Eskimo Wall of Honour, the Canada Sports Hall of Fame and the Canadian Football Hall of Fame. Old Spaghetti Legs will go down in history as one of the best football players Canada has ever seen.

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[*Translation*]

## ROUTINE PROCEEDINGS

### SOCIAL DEVELOPMENT COUNCIL OF NUNAVUT

2003-04 AND 2004-05 ANNUAL REPORTS TABLED

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the annual reports on the state of Inuit culture and society in the Nunavut settlement area for 2003-04 and 2004-05.



• (1350)

[*English*]

### FOREIGN AFFAIRS AND INTERNATIONAL TRADE

BUDGET—STUDY ON EVACUATION OF CANADIAN CITIZENS FROM LEBANON— REPORT OF COMMITTEE PRESENTED

**Hon. Hugh Segal,** Chair of the Standing Senate Committee on Foreign Affairs and International Trade, presented the following report:

Thursday, November 23, 2006

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to present its

FOURTH REPORT

Your Committee, which was authorized by the Senate on Tuesday October 24, 2006, to examine and report on the evacuation of Canadian citizens from Lebanon in July 2006, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as maybe necessary for the purpose of its study.

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

Respectfully submitted,

HUGH SEGAL
*Chair*

(*For text of budget, see today's* Journals of the Senate*, Appendix A, p. 796.*)

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

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

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

EIGHTH REPORT OF COMMITTEE PRESENTED

**Hon. George J. Furey,** Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, November 23, 2006

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

EIGHTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2006-2007.

**National Finance (Legislation)**

| | |
|---|---|
| Professional and Other Services | $ 16,500 |
| Transport and Communications | $ 0 |
| Other Expenditures | $ 1,000 |
| **Total** | **$ 17,500** |

GEORGE J. FUREY
*Chair*

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

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

## AGRICULTURE AND FORESTRY

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY—REPORT OF COMMITTEE PRESENTED

**Hon. Joyce Fairbairn,** Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Thursday, November 23, 2006

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

FOURTH REPORT

Your Committee, which was authorized by the Senate on Wednesday, April 26, 2006, to hear from time to time witnesses, including both individuals and representatives from organizations, on the present state and the future of agriculture and forestry in Canada, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, for the purpose of its study.

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

Respectfully submitted,

JOYCE FAIRBAIRN, P.C.
*Chair*

(*For text of budget, see today's* Journals of the Senate*, Appendix B, p. 802.*)

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

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

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON RURAL POVERTY—REPORT OF COMMITTEE PRESENTED

**Hon. Joyce Fairbairn,** Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Thursday, November 23, 2006

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

FIFTH REPORT

Your Committee, which was authorized by the Senate on May 16, 2006, to examine and report on rural poverty in Canada, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, and to adjourn from place to place within Canada and to travel inside Canada for the purpose of such study.

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

Respectfully submitted,

JOYCE FAIRBAIRN, P.C.
*Chair*

(*For text of budget, see today's* Journals of the Senate*, Appendix C, p. 808.*)

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

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

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON FUNDING FOR TREATMENT OF AUTISM—REPORT OF COMMITTEE PRESENTED

**Hon. Art Eggleton**, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, November 23, 2006

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

SEVENTH REPORT

Your Committee, which was authorized by the Senate on Thursday, June 22, 2006 to examine and report on the issue of funding for the treatment of autism, respectfully requests that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary for the purpose of such study.

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

Respectfully submitted,

ART EGGLETON
*Chair*

(*For text of budget, see today's* Journals of the Senate*, Appendix D, p. 820*.)

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

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

• (1355)

## ANTI-TERRORISM ACT

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF SPECIAL COMMITTEE PRESENTED

**Hon. David P. Smith,** Chair of the Special Senate Committee on the Anti-terrorism Act, presented the following report:

Thursday, November 23, 2006

The Special Senate Committee on the Anti-terrorism Act has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on Tuesday, May 2, 2006 to undertake a comprehensive review of the provisions and operation of the *Anti-terrorism Act, (S.C. 2001, c.41),* respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its study.

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

Respectfully submitted,

DAVID P. SMITH
*Chair*

(*For text of budget, see today's* Journals of the Senate*, Appendix E, p. 826*.)

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

On motion of Senator Smith, with leave of the Senate and notwithstanding rule 57(1)(e), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## NATIONAL SECURITY AND DEFENCE

### BUDGET—STUDY ON NATIONAL SECURITY POLICY—REPORT OF COMMITTEE PRESENTED

**Hon. Colin Kenny,** Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Thursday, November 23, 2006

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

FIFTH REPORT

Your Committee, which was authorized by the Senate on Thursday, April 27, 2006, to examine and report on the national security policy for Canada, respectfully requests the approval of supplementary funds for fiscal year 2006-07.

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

Respectfully submitted,

COLIN KENNY
*Chair*

(*For text of budget, see today's* Journals of the Senate*, Appendix F, p. 832*.)

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

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

## VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, prior to moving to the next item, I wish to draw your attention to the presence in the gallery of His Beatitude Patriarch Gregory III Laham, Patriarch of Antioch and all the East, of Alexandria and Jerusalem; the spiritual leader of the Melkite Greek Catholic Church.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

• (1400)

[*Translation*]

## OFFICIAL LANGUAGES

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Maria Chaput:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I give notice that, later today, I will move:

> That the Senate Standing Committee on Official Languages have the power to sit on Monday, November 27, 2006, at 4:00 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

[*English*]

## NATIONAL SECURITY AND DEFENCE

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Colin Kenny:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I give notice that, later this day, I will move:

> That the Standing Senate Committee on National Security and Defence have power to sit at 3:30 p.m. on Monday, November 27, 2006 even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Tommy Banks:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to sit at 5:00 p.m., Tuesday, December 12, 2006, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

## AGING

### NOTICE OF MOTION TO AUTHORIZE SPECIAL COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Jane Cordy:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I give notice that, later this day, I shall move:

> That the Special Senate Committee on Aging have the power to sit on Monday, November 27, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

# QUESTION PERIOD

## AGRICULTURE AND AGRI-FOOD

### CANADIAN WHEAT BOARD—PROPOSAL TO ELIMINATE SINGLE-DESK SELLING FUNCTION— REQUIREMENT FOR PRODUCER PLEBISCITE

**Hon. Daniel Hays (Leader of the Opposition):** Honourable senators, I should like to raise again with the Leader of the Government in the Senate some matters involving the Canadian Wheat Board.

**An Hon. Senator:** Oh, oh, a BlackBerry.

**Senator Hays:** I plead guilty, honourable senators — and if I am not mistaken, I am the first one in this chamber to do so. The mechanism is now off, and my apologies for the disturbance, in contravention to the rules.

To return to the matter at hand, the question of the future of the Canadian Wheat Board is very much on the minds of Western Canadian farmers who have an interest in it; of course, those farmers who rely on the board for the marketing of their product are the ones who have the highest interest. As such, those farmers are entitled to vote under the provisions of section 41(1) of the Canadian Wheat Board Act on any such question or decision involving removing a grain from the single-desk selling function of the board. As honourable senators are aware, there is a proposal on barley, and the matter of wheat remains outstanding.

The Saskatchewan and Manitoba governments, in frustration, not knowing for certain what procedures will be followed if the government proceeds with the decision that it has virtually announced, that is, to take away the single-desk selling function, are intending to hold — and they announced this on November 10 — plebiscites that would not be official but that would express the views of farmers in their provinces.

My question for the Leader of the Government in the Senate is this: Can she give us some firm indication of the government's intentions, and, in particular, having in mind the steps taken by Saskatchewan and Manitoba, do so in time to avoid their unnecessary expenses, and do so by respecting the provisions of the legislation, namely, that a producer plebiscite must be held if the single-desk selling function is to be removed for barley and/or wheat?

• (1405)

**Hon. Marjory LeBreton (Leader of the Government):** I thank Senator Hays for the question. I think Senator Hays is the first person in the Senate who has admitted to having one of those BlackBerry smart phones hidden in his back pocket.

With regard to the situation of the Canadian Wheat Board and the commitment of the government to give wheat producers and others a choice in marketing, the government is working still with the various stakeholders, including the two governments mentioned by the honourable senator.

As honourable senators know, there is some question about the people who are eligible to vote in the elections. A process is underway to ensure that the voting list is accurate and appropriate after some people were removed from the voting list.

Minister Strahl is making every effort to resolve this matter as quickly as possible. I am aware of the frustrations expressed by the Governments of Saskatchewan and Manitoba. I can assure Senator Hays that Minister Strahl is working hard to find a resolution to this complex matter.

**Senator Hays:** Honourable senators, I have touched on this issue, but I would like to emphasize again the depth of feeling on the two sides of this issue. It divides families. It divides the region and pits Alberta against Saskatchewan and Manitoba. If something is to be done outside of respecting the provisions of the requirement of a plebiscite, then that makes the issue much worse.

I urge the minister to consider a legislative solution to be dealt with in this place. As we all know, the provisions of Bill C-2 that relate to the Canadian Wheat Board and the access to information legislation applying to the board were a matter of great concern to members of the opposition in the Senate. Were we to deal with legislation that affects the Canadian Wheat Board outside of observing the proper steps that need to be taken to change its mandate, it would be difficult to deal with the matter in this place.

Is the minister factoring in this difficulty and sharing that with her colleague, the Minister of Agriculture, in terms of how the government proceeds?

**Senator LeBreton:** I thank the honourable senator for his question.

The honourable senator is right. There are differences between the wheat growers and the barley growers. The task force that looked into the marketing choice recommended a phased-in approach, with barley being first. The government agreed with that recommendation. As is known, the minister indicated he would proceed early in the new year with a plebiscite on barley for Canadian barley growers.

With regard to the question of specific legislation, I will inform the Minister of Agriculture of the views of the honourable senator. However, the intention of the government is clear. As Senator Gustafson has reminded us many times, we campaigned in the last election on the question of choice in marketing. It is the government's intention to follow that course.

I will raise with the Minister of Agriculture the concerns of the honourable senator with regard to the possibility of legislation.

• (1410)

**Senator Hays:** With respect to the task force and the matter of choice or no choice in terms of the single-desk selling option that is currently in place on wheat and barley in interprovincial and international sales, the task force has met. Professor Murray Fulton of the University of Saskatchewan, a member of the task force, has highlighted a study. In his view — and I am not sure that he speaks for the whole task force; I assume he does not — the single-desk selling function taken away from the Canadian Wheat Board means that the Wheat Board ceases to exist.

This matter has been the subject of discussion, and we had an exchange on it at an earlier time. I cannot remember the exact number, but the Wheat Board — which has no capital because it distributes the proceeds of the various grain accounts — in order to function in a manner contrary to the way it functions now, will need working capital. To function on the scale it currently functions, it will need, as I recall, a working capital of some $1.5 billion, which it does not have.

Assuming the single-desk selling function is taken away and the government is as good as its word in saying that the board could then function in a choice market environment, would the capital be given to the board so that it could conduct its business, in effect, as a grain company?

**Senator LeBreton:** Honourable senators, the minister has received recommendations from the task force, and my honourable friend has expressed the view of one member. As I mentioned in my earlier answer, we are committed to implementing marketing choice for Western Canadian wheat and barley growers.

As we all know, wheat and barley growers in Canada produce a first-class product. We see a very bright future for wheat and barley producers working in a system where they have marketing choice and/or the assistance of a voluntary wheat board.

With regard to the amount of money the honourable senator indicates the Wheat Board needs to operate, I have not specifically been party to discussions about how the minister and the government envisage the voluntary wheat board and how it would operate. I will take that part of the question as notice.

## HEALTH

### FUNDING FOR PILOT PROJECT FOR MEDICALLY SUPERVISED INJECTING FACILITY

**Hon. Larry W. Campbell:** Honourable senators, on November 21, 2006, the *Canadian Medical Association Journal* published findings with regard to the evaluation of a pilot project for a medically supervised safer injecting facility in Vancouver. This facility has been the subject of at least three peer-reviewed research projects, to my knowledge. It is supported by the B.C. government, the City of Vancouver and even Health Canada bureaucrats.

In September, we requested a three-year extension on this project, and it was denied. Minister Clement allowed the site to stay open for some 15 more months and cut off the funding for any research.

The difficulty, of course, is that Minister Clement said it was important to have a diversity of research. Of course, I agree with that, especially peer-reviewed research.

My question is directed to the Leader of the Government in the Senate. In announcing on September 1 a limited extension of the pilot project, why did the federal government cut off further research funding for the facility, when clearly there is a wish and a demand for more research to be conducted into these types of facilities?

**Hon. Marjory LeBreton (Leader of the Government):** As the honourable senators has pointed out, Minister Clement announced in September that the Vancouver site will remain open until December 31, 2007, while further studies are conducted and carried out.

• (1415)

As he pointed out at the time, before an informed decision can be made about the future of supervised injection sites in Canada, further research is needed to determine how these sites affect crime, prevention and treatment. Steps are under way to initiate this research and ensure that it is carried out in a timely fashion and in such a way that it can properly guide and inform the government as to how to proceed in the future with the drug injection sites.

**Senator Campbell:** I thank the Leader of the Government in the Senate. If the government would simply go to the *CMA Journal*, it would find that it has studied and peer-reviewed the characteristics of people using the facility, the issue of public order, the use of education services about safer injecting, HIV risk behaviour and safer injection practices, addiction treatment and care, overdoses and possible negative impacts.

I have been involved in this area for almost 30 years. Can the Leader of the Government, who has said that this research is being undertaken, advise us where this research is being undertaken, who is conducting it, and who is paying for it?

**Senator LeBreton:** I thank the honourable senator for his question and for drawing to my attention the *CMA Journal*. I will take the specific question as notice. I will take the question to my colleague, the Minister of Health, and report to the honourable senator as soon as possible.

## THE ENVIRONMENT

### KYOTO PROTOCOL—COMMITMENTS ON GREENHOUSE GAS EMISSIONS

**Hon. Tommy Banks:** My question is to the Leader of the Government and, to no one's surprise, has to do with Kyoto: the difference between Kyoto, on the one hand, and what is referred to as a made-in-Canada solution, on the other hand. I have asked this question before, but we all forgot about it, so I will ask it again.

When Canada went to the United Nations convention in Rio de Janeiro and agreed to the subsequent undertaking, which was the Kyoto accord, it undertook, as did every other signatory to that accord, to in effect determine and decide on its own what its targets and objectives would be and what goals it would try to attain. With respect to the Kyoto accord, the United Kingdom decided what its goals and measurements would be and the hoops through which it would jump. France determined what the French version of that would be and what its objectives would be. Canada determined what Canada's objectives would be.

Kyoto simply was a group of nations that agreed to take the first baby step having to do with one thing and one thing only, and that is greenhouse gas emissions. When the United Kingdom determined its objectives, measurements and goals, that was a made-in-United Kingdom solution. When France decided what its objectives would be, that was a made-in-France solution. When Canada decided, which it did, what the Canadian objectives, measurements and goals would be, it was a made-in-Canada decision. Kyoto and its objectives, as they apply to Canada, was a made-in-Canada solution.

I ask the question because I am an old marketing guy, so I understand the value of slogans and buzzwords. They are effective. This slogan was cleverly chosen and it has been effective. However, you are the government now, and it is time, I suggest, to stop using that phrase, because it indicates that the Kyoto objectives of the previous government were not made in Canada, when, in fact, they were.

I would like to be corrected if I am wrong. If I am wrong, would the Leader of the Government please tell us which, if any, of the objectives that were set out in the Kyoto accord and aspired to by Canada were not made in Canada?

**Hon. Marjory LeBreton (Leader of the Government):** That is an interesting question. The commitments that were made in Kyoto by the previous government were commitments — correctly, I suppose, one could use the term "made in Canada" — by the then Prime Minister, and no one is quarrelling with that.

• (1420)

The problem, as Senator Banks well knows and as people from the previous government now say, is that immediately upon the commitments being made there was concern and some acknowledgment that they could not be met. Of course, the commitments were not met.

However, that does not change the fact that we are now the government. We are working on this very important issue. We are trying to engage all Canadians, no matter their political stripe, in helping Canada and the world meet these very important commitments. However, greenhouse gas emissions increased by 25 to 30 per cent, which in no way detracts from the fact, as Senator Banks said, that these were made-in-Canada commitments. It simply means that the previous government committed Canada to goals that it knew we could not meet.

We now have a government that is committed to addressing the issue of greenhouse gas emissions and air pollution. For the first time, we have a government that is prepared to bring in a regulatory famework to ensure that we start the process, with the hope of moving it along quickly, to greatly reduce smog and of working on the greenhouse gas emissions.

We have been the government for eight months. I am pleased to note that despite the excessive rhetoric of various interest groups, which were equally as critical of the previous government as they are of this government, we now have a plan in place. Over the next while, we will be announcing various programs to help Canadians reduce emissions. We are also working to show our global partners that Canada is serious about this very important issue.

When Minister Ambrose was in Nairobi, she was paid some wonderful compliments for recognizing the problem, for committing Canada to address the problem and for her honesty.

[*Translation*]

## TRANSPORT, INFRASTRUCTURE AND COMMUNITIES

### MEETING OF MUNICIPAL LEADERS— FUNDING FOR INFRASTRUCTURE

**Hon. Francis Fox:** Honourable senators, my question is for the Leader of the Government in the Senate and concerns municipal financing. More than 100 municipal elected officials from across Canada met over the past few days in Ottawa to urge the Government of Canada to make a long-term commitment to helping municipalities finance public transit, housing and other priorities.

During the meeting, the President of the Federation of Canadian Municipalities, Gloria Kovach, emphasized that municipalities are now facing a $60 billion black hole just to catch up on municipal infrastructure works.

• (1425)

The Mayor of Toronto, David Miller, said he hoped this government would promise to permanently finance those sectors that should, in his view, come under federal responsibility, such as housing and the continuation of the Supporting Communities Partnership Initiative, which has provided nearly $700 million to Canadian cities since its inception in 2000.

Can the honourable Leader of the Government in the Senate give us an indication of the government's intentions in response to the pressing arguments made by the municipalities?

[*English*]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators the issue of infrastructure is an important and timely subject. We certainly have witnessed, in the last few months, the serious consequences when our infrastructure starts to crumble.

I am aware of the meeting taking place, and Minister Flaherty will be issuing an economic statement later today. I do not know, because I have not been briefed on it yet, exactly what, if anything, he will be saying about infrastructure in that announcement. I will undertake to obtain an answer for my honourable friend as to how the government intends to respond to the meetings that are being held today.

[*Translation*]

**Senator Fox:** Honourable senators, I thank the honourable Leader of the Government in the Senate for her response. However, I would like to point out to her that, under the Right Honourable Paul Martin's government, a transfer payment was signed over — with the provinces' approval, I might add — to the municipalities, in particular for the gas tax.

Yet, yesterday, in an interview with the *Toronto Star*, Ontario Premier McGuinty indicated that the $6.8 billion agreement signed with Mr. Martin still has not been honoured by the current government.

In light of what the Minister of Finance said today, the Mayor of Toronto responded, and I quote:

[*English*]

> You do not build a city with tax cuts, you do it with investment.

[*Translation*]

Could the honourable Leader of the Government in the Senate confirm to us that the government really does plan to honour the $6.8 billion agreement signed by the previous government with the Government of Ontario and other provinces?

[*English*]

**Senator LeBreton:** I believe that the Minister of Finance has made comments on the commitments to infrastructure by the previous government but I will double-check.

As honourable senators know, the government has been moving forward on several fronts regarding infrastructure agreements with the provinces, including a few weeks ago the announcement with the Premier of Quebec about Highway 30.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### CREATION OF WORKPLACE CHILD CARE SPACES IN FEDERAL BUILDINGS

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Honourable senators, my question is for the Minister of Public Works and has to do with child care.

Incidentally, to the Leader of the Government in the Senate, time flies when you are having fun; I think you have been in government for 10 months, not eight.

To the Minister of Public Works, having demolished the carefully negotiated and adequately funded child care arrangement of the previous government, the policy of Canada's new government includes — and I think this is a fine thing to do — encouraging the creation of child care spaces in the workplace. Comparatively modest — but nonetheless real, I hope — funds were allocated to this policy in his spring budget.

Is the federal government putting its own money where its mouth is, so to speak; to wit, is it the policy of the federal government to have day care centres in all federal buildings or workplaces? If so, can we know the costs of them, both capital and operating, and how many places exist? If not, why not?

• (1430)

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for her question. I shall take the question as notice, on behalf of my colleague the Minister of Public Works and Government Services. Senator Fortier will be disappointed

that a question related to his portfolio was directed to him, given that on so many days he sits here hoping for such a question.

I shall certainly ask the minister if, in fact, plans are underway to proceed with child care facilities in the various Public Works buildings. As honourable senators know, Budget 2006 set aside $250 million per year, beginning in 2007-08, to support the creation of new child care spaces. This government initiative involves working with both the private sector and the provincial and territorial governments.

I shall speak to my colleague about his department's plans for ensuring the availability of child care spaces in buildings owned by the federal government and operated by Public Works and Government Services Canada.

## HUMAN RESOURCES AND SOCIAL DEVELOPMENT

### CREATION OF WORKPLACE CHILD CARE SPACES—PROGRESS OF NEGOTIATIONS WITH EMPLOYERS

**Hon. Joan Fraser (Deputy Leader of the Opposition):** I have a supplementary question for the Leader of the Government. She anticipated it slightly in her response. Yesterday's *National Post* — which has a bit of an ideological bent in the government's direction, I think — carried an interesting report, to the effect that negotiations with employers may not be going that well, that employers appear to be not that interested in creating child care centres on their premises or for their employees. The report actually did not surprise me. It would not surprise anyone who has been in the position of trying to persuade employers to create daycare centres. Talk about an uphill struggle.

Could the government leader provide us with information about those negotiations? Indeed, can she tell us whether the negotiations are ongoing? Is it true that employers have been less than enthusiastic about taking up the government's offer?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I also saw the report in the *National Post*. I must confess that I do not read the *National Post* every day, but I did see that report. I am still hung up on *The Globe and Mail*.

In any event, for every good news story, there is, of course, a bad news story. The alleged bad news stories get reported, and the good news stories do not. Some businesses and large corporations are very receptive. In fact, many large corporations and businesses probably should be used as examples. During the last election campaign, we toured some of the child care facilities in these large corporations and businesses. I remember being in a plastics factory in Bolton, Ontario, where I saw about the nicest child care facility I have ever seen in my life.

Let me assure Senator Fraser that I shall undertake to ask Minister Finley if she can produce some of the good news stories, to counteract the supposed bad news stories that seem to make their way into the newspapers. I shall endeavour to determine the status of the negotiations and when Minister Finley expects to see some concrete results to these negotiations.

# ORDERS OF THE DAY

## FEDERAL ACCOUNTABILITY BILL

### MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS—REFERRED AS AMENDED TO LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

On the Order:

> Resuming debate on the motion of the Honourable Senator LeBreton, P.C., seconded by the Honourable Senator Comeau:
>
> That the Senate concur in the amendments made by the House of Commons to its amendments 29, 98 and 153 to Bill C-2, providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability;
>
> That the Senate do not insist on its amendments 2, 4 to 12, 14, 15, 18 to 20, 22 to 25, 28, 30, 31, 34 to 54, 55(*a*) to (*d*), 55(*e*)(ii) to (viii), 56 to 62, 65, 68, 69, 71, 80, 83, 85, 88 to 90, 92, 94, 96, 100 to 102, 107 to 110, 113, 115, 116, 118 to 121, 123, 128 to 134, 136 to 143, 145, 147 to 151, 154, 155 and 157 to which the House of Commons has disagreed; and
>
> That a Message be sent to the House of Commons to acquaint that House accordingly;
>
> And on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Day, that the motion, together with the message from the House of Commons on the same subject dated November 21, 2006, be referred to the Standing Senate Committee on Legal and Constitutional Affairs for consideration and report.

**Hon. Jack Austin:** Honourable senators, at the beginning of my comments, I wish to place on the record my admiration for the work and contribution of the Standing Senate Committee on Legal and Constitutional Affairs with respect to Bill C-2, the so-called federal accountability act. That committee did such a magnificent job of repair work, new construction and effective re-assembly that I did not contemplate the necessity from my own perspective of participating in any part of the debate on Bill C-2. I believed, in my total innocence, that the Harper government would be grateful. I want to especially recognize and commend our colleague Senator Joseph Day for his leadership on this side and thank our colleague Senator Donald Oliver for his work as chair of the committee.

As Senator Day emphasized in his remarks yesterday to the Senate, the other place spent two days considering the Senate's views and conclusions with respect to Bill C-2, this after weeks of work and the evidence of expert witnesses who came before the Senate committee. This dismissive attitude on the part of the other place clearly demonstrates their lack of respect for this chamber and its role as a chamber of review of legislation, a chamber of sober second thought, and its role as a check and balance on the executive component of our parliamentary system. What has been disclosed by the government's attitude, in particular, supported to no surprise by the Bloc who want to

dismantle federalism, portends trouble ahead for the parliamentary concept, which has been the foundation stone of our democracy. However, this is not a speech on Bill S-4 or on the resolution introduced by Senator Murray and seconded by me. That speech is for another time.

By now, honourable senators will have gathered my severe disappointment with the message before us. Bill C-2 is flawed in several of its aspects. Contrary to the government's spin, the bill does not enhance accountability and transparency. Rather, if passed, it will legislate loopholes that, instead of preventing another sponsorship scandal, could permit such deeds to occur again but never be publicly disclosed. What kind of ethics package is that?

There is so little speaking time allotted to me that I cannot fully explain many of my concerns. I will refer to two of the amendments that were rejected, amendments that relate to issues that I personally experienced.

The first of these issues relates to the ethical conduct of ministers and other public office-holders, including parliamentarians. The points that Senator Hays addressed yesterday about such provisions in the bill make clear to all that instead of drafting error, the proposed conflict of interest regime is designed deliberately to craft loopholes to deny the right of transparency and therefore of accountability.

This Prime Minister, for the first time since Canadian Prime Ministers promulgated codes of conduct for their ministers, has decreed that potential and apparent conflicts of interest are not a matter for public concern. Honourable senators, this means that cabinet ministers may award contracts in circumstances where they have a potential or apparent conflict of interest. Sitting around the cabinet table, they may make representations to their colleagues on issues where they have a potential or apparent conflict of interest, and no one outside that cabinet meeting may ever know. I have sat around the cabinet table, and I am proud to say that these were not the rules under which we operated. Our ethical standards were significantly higher.

Honourable senators, do we want public office-holders to discharge their duties and public responsibilities when they have a potential or apparent conflict of interest? Absolutely not. The whole point of the proposed conflict of interest act, and indeed the code of conduct governing each chamber, is precisely to have the commissioner serve as the arbiter of these issues. It is passing strange that this government would demand that this new commissioner replace Parliament and the public on some matters, but on issues of potential and apparent conflict of interest for ministers and other public office-holders suddenly hold the commissioner at bay. What is the government trying to hide? What, in fact, is going on that the Prime Minister is so determined to keep potential and apparent conflicts of interest out of the proposed act and away from the oversight of the commissioner? How can a cynical government have demanded, when in opposition, that Prime Minister Martin dispose of all of his interest in a family business because of potential or apparent conflict of interest and then turn around and protect who? What ministers and what interests? Well, nothing remains a secret for long in Ottawa. Never forget that.

I was also concerned to see the government's response to our amendments to clause 43(*a*) and related provisions of the proposed conflict of interest act. Honourable senators will recall that Prime Minister Harper, when he was in opposition, was most strident that it was improper for the Ethics Counsellor to advise the Prime Minister confidentially about conduct of a minister. The Conservative Party's election platform last year promised that a Conservative Government would "prevent the Prime Minister from overruling the Ethics Commissioner on whether the Prime Minister, a minister or an official is in violation of the Conflict of Interest Code."

• (1440)

I am sorry to report to you that this appears to be another Conservative promise about to be broken.

We have a situation whereby the rules imposed by the much-touted Conflict of Interest Act are vastly watered down from those under which we operated with the previous Liberal governments. This Prime Minister is insisting on secret reports from the conflict of interest and ethics commissioner on the conduct of his ministers and other public office-holders, even when the commissioner concludes they have violated the act. This concept is shameful, honourable senators. No wonder the government is exerting such pressure to pass the bill quickly. They are afraid that Canadians will discover what the bill truly says, and they are right to be afraid. I am also gravely concerned that this government lacks understanding of fundamental concepts of parliamentary privilege. These matters are not casual but rather represent some of the most basic, critical founding principles of our democratic system. It is of grave concern to me, as I know it is to others in this chamber, if this government does not understand these concepts. However, if it does understand the concepts, yet is determined to proceed notwithstanding the consequences of its actions, then that is cause for even greater concern. Honourable senators, because of time constraints, I must leave the details of this issue and many others to my colleagues in the chamber.

The second issue I wish to address today is the government's insistence on a single conflict of interest and ethics commissioner for members of the executive in the other place and this chamber. There are two points of concern: having a single commissioner for all three bodies and the manner of appointment of that commissioner.

Honourable senators will recall that the draft bill originally proposed by then Prime Minister Chrétien in October 2002 would have created a single ethics commissioner for members of the Senate, members of the House of Commons and public office-holders. Immediately upon its introduction, this proposal met with significant resistance from senators, not least because it provided for one person to report to both Houses and to the executive. Senator Lynch-Staunton, then Leader of the Opposition in the Senate, on November 5, 2002, spoke to the proposal and had the following exchange with Senator Grafstein:

> **Senator Grafstein:** The Honourable Leader of the Opposition has been staunch in the sovereignty of the powers of the Senate but has made no mention with respect to the different and separate powers between the House of Commons and this chamber. Is he not concerned that by allowing a commissioner to apply to both Houses, that person, as honourable as he or she may be, would have

more direct responsibility on a day-to-day basis to the other chamber than to what we have traditionally done in this place, which is to handle our own matters vis-à-vis our own rules?

**Senator Lynch-Staunton:** I am in complete agreement... I feel very strongly that this house should be the master of its internal rules, as it affects the running of the chamber, committees and the code of conduct of its own members....

**Senator Grafstein:** I thank the honourable senator for his response.

I think the honourable leader agrees with me that the question of the jurist consult to both Houses runs contrary to the constitutional position that the two Houses are to be dealt with in a separate way. Does the Honourable Leader of the Opposition agree with that proposition?

**Senator Lynch-Staunton:** Completely.

I am sure there are colleagues on the government side who remember Senator Lynch-Staunton.

On November 26, 2002, Senator Joyal succinctly stated the issue in the chamber as follows:

The package that has been proposed by the government, in my humble opinion, raises three fundamental issues. Three sets of principles are, in my opinion, at stake in the government's proposal. The first point is that the chamber, our chamber, is the sole master of the rules regarding the conduct of its members. This is fundamental. The second point is that the Senate is an autonomous House of Parliament. This is also fundamental. The third point is that the structure of government provides for a clear separation of rights and privileges or prerogatives between the executive, the legislative and the judicial branches of government. These are the vital checks and balances of our system of government. In other words, each branch of government — the executive, the legislative and the judicial, is autonomous in its responsibility and master of its privileges and rights.

There could be no doubt of the accuracy of that statement.

The Standing Committee on Rules, Procedures and the Rights of Parliament studied the government's proposal. In April 2003, the Rules Committee, chaired by Senator Milne and deputy chaired by Senator Andreychuk, issued an interim report, in which the committee highlighted one of the "key areas of agreement at this point in our study:"

Each of the Senate, the House of Commons and the Executive should have its own ethics officer.

Senator Andreychuk will no doubt confirm to this chamber that she, along with her Conservative colleagues on the committee, were unanimously supportive of this recommendation. These issues are not casual issues, honourable senators. They strike at the heart of fundamental points of parliamentary rights and privileges.

This chamber then adopted the committee's report and rejected the government's proposal for a single commissioner. I am proud to say that the Liberal Government of then Prime Minister Chrétien respected our views and agreed to separate commissioners for the two Houses. It was the considered view of this house and of members of both sides of the chamber that the best solution is a separate commission for each of the executive, the members of the other place and the members of this chamber. However, we did not believe it appropriate for this chamber to dictate to members of the other place how they should manage their internal affairs, as I consider it to be inappropriate and flatly wrong now for the other place to purport to dictate to us on this matter.

The issue then turned to the appointment procedure of the proposed senate ethics officer. The bill that came before us contained the following provision:

20.1 The Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate.

Astute colleagues will note that this wording is identical to that in Bill C-2 before us except that Bill C-2 also includes the other place. This provision is set out in section 81(1) of the proposed amendments to the Parliament of Canada Act, at page 44 of Bill C-2.

Honourable senators on both sides of this chamber were adamant that this was unacceptable. When Senator Day spoke at second reading of Bill C-2, he quoted a number of statements from that time made by honourable senators opposite. During his speech, there was much hilarity. I recall honourable senators on the other side standing up and taking bows as Senator Day reminded them of their words from that time.

Honourable senators, this is no matter for frivolity. At issue is nothing less than the independence of the Senate of Canada and our ability to function effectively and constitutionally. What point of principle has been clarified for these honourable senators that has caused them now to change their view completely? We are speaking here of matters that surely go beyond partisanship. They go to the very heart of the constitutional role of this chamber. Last time, many honourable senators on this side disagreed publicly with the proposal of the Chrétien government, and then with the proposal of the Martin government. I ask honourable senators opposite: do you have principles? Are you not able to speak independent of the Harper executive?

Allow me to remind some honourable senators of their words. I hope they will enlighten us and explain whether they continue to hold these views today and, if not, why not. Senator Comeau, now Deputy Leader of the Government, had strong views on this issue on November 5, 2003:

**Senator Comeau:** From reading the bill, my understanding is that the ethics officer will be a government appointee, owing his appointment and reappointment to the Prime Minister. Also, his salary will be paid by the executive. This sets up an employee of the executive working in the Senate....Picture yourself in the opposition, having to open your private books, and possibly

> those of your spouse's private books, financial and otherwise, to a person who is appointed by the Prime Minister and owes his or her reappointment and salary to the Prime Minister, and reports to the Speaker of the Senate....We will have what is called an ethics officer who will be hired and appointed by the Prime Minister, as sanctioned by his majority, whose salary will be dependent on the decision of the Prime Minister and who, ultimately, must get his budget through the Speaker who, dare I say it, is appointed by the Prime Minister.
>
> As a senator, I will have to go before this person and lay completely bare, for all to see, my personal finances and my spouse's personal finances, as will be determined by the Rules Committee, which can hold meetings without opposition members being present.
>
> Will this not cause people like myself, who have believed in parliamentary privilege for a long time, if there is a person appointed by the Prime Minister's Office to whom I must report all this information and with whom I have to start —

• (1450)

**The Hon. the Speaker:** Honourable senator, your time has expired.

**Senator Austin:** May I have more time?

**Hon. Marjory LeBreton (Leader of the Government):** Senator Austin may have five minutes.

**Senator Austin:** I shall take five minutes.

**Hon. Anne C. Cools:** Ask for 10 minutes.

**Senator Austin:** I shall continue to quote from Senator Comeau:

> ...if there is a person appointed by the Prime Minister's Office to whom I must report all this information and with whom I have to start consulting? We have seen what can happen when a lapdog is appointed.

I wonder how Senator Comeau feels now, when faced with a bill that delivers exactly what he feared.

Senator Oliver, who, of course, sponsored Bill C-2 and is the chair of the Standing Senate Committee on Legal and Constitutional Affairs, the committee that studied the bill, was very outspoken on March 29, 2004. He said:

> Honourable senators, even though it has been quoted to you on several occasions by several speakers, one cannot help but go back to the main language in Bill C-4, proposed section 20.1. The language is clear and unmistakeable. "The Governor in Council shall...." Nothing could be clearer. In other words, not the Senate; this is not a Senate initiative....
>
> As Bill C-4 stands now, it not only continues to provide the Prime Minister with this control and influence, but it suggests that he would also have similar control over the ethics officer appointed to the Senate. I suggest to honourable senators that if the Senate blindly accepts Bill C-4 as it now stands, then we, too, would be seen as lapdogs, not watchdogs. We, too, would compromise our independence.
>
> That independence is crucial to preserving our integrity. The Senate, and not the Governor in Council, must appoint the Senate ethics officer, and we should do it by resolution of this chamber.

Honourable senators, Senator Oliver said that on March 29, 2004. What does Senator Oliver believe today and how would he describe today, to young law students, his change of view?

Senator Andreychuk was equally clear on her views on March 30, 2004. I shall quote from her remarks of that day:

> There is nothing in Bill C-4 to assure the public that there is independence or an ethical standard. Rather, if we pass Bill C-4, we will have taken away the independence of the Senate to appoint its own and, hence, be accountable to the public. We will have given this power to the Prime Minister, thereby increasing the consolidation of the power of the Prime Minister and the Prime Minister's office over even more action over Parliament.
>
> We will be creating a further democratic deficit in Parliament at a time when the public wants a real return to parliamentary process....
>
> Honourable senators, Bill C-4 represents the first time in over 100 years that our independence from the government will be tested by law. This comes at the very time when the public is questioning our legitimacy due to the fact that we are appointed. Surely, our critics will be right if we do not at least pass Senator Bryden's amendment. Otherwise, the Prime Minister's will and power over this house will be complete and our irrelevance underscored. As Senator Oliver said, from watchdog to lap dog.

Honourable senators will recall that Senator Bryden had proposed an amendment that provided that the Senate shall, by resolution and with the consent of the leaders of all recognized parties, appoint a Senate ethics officer. It is to that amendment that Senator Andreychuk referred.

Senator Stratton, who has been an outspoken defender of Bill C-2, was no less outspoken on March 30, 2004.

**Senator Stratton:** Senator Austin could not leave me out.

**Senator Austin:** He said the following in this chamber —

**Senator LeBreton:** That was then; this is now. An independent judge.

**Senator Austin:** Senator Stratton, quoting a question that he asked of Joseph Maingot in committee on March 16, 2004, said the following on March 30, 2004:

> The question really boils down to the appointment. Clause 20.1 of the bill reads, in part: "The Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer." The Governor in Council is, in fact, the Prime Minister of the House of Commons. He is then appointing the ethics officer of this chamber.

> If you go by Great Britain's history, the two chambers are supposed to be independent. I should like you —

Senator Stratton is speaking here to Joseph Maingot.

> — to comment on the importance of the independence of the two chambers and whether or not you feel there is a conflict in the Prime Minister appointing an ethics officer to this chamber rather than this chamber itself selecting and appointing an ethics officer.

Senator Di Nino is here today. On March 30, 2004, he was clear in expressing the constitutional flaws he saw with the proposal — and I quote:

> This debate is about the even further erosion of our independence. We are constitutionally an independent and effective House of Parliament responsible to the Constitution and to the citizens of Canada. In my opinion, if enacted without amendment, Bill C-4 would further erode the Senate's independence.
>
> The ethics officer will be appointed by the Governor in Council, which office will also set his or her compensation. The officer will be removable by the Governor in Council. The Governor in Council will appoint an interim ethics officer.

**Some Hon. Senators:** More, more!

**Some Hon. Senators:** No, no.

**Some Hon. Senators:** More, more!

**Senator Austin:** I would offer to respond to questions, if I were given additional time.

**The Hon. the Speaker:** Senator Austin is requesting further time.

**Some Hon. Senators:** No.

**Some Hon. Senators:** Agreed.

**Senator Rompkey:** Shame!

**Senator Austin:** May I put the question to the house?

**Some Hon. Senators:** Yes.

**Senator Austin:** I would ask the chamber to rule on whether I am entitled to five more minutes.

**Senator Cools:** Yes, yes. I move that Senator Austin be heard.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Honourable senators, the rule is very clear — it allows for 15 minutes. It took leave of the house to have an extension, which was granted. A further extension would take leave, and leave is denied by one senator. I heard "no" so, unfortunately, Senator Austin, leave is not granted.

**Senator Cools:** However, there is no limit on leave that is granted, Your Honour. Senator Austin received leave to continue. A lonely voice over here said five minutes, but that voice is not the will of this place.

**Senator Carney:** The Speaker said five minutes.

**Senator Cools:** No, the Speaker did not say five minutes; she said it over here.

**Senator Austin:** Another five minutes.

**Senator Cools:** If necessary, we could move by motion, so that Senator Austin could finish his speech. There is ample time. There is no rush on this matter. The urgency that has been created is artificial.

Senator Austin, I wish you would quote me from those days. I wish the record would show what I said back then.

**Some Hon. Senators:** Order.

**Senator Cools:** I will have you know that in the Senate we can speak to each other with each other's permission. The Speaker is not supposed to enter into any debates in this place, unless we speak to him first, and no one is speaking to him right now.

**Senator Austin:** On a point of order, I want it noted that the government leader and the deputy leader have refused additional consent to me to finish my argument.

**Senator Comeau:** Exactly. Agreed. Put it on the record. On the record.

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

**Some Hon. Senators:** More, more.

**Hon. Wilfred P. Moore:** Honourable senators, on a point of order. What Senator Cools says is correct. Senator Austin asked for extended time, and no limit was placed on it. Senator Comeau was not in his seat with his usual five fingers held up. That did not happen. The Speaker did not limit Senator Austin's time.

**Senator Di Nino:** Our leader did.

**Senator Moore:** There was no time put on Senator Austin's request.

**Senator Angus:** Senator Austin said he would go for five minutes.

**Senator Moore:** He said he might need more time, but no one said at that time that he could not have it. No one said he was limited to five minutes. He gets to carry on.

**Hon. Terry Stratton:** Senator Moore, I will bear witness that Senator LeBreton said five minutes.

**Senator Cools:** Your Honour, in the meantime, I should like to speak on this.

**Senator Austin:** I asked for additional time. I agreed to the five minutes. I also said I would need some additional time to finish. That request was denied. I am not asking to continue, given the position taken by the Leader of the Government in the Senate.

**Senator Oliver:** You did not say "need."

**Senator Austin:** I am not allowed to continue given the time allotted by the Leader of the Government.

**Senator Cools:** Honourable senators, time is not the problem here. The issue is not five or 10 minutes. The issue —

**Senator Comeau:** What about the rule?

**Senator Cools:** What rules? You guys do not follow any rules. The issue is that the honourable senator who just spoke is a member of the Privy Council, a former leader of this place, and when he rises to speak he brings a certain dignity to the place. Granting five or 10 minutes is nothing.

• (1500)

Honourable senators, I would like to question this phenomenon of one or two senators on the opposition side always attempting to put a limit on leave. When a senator asks for leave, that is precisely what a senator asks for. It is not open to another senator to rise and say that leave is limited to five minutes without asking the entire house to agree to that. These senators do it all the time. It is not open to any individual to dictate to any other person what leave means.

Perhaps we may want to clarify that issue at some point in time. I hear it again and again, and I have seen the government and opposition sides do it. Senator Stratton is a great proponent of doing it, but that one word when someone calls out a number of minutes in no way has any binding effect or any effect whatsoever on the fact that the house has granted leave, which it usually indicates by voices.

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

**Senator Cools:** A lot of nonsense and a lot of foolishness is going on in this place. We might as well admit that, as far as many are concerned here, you, the government supporters, are simply overthrowing the Constitution. You do not believe in it, and you do not respect this place. You have no respect for the Senate.

As a matter of fact, I will speak. I was not intending to speak; I have tried to stay quiet through this debate. Since these folks so rudely, abruptly, in a hostile and aggressive manner removed me from committees, I have tried to be as gracious as I possibly could. For someone like me, whose convictions usually rise to the fore and who can become passionate, I have been trying to be restrained. I will speak to this debate in a few moments.

Maybe they have to say "yea" or "nay." It is a sad abuse of power when a small group of people have an opportunity to be magnanimous but are not, and the only way they can exercise their will over others is to deny agreement for a five- or ten-minute speech. I think it is pretty small.

I will speak on this today.

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

**Senator Stratton:** After that little sidebar, may I continue?

**Senator Cools:** That was not a sidebar. You are a rude man.

**Senator Stratton:** Honourable senators, I am happy to participate in this debate on the government motion in response to the parliamentary proceedings on our amendments to Bill-C-2.

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

**Senator Cools:** Point of order. Honourable senators, this is not a government motion. What is before us supposedly, and I argue that it is not before us, is the question of a message to the Senate.

Honourable senators, whereas some bills can be government bills, a message is a different constitutional creature. A government bill is one kind of a constitutional creature. At that point, a government can claim ownership over the bill because it is a government bill, but that is not so with a message from the House of Commons. A message from the House of Commons is not a government creature; it is a creature of the whole house, which comes here seeking the opinion of this whole house, that is to say, all the senators, and it is not proper or right that the government members here act as if they own it and it is their message. It is not.

That is indicative of the overall problem that is currently caught in the entire situation. The government believes that it is the cabinet, the Governor General, the House of Commons and the Senate. Honourable senators, it is not a government item that is before us. If the government does not understand that, it should learn it. We are on a message. The proposal is to amend that motion to send it to committee. However, it is not a government motion.

**Senator LeBreton:** That is right.

**Senator Comeau:** We agree.

**Senator Cools:** It is not government business. You have not agreed because you have not got to your feet to say anything.

**Senator Comeau:** We agree.

**Senator LeBreton:** I sent a message on that to the House of Commons yesterday.

**Senator Cools:** I am speaking of the way you are prosecuting this issue. It is as though you are treating it like it was a government bill. You do not seem to understand the constitutional difference. That is not uncommon. These major constitutional questions and nuances are frequently obfuscated.

**Senator Stratton:** Before I proceed, honourable senators, I would like to say a few words of thanks, if I may, to both sides of the chamber with respect to the bill because a great number of hours were put in by members on both sides in the Standing Senate Committee on Legal and Constitutional Affairs who gave up hours of their time, in particular, Senator Day, Senator Joyal, Senator Baker, Senator Cowan and Senator Milne. If I have missed others, my apologies. On our side, there is Senator Oliver, who chaired the committee, and, believe me,

to get this bill through clause-by-clause review was an incredible chore. I give him my congratulations, and also my congratulations to Senator Andreychuk and Senator Nolin.

During the last election, accountability was prominently featured in the Conservative Party of Canada platform. While those platform commitments were broad and encompassing, they included four commitments to reform the political financing rules in Canada.

First, there was a commitment to reduce the limits for political contributions to $1,000. It was meant to level the playing field and to eliminate any appearance of undue influence based on large capital contributions.

Second, there was a commitment to ban donations from unions, corporations or organizations to candidates, the district associations and nomination contestants. That commitment will eliminate loopholes in the Canada Elections Act that now allow individuals to illegally circumvent the personal contribution limits by contributing twice — once through private contributions and once through contributions made by a union, corporation or organization. This measure will help restore faith in the integrity of the election financing system.

Third, there was a commitment to ban cash donations to ensure that there is a traceable instrument when a contribution is made. There will no longer be envelopes full of cash given to political operatives in dark restaurants.

Fourth, the party promised to extend the period during which charges could be laid for an offence committed under the Canada Elections Act to enhance its enforcement. The Commissioner of Canada Elections, the official responsible for the enforcement of the act, currently can lay charges only for wrongdoing that occurred less than seven years ago. The party campaigned on extending this period to 10 years.

Honourable senators, our accountability platform struck a resonant chord with Canadians, and on January 23, 2006, electors put their trust in us and elected the Conservative government.

**Senator Oliver:** Hear, hear!

**Senator Stratton:** After years of scandals, Canadians rightfully demanded change, including in the area of political financing. As the first piece of legislation introduced by Canada's new government, the federal accountability act, Bill C-2, delivered our platform commitments.

Bill C-2 and, in particular, the political financing reform set out in this bill, were supported by a clear majority of members of the other place. New Democrats and Bloc Québécois MPs voted with the government to introduce new $1,000 contribution limits, ban contributions by non-individuals, ban cash donations and extend the period during which charges can be laid for offences committed under the Canada Elections Act from seven years to 10 years after the offence was committed. This bill also provides that within this 10-year window, charges must be laid no later than five years after the Commissioner of Canada Elections becomes aware of the facts.

• (1510)

When the House of Commons adopted Bill C-2 at third reading on June 21, 2006, the bill fully reflected the government's campaign commitments on these four reforms. Indeed, no amendments to these provisions of Bill C-2 were made in the House of Commons. Proposed amendments by the official opposition to these measures were soundly defeated by the combined action of members of the Conservative, NDP and Bloc caucuses.

Honourable senators, some 65 per cent of electors voted for a candidate from these three parties. When I look around in this chamber, I do not see anyone who was elected.

We sometimes hear an argument that the government only obtained minority support in the last election and that this would mean that Bill C-2 is somehow flawed.

Honourable senators, along with many of my colleagues I was deeply troubled when, on October 26, the Standing Senate Committee on Legal and Constitutional Affairs reported the bill back to the Senate with amendments to the political financing measures that clearly go against the policy as set out in the bill, as endorsed by the electorate and as endorsed by a majority of members in the other place.

As I noted earlier, honourable senators, the Conservative Party platform with respect to the reform of Canada's political financing regime could not have been more clear.

Opposition senators adopted amendments to Bill C-2 to increase the contribution limits to $2,000; provide for a multiplier that would double these limits when there are two elections in one year, and even triple allowable donations if there are three elections in one year; and shorten the limitation period from 10 years in the bill to seven years after the offence was committed.

In another move that defies comprehension, opposition senators also adopted an amendment that could delay the coming into force of these measures to as late as January 1, 2008. This is more than a year into the future, honourable senators. Clearly, Canadians did not vote for change in 2006 with the expectation that they would have to wait until 2008 to see concrete action. This is not acceptable.

Honourable senators, I would like to take some time to go over the amendments that were made in the Senate and which the House of Commons has rejected. I will deal first with contributions limits.

One series of amendments was related to the contribution limits in the Canada Elections Act. The Liberal amendments raised the proposed limits from $1,000 to $2,000. Currently, the limits in the act are $5,000. However, it should be noted that there is —

**Senator Cools:** Point of order.

**Senator Stratton:** — a single $5,000 limit applicable to donations made to a political party including —

**Hon. Fernand Robichaud (The Hon. the Acting Speaker):** Senator Stratton, I am sorry to interrupt.

Senator Cools, on a point of order.

**Senator Cools:** I believe I just understood Senator Stratton to say that in the committee the Liberals raised the limits. My understanding is that those amendments were made by the committee and that they are the committee's amendments. They are not Liberal amendments or anybody else's amendments. Am I correct or not?

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

**Senator Comeau:** That is debate.

**Senator Cools:** It is a point of order. If you want, I could go on.

It is assiduously asserted here by the government supporters, again and again, that somehow or the other these actions are the actions of the Liberals alone. When the report of the bill was adopted, and when the bill was adopted at third reading, my recollection is that all the members of the government — and I kept my mouth zipped — said "yea." If they did not vote for the bill, it would have meant that the government was attempting to defeat its own bill. What you are doing is trying to rise and fall at the same time, and you cannot do it. You cannot rise and fall simultaneously.

Those amendments are no longer anybody's amendments. They are the Senate's amendments, which means that they are also owned by the government; so the government should accept responsibility —

**The Hon. the Acting Speaker:** Honourable Senator Cools, I think the point is well taken. Honourable Senator Stratton has the floor.

**Senator Stratton:** My point was that in committee the Liberals put forward amendments to this effect. The bill was passed on division. I am not misspeaking at all.

I will continue.

While Bill C-2, as introduced by the government, proposed to lower the contribution limits, the government recognized that it would be difficult for the local entities of a party to get their fair share of contributions under a lower limit. This is why the Conservative Party campaigned on and the government's bill proposed to introduce two distinct limits: a $1,000 limit applicable to donations made to the national party and another $1,000 limit applicable to donations made to the local entities of that party.

By raising the contribution limits of Bill C-2 from $1,000 to $2,000, in effect, opposition senators had proposed that a total of $4,000 in contributions be made to a political party and its local entities.

Honourable senators, this is only a net decrease of $1,000 from the current situation in the Canada Elections Act. I believe that Canadian electors would be shocked to learn that their expressed wishes to have limits of $1,000 for donations to parties and another $1,000 to candidates has been distorted by the Senate to mean a limit of $4,000 per year. This would amount to a reduction of only $1,000 in total of such donations. That will do nothing to remove the strong public perception that money can influence politics.

Honourable senators, one must remember that some 99 per cent of contributions to parties and candidates are for an amount far less than $1,000. Indeed, the average donations made to parties and to their local entities are for an amount under $200. The limits proposed by the government in Bill C-2 are clearly in line with the giving patterns of Canadians.

When the Conservative Party developed its campaign pledge to lower contribution limits to $1,000, it anticipated that the only contributions that would be cut off would be those from individuals giving an amount that is 10 to 25 times larger than the average contribution. Attempts to raise those limits can therefore only be interpreted as an attempt to allow those with money to give more than the rest, in the hopes that this will buy some type of influence, perceived or otherwise. Again, this is something that Canadian electors expressly rejected at the last election.

With respect to the so-called multiplier that would increase the limits in years where there is more than one general election, the statistics I mentioned earlier clearly indicate that the giving patterns of Canadians mean that they would have enough room within the $1,000 contribution limit to give to parties and candidates for more than one election in one year. This amendment is not needed and provides added risk that the perceptions of undue influence will prevail.

Honourable senators, with respect to the limitation period, once again opposition senators acted in a manner contrary to the clear mandate the government received from Canadians in the last election. The current limitation period in the Canada Elections Act means that charges for an offence committed under the act must be laid within a period of seven years after the offence was committed. Within this seven-year window, the Commissioner of Canada Elections has to lay the charges no later than 18 months after he becomes aware of the facts giving rise to the offence. In essence, this means that the commissioner can only investigate an offence for 18 months before he must decide whether to lay charges.

The Conservative Party ran on a platform to increase that seven-year period to 10 years, meaning that the commissioner would have a 10-year window within which to lay charges after an offence was committed. This was recommended by the Chief Electoral Officer in his September 2005 report to Parliament.

In addition, the government decided in Bill C-2 to also extend the knowledge portion of the limitation period from 18 months to five years after the commissioner became aware of the offence.

• (1520)

The extension of the overall limitation to 10 years was recommended by the Chief Electoral Officer because he felt there had been an adverse impact on the trust of Canadians in the enforcement scheme of the Canada Elections Act when the Commissioner of Canada Elections announced that he was

time-barred from investigating allegations of wrongdoing that surfaced through the Gomery inquiry dating back, in the beginning, to 1995. Yet opposition senators voted contrary to the express mandate given to the government by electors and amended Bill C-2 to maintain the existing overall limitation to seven years. They even tried to reduce it to five years. I would remind honourable senators that this very change was recommended by an independent officer of Parliament.

For these reasons, honourable senators, I was pleased to see that a majority of members in the other place have again agreed with new financing limits and have rejected the proposed higher limits sought by the Senate opposition.

**Hon. Hugh Segal:** Would the honourable senator take a question?

**Senator Stratton:** Yes.

**Senator Segal:** Without in any way questioning the government's intent, which of course I support, or the provisions of the bill, in the senator's long and distinguished service in public life with federal and provincial politicians, has he ever come across one for whom a lawful $2,000, $3,000, $4,000 or $5,000 donation to a political party would constitute any undue influence whatsoever?

**Senator Stratton:** Yes.

**Senator Austin:** Ask him for an example.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I would first like to join with others who have extended their appreciation for the work of all members on the committee. I know all of them approached the —

**The Hon. the Speaker:** It is the usual practice to go back and forth and I just want to make sure that my list is right; it is not the opposition side?

**Senator Comeau:** Absolutely.

**Senator Cools:** Is Senator Comeau planning to be the last speaker?

**Senator Austin:** Yes, he is.

**The Hon. the Speaker:** Senator Grafstein wishes to participate in the debate.

**Senator Cools:** Did he introduce this? I want to know who will be the last speaker. Who began the debate? Who is carrying the debate? When that person speaks, it will have the effect of closing the debate.

**Senator Comeau:** Senator LeBreton.

**Senator Cools:** Is Senator LeBreton planning to speak? Is she planning to close the debate?

**Senator Comeau:** No.

**Senator Cools:** I just want to say a few words in this debate. Thank you very much.

**Hon. Jerahmiel S. Grafstein:** Honourable senators, I rise briefly to address the question of the separation of our two Houses and the separate ethics officer. Honourable senators will recall that our house has a constitutional framework that is not only expressed in the Constitution of 1982, which incorporates the constitutional documents going back to 1867, but there is also the Constitution of the U.K. upon which these Houses were built.

The foundation was based on two elements: the written, the express Constitution, and also the principles underlying the British Parliament. It is clear from the days of Blackstone, and even earlier from Montesquieu, that one of the key elements in the governance of a democratic society was the separation of powers and the checks and balances on those powers. Hence, we had an executive that was separate and distinct from the House of Commons, and then we had the upper chamber, which was separate and distinct from the other two. Then, on the other hand, we had the judiciary that was separate and distinct as well.

Since Confederation, we have always been able to maintain the preservation of the Houses separate from the executive on the basis of the Blackstone formula and the Montesquieu formula of checks and balances. However, the executive could not accrete to itself undue power, and any power that was given to the executive by the normal means, whether by appointment or otherwise, would be checked and balanced by each of the Houses and the Houses each would check and balance each other. Hence, we have six readings of a bill — three readings in the other chamber, three readings here — all with a view to checking and balancing each chamber, and at the same time acting as a check and balance against the executive.

When Senator Austin referred to the text of our committee hearings and the debate in this chamber, he referred to Mr. Maingot, who was a law officer of Parliament. He was asked a question — I think it was by Senator Stratton — about whether the separation of Houses and the separation of their orders were constitutional matters. As I recall the text — and please correct me if I am wrong, Senator Stratton — he said "Obviously, yes." It was your question, in response to your issue at that particular time.

Now I am not here to embarrass any senator, because many of us have said things and changed our minds over the course of time. I would be the first to admit that I have done that from time to time, and consistency is sometimes the ogre of small minds. However, having said that, this issue, to my mind, does not go to another accountability issue; it is not a question that goes to satisfying a particular mandate of a minority government that does not even have a majority mandate; and quite frankly this issue, as I recall it, was never raised in the election as a separate issue. Therefore, when the government comes to this chamber and says that this is part of their mandate, that is not factually correct.

If I am wrong, please correct me. I did not read all the documents and all the platforms, but I never heard that. The reason I did not hear it is because I was particularly interested in this because, as Senator Austin said, some of us on this side had to convince our political masters, our executive, that this was not an appropriate thing to do. Thank God that they listened to reason and backed off.

I hope that in the fullness of time, after this matter is referred back to the committee, every senator in this place will look at their words and give us a rationale as to why they have changed because all of a sudden the government has changed. We are here to protect this institution. As long as the Constitution is not amended, as long as there is not a constitutional change, we are sworn to uphold the powers of this institution, this Parliament, this separation of powers, this place called the Senate.

Many of us have come to respect this institution in a way that we did not before we came to this place. I would hope in the fullness of time senators opposite would take a look at their own words when the shoe is on the other foot and hopefully join us on this side when this measure comes back and send it back to the other place. It is not a question of electoral mandates; it is a question of constitutional propriety that goes to the heart of the Constitution of Canada. It goes to the heart of Parliament. Please, I beg you to support us in this measure because we will send it back.

**Senator Cools:** Honourable senators, I had a quotation here, which articulates what Senator Grafstein was just talking about. I did not know he would raise this constitutional matter. I had been working on another speech. It is from Blackstone, and it is contained in his book one.

For those who do not know Blackstone, his famous work is the as *Amended Commentaries of the Laws of England* in four books by Sir William Blackstone. The particular edition is the 1859 one prepared by George Sharswood, who was Chief Justice of the Supreme Court of Pennsylvania. I will quote it since all this talk is about accountability, but I have rarely seen such unaccountable parliamentary behaviour in my entire life as in the prosecution of Bill C-2 the proposed federal accountability act, and the proceedings around it.

To come back to my quote from Mr. Blackstone, he writes at page 153:

> ...and herein indeed consists the true excellence of the English government, that all the parts of it form a mutual check upon each other. In the legislature, the people are a check upon the nobility, and the nobility a check upon the people, by the mutual privilege of rejecting what the other has resolved:

• (1530)

Did honourable senators hear that? He states, "the mutual privilege." That is what the law of Parliament is. Our privilege is mutually held.

Blackstone goes on to state:

> ...while the king is a check upon both, which preserves the executive power from encroachments. And this very executive power is again checked and kept within due bounds by the two houses, through the privilege they have of inquiring into, impeaching, and punishing the conduct (not indeed of the king, (*r*) which would destroy his constitutional independence; but, which is more beneficial to the public) of his evil and pernicious counsellors. Thus every branch of our civil polity supports and is supported, regulates and is regulated, by the rest: for the two houses naturally drawing in two directions of opposite interest, and the prerogative in another still different from them both, they mutually keep each other from exceeding their proper limits; while the whole is prevented from separation and artificially connected together by the mixed nature of the crown, which is the part of the legislative, and the sole executive magistrate. Like three distinct powers in mechanics, they jointly impel the machine of government in a direction different from what either, acting by itself, would have done; but at the same time in a direction partaking of each, and formed out of all; a direction which constitutes the true line of the liberty and the happiness of the community.

Those are words uttered by one of the great masters of all time of the common law, namely, Sir William Blackstone. Those words are as true and necessary today as they ever were, particularly in a time — and I have said this a thousand different ways and in a thousand different places — when there is now in this country no constitutional check upon the powers of a Prime Minister and his office.

I am a senator from Ontario. I have read and studied a lot about the history of the development of responsible government in Upper Canada, in Ontario. The development of responsible government, which is embodied in the BNA Act as we have received it from the U.K., was brought about because of the abuses and violations of people in power.

As a matter of fact, I happen to have with me a quotation by none other than William Lyon Mackenzie, the grandfather of Prime Minister William Lyon Mackenzie King. This was recorded in Margaret Fairley's book entitled, *The Selected Writings of William Lyon Mackenzie, 1824-1837*. In an address, he stated:

> But we would humbly yet earnestly represent to Your Majesty...for there is not now, neither has there ever been in this province, any real constitutional check upon the natural disposition of men in the possession of power, to promote their own partial views and interests at the expense of the interests of the great body of the people.

Honourable senators, that is what constitutions are about. That is what the Houses of Parliament have been.

I want to express to honourable senators the enormous disappointment and shock that I have experienced in observing the prosecution of this Bill C-2. I have been profoundly shocked and disappointed at the less-than-sufficient drafting of this bill. It is rare in our annals that such a large and enormous bill has been so poorly drafted. It borders on shabbiness and the arrogance that persistently demands that it should be passed without question, without speech, without debate, only adds to the distress — 10 minutes, 10 hours, 10 days here or there is not fundamental, critical or important when the bill is so poorly constructed.

What is important is that this chamber, like the House of Commons, and as the minister had a duty to do, was to help produce a bill that was worthy of what the government claimed it to be. The government claims that Bill C-2 is the jewel in their

crown. I am here to say that some of the jewels are counterfeit. I hope that counterfeit jewels are not pretending to be Crown jewels, because they are not.

Bill C-2, the federal accountability bill and the grand and noble intentions that were expressed have not been fulfilled. That is what many people voted for, as did I. We were told that change was coming, that a new way of doing business was in the offing.

The next time someone speaks about "Promises kept; promises broken," let us put this one in the broken promises around the question of accountability.

I have been trying to stay out of this debate. Honourable senators know that I am an unusual person in many ways, and that I work hard and I do a lot of work. I spend much time reading. It is something I have done for many, many years. I would even describe myself as an antiquarian, as I burrow out the sources and the thread of the law — something few people do any longer. As a matter of fact, this chamber was once home to great parliamentary authorities, such as John Stewart. It used to be felt that government should cultivate parliamentary authorities in their midst.

A Parliament is not something you can call in a Patrick Monahan to tell you about, or any one of those big names. The parliamentary authorities are always invariably members of Parliament. Even these books by May, Bourinot and some of the greater ones are not the authorities; they are reference books. The authorities are the precedents and the individual members of Parliament speaking definitively on the floors of both chambers.

Honourable senators, the shabby way that this bill has proceeded is not worthy of the Government of Canada. It is not worthy of any government. It shames us all, and it has shamed me in particular, and in a very painful and terrible way.

Honourable senators, I should like to record here a few statements that have shocked me again. The statements I refer to were uttered by the minister responsible for the bill, the Honourable John Baird, President of the Treasury Board.

Honourable senators, Her Majesty's ministers are supposed to comport and deport themselves in a way that communicates majesty. That is what "Her Majesty's minister" means. It means high minded, high sounding, elevated — high. That is what high ministers should be.

Honourable senators, I have been appalled at the language that Minister John Baird has been using — provocative, rude, unparliamentary, unpleasant and vile language. He is not content to disagree. Oh, no, he wants to destroy. It is vile language.

I have one clipping here from the *Montreal Gazette*. About the Senate amendments to the bill, the minister said this — "dead on arrival." It is stated in this article of November 7, 2006:

> Liberal senators are holding up the Federal Accountability Act with amendments that, among other things, peg the cap at $2,000. Treasury Board President John Baird has predicted the amendment would be "dead on arrival."

I repeat: "Dead on arrival." This is language, perhaps, that belongs to the village clown or, perhaps, to a stand-up comic. This is not language that should even be received into this chamber. It is unparliamentary. If any of us had real guts and an affection for the Constitution of this country, we would call it for what it is — vile language.

• (1540)

Here comes another one. This is from a news release from Mr. Baird's office dated October 26, 2006:

> We introduced the toughest anti-corruption legislation in Canadian history, which the unelected Liberal-dominated Senate has weakened for partisan purposes.

Not only is it vile, but he also insinuates members and attributes to them dastardly and bastardly motivation. I was raised in the best traditions of British criticism and British self-criticism. You can disagree, but you do not have to denigrate and debase those persons with whom you disagree. Every time you debase, you debase the entire nation. You debase all of the people.

Here comes another quote from the same press release:

> "It is disappointing the Liberal-dominated Senate has failed to rise above partisan self-interest to help ensure greater accountability in government for all Canadians," said Minister Baird.

I am disappointed. I am saying "disappointed," but it is beyond that. The point is that these things are not true. I have objected to much that is in Bill C-2. I am not a member of the caucus on the other side. I am not. I have found the prosecution of this bill distasteful, unpleasant and not conducive to what I would describe as social cohesion or the building up of the constitutional system in this country.

Honourable senators, there is a lot that I wish to say, but I do not want to get too personal or revealing. However, I take my work very seriously. I was put here to do a job and I have a constitutional duty to do it.

When I read these statements and I read the messaging that the government is doing, what I see is extremely negative, extremely terrible, extremely bad and not worthy.

Besides, honourable senators, the first duty of any government, of any Prime Minister, is to defend and uphold the Constitution. What we have here, quite frankly, is an overthrowing of the Constitution, which I do not support.

Honourable senators, there is much to be said, and I will speak later on in this debate. As I said before —

**An Hon. Senator:** How many —

**Senator Cools:** As many times as I wish. If you have something to say, get on your feet and say it. I do not mind. I would be quite happy to respond.

**The Hon. the Speaker:** I regret that Senator Cools' 15 minutes has elapsed. Does she wish to continue?

**Senator Cools:** May I ask for more time, please?

**The Hon. the Speaker:** The senator is asking for leave —

**Senator Cools:** Let them show their true colours.

**An Hon. Senator:** Unless the —

**Senator Cools:** You are goddamn right.

**Senator Stratton:** Whoops. I demand an apology now.

**Senator Cools:** Happily, but what did I say wrong?

**The Hon. the Speaker:** Honourable senators, the Speaker is on his feet.

**Senator Corbin:** Everybody calm down.

**The Hon. the Speaker:** Honourable senators, the Honourable Senator Cools has requested an extension of her time. Is leave granted to extend her time?

**Some Hon. Senators:** Agreed.

**Senator Comeau:** Honourable senators, earlier this afternoon Senator Cools indicated that once leave was granted to extend her time, she did not accept the premise that there would be a five-minute limit on the extension.

As a result, I am still not prepared to completely drop at this point the provision by which we have been permitting the extra five minutes. That is why I am reluctant. She herself has said that once we extend the time, it is in fact unlimited. For that reason, unless we have agreement from the senator that the five minutes would be a maximum, I will not be able to agree.

**Senator Cools:** I think the honourable senator has misrepresented me. What I said —

**Senator Prud'homme:** Just say "yes" and take your five minutes.

**Senator Cools:** I am over 60 years of age.

**Senator Prud'homme:** I know.

**Senator Cools:** These people seem to believe that we are children. This government believes that we are all children. I have been here too long. I have too much experience.

**An Hon. Senator:** Order!

**The Hon. the Speaker:** Honourable senators, our practice in the last two sessions of Parliament has been to extend time for five extra minutes.

**Senator Cools:** My point earlier today, honourable senators, was to say that if a senator asks the Senate for five minutes extra and senators grant it, that binds them, but not this one individual attempting to dictate without the agreement of the rest. That is what I was saying. Senators can ask for more time. Other senators can agree or disagree.

**Senator Comeau:** She has not agreed.

**Senator Cools:** I just agreed.

**Senator Stratton:** No time.

**The Hon. the Speaker:** To have very clear, honourable senators, it is the chair's understanding that Senator Cools has requested an additional five minutes. Is leave granted?

**Senator Comeau:** For five minutes.

**Senator Corbin:** Agreed.

**Senator Cools:** Honourable senators, I would like to say that debate is healthy, desirable and should be encouraged. I would like to say that suasion and persuasion are the proper ways of obtaining consensus and agreement.

Honourable senators, I want to drive at one little point. This bill, this message, whatever it is before us — and I contend the message is not before us — brings yet again this notion of a united ethics commissioner before the Senate. I would like to say to honourable senators that there is no such constitutional creature as the government has proposed, being a joint ethics commissioner for the two Houses.

Honourable senators, I submit that the only constitutional creature that exists who can possibly bind and join the two Houses, equipped and embodied and endowed with the total privileges of Parliament, is Her Majesty the Queen.

The people who drafted Bill C-2 have no comprehension of the system of Parliament and do not have any understanding of the law of Parliament or of the law of privilege, which Parliament calls the *lex prerogativa* or the *lex privilegia*.

Honourable senators, the term "commissioner" means a representative of Her Majesty. This is a strange creature. It does not exist constitutionally and should never have been placed before us. Parliament is three separate and distinct parts: the Queen, the Senate and the House of Commons.

I submit that if the Senate and the House of Commons can share an ethics commissioner, they can share a speaker. If they can share that, they can share many other things.

The notion of an officer of Parliament is an artificial and a false one. It really does not exist. Some talk about this, but it is not true. Officers are of one house or the other, but not of both. There can be no high officer who binds and, more importantly, who superintends the conduct of MPs and senators. Members of Parliament have two superintendents only: One is Her Majesty, the legal sovereign; the other is the people of Canada.

• (1550)

What we have here is a bastardization of the British Constitution and of the BNA Act. There is no power whatsoever in the BNA Act to found the concept of a united ethics commissioner. I would even say to honourable senators that there is no constitutional basis to found a commissioner within these halls because the Parliaments long ago drove out what they called for-profit Crown servants of Her Majesty from membership in the Houses. It is a bastardization.

I thank you, honourable senators, for your indulgence. I have been disturbed at the deportment of this government and how it has demanded tergiversation. That is one of the things with the old language. To tergiversate is the act of becoming renegades, to force them to do an about-face and to change their minds. It is a terrible thing.

This government is asking senators to tergiversate, to turn their backs on where they stood a year ago. With all due respect to Senator Kinsella, who knows how deeply I hold him in respect, the current Senate Ethics Officer was his personal choice and recommendation that we all adopted. I have found it to be very hurtful and unpleasant to hear government members talk about the Senate ethics officer in the way that they have been.

In any event, honourable senators, I am prepared to see this message go to committee, but I also maintain my position that the message is still not properly before us. It would have been very easy for the Senate to correct the message, but it is still not before us. Intellectually, I am prepared to see the message go to committee, but for procedural reasons, I will be abstaining, because I maintain that this message is still not before us, for the simple reason that it was not put into the record by the Speaker of the Senate. Only the Speaker of the Senate can put it before us for debate.

**Hon. Norman K. Atkins:** Honourable senators, I stand before you without a text. I have listened to the debates on Bill C-2 and I remind honourable senators that I do not belong to either side. I want to congratulate, in a sense, the work of the committee that brought forward amendments to the bill. The bill was then sent to the House and it has been sent back.

I cannot tell honourable senators how disappointed I am that the government has not added a little water to its wine. It would not be unreasonable for the government to consider the proposals that came from this house. I do not know where it will go from here, but it seems to me, when one deals with a question such as the Ethics Commissioner, it is a no-brainer. The positions should be separate. Yet, we are finding it difficult to have the government consider a reasonable proposition.

When it comes to issues of finance, Senator Stratton says he believes that we must reduce the limit to $1,000 to eliminate corruption. That is an absolute crock of you-know-what. To have left the limit at $5,000, with everything in and disclosure, was a reasonable proposition, but that is not the one that was put forward. To raise the limit to $2,000, maybe that will work.

I do not think anyone here is looking down the road. The current government will not be the government forever. The government will have to live with this legislation.

**Senator Comeau:** Change it back, then.

**Senator Stratton:** That is why we are doing it.

**Senator Atkins:** It seems to me that we have an opportunity to reason with the other side, to discuss and perhaps accept some of the propositions that were brought forward by the committee. The committee worked hard, and I congratulate Senator Oliver and Senator Day for the work that they did. I know it was not easy.

I do not care what the division in the committee was when they brought forward the amendments. They brought them forward, we have sent them to the House and, literally, we have been stonewalled. That is unfortunate. I just wish that there was some opportunity for the government to reassess where they stand and to add a little water to their wine so that we can carry on and do the job we are supposed to do in this place.

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

**Senator Comeau:** Honourable senators, I want to join with the many others who have congratulated all members who served on the committee. I served on the committee on a number of occasions and I know how much hard work the members put into it, their passion and their heartfelt beliefs, some of which, on some occasions, I did not agree with. However, I think the debate was approached with a lot of passion, principle and belief.

It is also a pleasure for me to rise today to speak on Senator LeBreton's motion to concur with the other place on the proposed federal accountability act.

Yesterday, our colleague Senator Hays spoke eloquently on the message. As I listened to him, I was struck by the number of times he referred to the government. For example, he said:

> This is not to say that all the Senate amendments or recommendations were rejected by the government.

He also said:

> ...consideration given to our work by the government supporters in the other place.

And that:

> The government responded in the form of a motion that was debated and amended in that House.

The bottom line of his argument is that the government rejected a large number of the amendments proposed by Liberal senators.

Senator Day's comments yesterday followed along the same line, referring to the message as a government message rather than what it was: a message from the other place. Senator Atkins made the very same comment a few minutes ago, referring to the government placing water in its wine and accepting the amendments proposed by this place.

What they all failed to mention is that in fact the other place includes not only the members of the Conservatives, who are the governing party, but also the Bloc Québécois, the New Democratic Party and, of course, the Liberals. What most people are forgetting is that the other place is not governed by a majority government; it is in fact governed by a minority government.

Whatever the other place sent to us was not sent to us by a majority government. It had to have the consent and support of other parties. What they failed to mention was that in addition to government members, the Bloc Québécois, the New Democratic Party and, once again, the Liberals, all agreed, on division, to reject several amendments proposed by the Liberal senators.

Something else they failed to mention was that it was the elected other place, which includes members from the Conservatives, the Bloc Québécois and the New Democratic Party and — here they are again — the Liberals, who all agreed to reject several amendments proposed by the Liberal senators in this chamber, who, I do not need to remind us, are not elected. It is interesting to note how parliamentarians of all political stripes in the other place worked together and, in fact, cooperated on this bill. Honourable senators, I would like to explain how the bill and amendments were dealt with by the government and the opposition members in the other place.

• (1600)

The motion put to the members by the President of the Treasury Board had three lists of amendments. One was a list of amendments on which they all agreed, the second was a list on which they disagreed and the third was a list on which changes were sought. The opposition party then had the opportunity to move its own motions to change the wording on the various amendments, thus moving some amendments from the "agreed" to the "disagreed" category and some from the "disagreed" to the "agreed" category.

In the vast majority of cases, opposition members chose not to do so. For example, there was no attempt to change from ''disagree'' to ''agree'' the motions respecting Senate amendment 2, which would weaken the Conflict of Interest Act by removing the prohibition on public office-holders who have duties with respect to the House or the Senate, or their families, from contracting with the House or the Senate.

As well, there was no any attempt to change from "disagree" to "agree" the government motion concerning amendments 4, 5, 8, 9, 11, 12 and 15, which would undermine the ability of public office-holders to discharge their duties. No attempt was made to alter the motion to disagree with amendments 6, 28, 30 and 31, which would weaken the Conflict of Interest Act. We can assume that, since no attempt was made to change from "disagree" to "agree" the working of amendments 7, 10 and 14, all the members of the other place agreed that these provisions are inappropriate intrusions into the private lives of public office-holders. This is not the government; this is the whole House, the other place.

The message reads:

> Amendments 18, 23 and 24 would undermine the capacity of the Prime Minister to discipline ministers and maintain the integrity of the Ministry by eliminating the ability of the Prime Minister to seek "confidential advice" from the Conflict of Interest and Ethics Commissioner with respect to specific public office holders;

There was no attempt to switch the motion to read "agree with" from "disagree with."

Again, there was no attempt to have the motion endorse amendment 19, which the motion notes would deter the public from bringing matters to the attention of the conflict of interest and ethics commissioner through a member of either House, create unfairness to individuals who are subject to complaints whose merits have not been substantiated and undermine the commissioner's investigatory capacity.

The House message says:

> Amendments 20 and 22 would prohibit the Conflict of Interest and Ethics Commissioner from issuing a public report where the request for an examination was frivolous, vexatious or otherwise without basis thereby reducing transparency and requiring a public office holder who has been exonerated to publicize on his or her own a ruling to clear his or her name;

No attempt was made to alter the motion.

There was no attempt on the part of any party to endorse Senate amendments 68 and 69 to increase the proposed contribution limits. The same is true of the opposition to amendment 71, which the message states would undermine the capacity of the Commissioner of Elections to investigate alleged offences under the Canada Elections Act, and of amendments 80 and 89, which the message says would undermine the authority of the Commissioner of Lobbying.

No attempt was made to challenge the opposition to amendment 83, which the motion in the other place said would seriously weaken the scope of the five-year prohibition on lobbying, or amendment 85, which the motion says would create significant uncertainty in the private sector and create inappropriate incentives for corporations to prefer consultant lobbyists over in-house lobbyists.

Presumably, since no attempt was made to have the Commons agree with amendments 88 and 90, all parties in that place accept the argument that those provisions duplicate provisions of section 80.

Then there is the Commons opposition to amendments 92 and 113(a), which the message said would technically mean that the Auditor General and the Office of the Commissioner of Official Languages could not be brought under the Access to Information Act until the commissioner of lobbying is brought into existence. No attempt was made to change this.

There was no attempt to change from "disagree" to "agree" the message's rejection of amendment 96, which proposed to undermine the merit-based system of employment in the public service by continuing to unfairly protect the priority status of exempt staff.

Honourable senators, I could go on, but I think you get the picture. I will simply state that there was also no attempt to change the message to read "agree" from "disagree" with amendments 100, 101, 107 to 110, 113(b), 115, 116, 120, 128 to 133, 136 to 143, 145, 147 to 151, and 154 to 155. Here as well we find the text of the motion full of words such as "undermine the objectives," "seriously weaken," "unnecessarily complicate" and "increase the risk."

There were a limited number of cases where opposition members opposed the position of the President of the Treasury Board. These cases include support for separate ethics officers, call for the disclosure of draft audit reports, continued exemption from access to information for the Canadian Wheat Board, and opposition to the motion's attempt to clarify the law as it applies to convention expenses.

That is when things became really interesting in the multi-party elected chamber. The Bloc Québécois introduced a subamendment to delete sections relating to the Senate Ethics Office and the Canadian Wheat Board. It passed by a vote of 163 to 111. The Conservatives and the Bloc Québécois voted in favour of the subamendment while the Liberals and the NDP voted against it. The Liberal amendment respecting access to information was defeated by a vote of 128 to 146, with the Conservatives voting against it and the Liberals and the Bloc Québécois supporting it.

The Liberal amendment respecting convention fees passed by a vote of 155 to 119. In this case, the Conservatives voted against it while the Liberals, the Bloc Québécois and the NDP voted in favour of it.

Finally, the government's motion respecting Senate amendments, as amended of course, was then adopted on division. The elected chamber in our bicameral Westminster Parliament, expressing the voice of the people who put their representatives there, had spoken clearly.

I fail to understand why honourable senators in this chamber now choose to do battle with elected parliamentarians. I also fail to understand why the senators on the other side are doing battle with the elected Liberal members of Parliament, their own colleagues, who choose to support the bill as it is before us. I can only surmise some remnant of a bygone era is lingering in the air, possibly a Martin-Chrétien legacy that causes them to forget that the days of receiving the entitlements to which they are entitled are over — at least they will be over when this bill finally is passed. Maybe they neglected to read the Gomery report, with all its indictments against the unaccountable Liberal regime.

For whatever reason, Liberal senators are choosing to play their political games, and I say enough is enough. It is time for accountable government in Canada. Canadians have chosen this through their elected members of Parliament of both the government and the opposition party. The government is not a majority government. If the House of Commons wishes to speak, we should respect what they say.

MOTION IN AMENDMENT

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, having said that, I know that some individuals want to send this bill back to the Standing Senate Committee on Legal and Constitutional Affairs. With that in mind, we will agree to send it to that committee. Therefore, I move:

> That that the motion be amended by adding the following paragraph after the words "consideration and report"; and
>
> That the committee submit its report no later than December 7, 2006.

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

**Some Hon. Senators:** Question!

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

**Some Hon. Senators:** Agreed.

**Senator Cools:** Your Honour, if this had been a report, I would want to abstain, on principle.

• (1610)

**The Hon. the Speaker:** Senator Cools is abstaining. This brings us then, honourable senators, to the motion in amendment by Senator Hays. Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Hays, seconded by the Honourable Senator Day, that the motion, together with the message from the House of Commons on the same subject dated November 21, 2006, be referred to the Standing Senate Committee on Legal and Constitutional Affairs for consideration and report.

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

**Hon. Marcel Prud'homme:** Often, an honourable senator will say that he or she did not intend to speak on a matter but does, so I will not say that I did not intend to speak.

I attended a few of the committee meetings on the accountability bill. I watched and read everything with respect to Bill C-2, because I am interested in the Senate's work on this issue. I hope I speak to friends. If I disagree with some honourable senators, I hope they will not take it personally.

I am not a member of the group of people who mind battling with the House of Commons on certain issues. However, I am ready to bow out on most of the issues if the House of Commons does not agree with the Senate. Nevertheless, while I was listening, two points came to mind that I should like to bring to your attention.

At first, we were told that the bill that came from the House was perfect. Therefore, I said, I can live with that. However, in their wisdom, the House of Commons has decided to accept some amendments. Some call them minor, some say they are only housekeeping; nonetheless, the House of Commons did accept some of the views of the Senate. That means the bill was amendable.

Regardless of the views of the House of Commons toward the Senate — and we know what those views are — the House still accepted amendments from the Senate. That means the House of Commons was agreeable to saying that the bill was not perfect. That is argument number one.

Argument number two is the following: Changes were made, as I said; some were accepted as minor — fine. My friend, for whom I have immense respect, Senator Atkins, has raised a question of the money. That is a subject that I can speak on for hours — but I will not, because I am not in the shape that I should be in.

I ran for elected office 10 times, but I chose not to run following the tenth time, even though I was already an elected candidate for the Liberal Party of Canada. I do not know how candidates raise money to get elected, how parties raise money or how money is raised for conventions. I have my way.

Never in the 10 times that I ran for elected office did I receive $5,000. The maximum I received on a couple of occasions was $1,000, donated by family and friends who were close to me, because I was always afraid to raise money. I was always, sadly, almost kicked by the so-called "higher authorities." I never recognized such a thing, being Marcel Prud'homme. I could have been one of the best fundraisers, but I never went that way.

I thought the $1,000 limit would be acceptable. The House of Commons decided to increase that to $2,000. Some here wanted $5,000, those in the government wanted $1,000 — they came to the figure of $2,000. Personally, I can live with that. I think political parties will have to become more democratic at the lower level; if it is good for some, it should be good for everybody — the Bloc included.

Now we are celebrating the great debate on Quebec being a nation — a notion that I reject totally. I know who I am and I do not need a crutch to know that I am different, coming from Quebec.

The only place where I think common minds should prevail — and I am now speaking to the Liberals and the Conservatives, because we know the Bloc's views of the Senate, and we know that the NDP is against the Senate, so I will forget these two parties. Let us see a reasonable amendment by my friend, Senator Comeau, to send this back to the committee.

If good minds could prevail, I would suggest a certain echelon — the friendship echelon, the humanistic echelon, the private echelon, where more than just conversations could take place, where there would be some accommodation between the two major parties, where reason would prevail.

There is one place that I am not comfortable — namely, the ethics question, which was so well expressed by Senator Cools and many people. I went on television and the reaction I received was good. The problem with public opinion is in not knowing. I will give you an example.

Last night, in Bogotá, while our plane was on the tarmac, one tire exploded. Of course, everybody was nervous on the plane, and rightly so. Having one tire blow up just before take-off created a commotion. We were about to embark on a six-hour trip.

We were finally told that there is no problem now, only when we arrive in Toronto, even though the plane was shaking. It was a terrible experience. Why? It is the not knowing what was happening.

Reasonable explanations can be defended. Only extravagant people will not accept a good, reasonable explanation. Complementing what others have said, we will have a new ethics commissioner. One, what will be his or her task? Now, I am a practical man. That one commissioner, who will know everyone's secrets, will have to deal with more than 300 members of the House of Commons, 3,000 to 4,000 Order-in-Council staff to administer and then 100 senators. We know that the Order-in-Council staff come and go. We know that the 300 members in the House of Commons — many of us were there, Senator Comeau — come and go. That is a lot of work.

Senators have more stability and, therefore, fewer problems to administer. I do not take the principled side, as my colleague Senator Cools did; I take the practical side, defending the integrity of the Senate and everything else. There is less instability in the Senate, as we know it. Once we have made our declaration, with which I agree, then it becomes a very low expense.

I have asked that. I went to the committee. I knew the figure — I can read the report — but I wanted it to go on television to discuss our ethics commissioner. It costs no more than $700,000, with a very limited staff, to start a new organization, a new bureaucracy. Now that it is settled, it will go much lower, because we have all declared — and unless the world trembles, we repeat mostly the same report. That would take care of the Senate.

It is the only place where the House of Commons can show some flexibility and less arrogance, some of them, toward the Senate.

• (1620)

If possible, between now and December 7, perhaps the majority on the committee could concentrate their energy and not insist on keeping the bill totally as it is. Perhaps they can find one or two places where the Senate could say, "Well, on second thought, it makes sense."

Everyone has been explaining what the Ethics Commissioner is and what his responsibilities are. I can tell you what will happen. I am convinced that the job of this one Ethics Commissioner will be so big that he will delegate his authority to a lower echelon. Why do you think it would only be the Ethics Commissioner who is responsible? He will have such a heavy burden on his shoulders trying to administer 3,000 or 4,000 Orders-in-Council. I stand to be corrected if I am wrong. There are over 300 members in the house and only 105 members of the Senate, and that represents very little work. That is why we should keep the separation of the House and the Senate. That is my contribution. I could go on, but I will stick to what I am suggesting.

I hope intelligence will prevail between the two major parties. I forget about the other two. Do not ask the Bloc, because they want to destroy Canada. I do not know why they should insist on talking about the monarchy. They do not want this country. I do not know why they insist on bona fide bills, because if you have a bona fide Canada, it proves their existence is null and void. I like the logic of it.

I will stop there and not lose my main argument. I can live with the $2,000 restriction, I assure you. I could have even lived very well with $1,000, because it will force parties to democratize, and I will not insist on returning to the old days. The $2,000 is acceptable, but try to find what can be done on the Ethics Commissioner issue.

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

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

It was moved by Senator Hays, seconded by Senator Day —

**Some Hon. Senators:** Dispense.

**The Hon. the Speaker:** Honourable senators, we are on the motion of Senator Hays, amended by the sub-amendment that we have just adopted, seconded by Senator Day, that the motion together with the message from the House of Commons on the same subject dated November 21, 2006 be referred to the Standing Senate Committee on Legal and Constitutional Affairs for consideration and report. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** For clarification, the adoption of Senator Hays's motion in amendment as amended by the sub-amendment means that the message now, by order of the house, has been referred to the committee. I do not need to put forward the motion of Senator LeBreton.

On motion of Senator Hays, as amended, motion for concurrence and message referred to Standing Senate Committee on Legal and Constitutional Affairs.

## VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before moving to the next item, I draw the attention of all honourable senators to the presence in the gallery of Ms. Gloria Kovach, President of the Federation of Canadian Municipalities. We welcome you to the Senate of Canada.

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

## TAX CONVENTIONS IMPLEMENTATION BILL, 2006

### THIRD READING

**Hon. W. David Angus** moved third reading of Bill S-5, to implement conventions and protocols concluded between Canada and Finland, Mexico and Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

He said: Honourable senators, I rise today to speak at third reading of Bill S-5, to implement conventions and protocols concluded between Canada with Finland, Mexico, and Korea for the avoidance of double tax and fiscal evasion with respect to income taxes, also known as the 2006 tax conventions implementation bill.

Bill S-5 would implement updated versions of three previously existing tax treaties between Canada and Finland, Mexico and South Korea. These new treaties are the fruit of important negotiations and bilateral arrangements between Canada and the said three countries in order to ensure that the updated tax treaties are consistent not only with current Canadian tax policy but also with contemporary custom and practice for such treaties.

Honourable senators, the essential rationale for tax treaties is twofold: one, to remove barriers to international trade and investment, most notably as regards the double taxation of income, and two, to obviate tax evasion by encouraging cooperation between Canada's tax authorities and those in other countries.

Honourable senators, let me briefly expand on these two important treaty objectives. Removing barriers to international trade and investment is a high priority for Canada and its trading partners in today's global economy. Updated tax treaties, like those to be implemented in Bill S-5, have a significant role in reducing such barriers and in fostering a healthy business environment. Updated tax treaties are a clear sign of the stability of our economy and the consistency of Canada's tax treatment. They help to create a secure, fair and stable environment for foreign investors and for direct foreign investment in this country. Equally important, they permit Canadians with commercial interests abroad to also operate under fair and consistent foreign tax treatment.

The Standing Senate Committee on Banking, Trade and Commerce recently studied this bill and has reported it to this chamber without amendment. At committee, Ms. Diane Ablonczy, Parliamentary Secretary to the Minister of Finance, advised senators that tax treaties generally have two methods of alleviating the possibility of double tax. She and her officials from Finance Canada explained to the committee that in some cases the exclusive right to tax particular income is granted to the state where the taxpayer resides. In other instances, taxing power is shared between contracting states.

As a general rule, the state where a taxpayer resides has the exclusive right to tax a resident when the commercial activity in question is short term. For example, in respect to a three-month employment term for a Canadian individual working in another country, the Canadian tax treatment of such an individual simply continues on as usual. On the contrary, if a Canadian citizen is employed abroad for a longer period, then the state where he or she works may tax employment income. In such cases, the treaties generally grant Canadians a credit for the tax paid in the other state against any Canadian tax that would otherwise be payable.

Another way to reduce the potential for double tax is to reduce withholding taxes, a common feature in international tax conventions.

• (1630)

Ms. Ablonczy explained to the Banking Committee that withholding taxes are levied by a state on certain items of income arising in that state and paid to residents of another state. The types of income normally subjected to these withholding taxes include interest, dividends and royalties. Withholding taxes are levied on the gross amounts paid to non-residents, and they generally represent their final and only obligations with respect to Canadian tax.

The treaties to be implemented by Bill S-5 provide for a maximum withholding tax rate of 15 per cent on portfolio dividends paid to non-resident investors in Canada. For dividends paid by subsidiaries to their foreign parent companies, the maximum withholding rate is being reduced to 5 per cent. Withholding tax rate reductions will also apply to royalty interests and pension payments. Each treaty covered by Bill S-5 caps a maximum withholding tax rate on interest and royalty payments at 10 per cent, which is in keeping with current trends and contemporary Canadian tax policy.

Regarding the prevention of evasion of income taxes, the tax treaties provide for consultation and information to be exchanged between Canada and its authorities and the foreign states in question. Without such treaties, Canadians could well be liable to pay more tax than they should, and they could be subject to unfair treatment under the foreign state's tax regime.

The privacy rights of Canadian citizens were raised during committee proceedings. Honourable senators were assured by officials from the Department of Finance that only appropriate non-invasive information will be shared between the revenue authorities of Canada and the contracting states.

Honourable senators, the committee was also assured by these officials that Bill S-5 is not controversial and that it does not represent any new or material change in policy other than as mentioned regarding the withholding taxes. We were also advised that the updated treaties are all modeled on the model tax convention of the Organisation for Economic Co-operation and Development, which is today generally accepted in the trading community. Therefore, I am comforted that these treaties comply fully with modern international standards.

Honourable senators, the updates reflected in Bill S-5 would come into effect on a calendar year basis, either January 1, 2007 or January 1, 2008. Both Canada and the three other states involved, as well as their respective commercial stakeholders, wish these treaties to be effective as of January 1, 2007. There is thus a reasonable measure of urgency in passing this bill through Parliament.

We are given to understand that the parliamentary processes in Finland, Mexico and South Korea are all going smoothly with respect to implementation of these treaties there, and they are expected to have the proper legislation in place before the end of this current year. Hopefully we Canadians will follow suit.

To conclude, I would like to emphasize the importance of foreign direct investment in Canada. Statistics Canada recently reported on September 14, 2006, that:

> Foreign direct investment in Canada increased by $7.5 billion to $433.8 billion at the end of the second quarter of 2006. And of this total, direct investments from the United States, our greatest trading partner, amounted to $276.7 billion.

Honourable senators, Canada is a trading and export nation. Our economic welfare depends to a large extent on our ability to attract direct foreign investment. Tax treaties such as those involved with Bill S-5 appeal to foreign multinational companies and other foreign investors and attract them to do business in Canada under our safe, stable and just economic environment.

Accordingly, honourable senators, I urge all of us to support Bill S-5 and to pass expeditiously this important piece of legislation and send it to the other place for similar treatment.

**Hon. Wilfred P. Moore:** Honourable senators, the Standing Senate Committee on Banking, Trade and Commerce did a close canvassing of the provisions of this bill. It was interesting in the evidence that was given by departmental officials that we still do not have such a tax treaty with our heaviest trading partner, the United States. Negotiations have been going on for some eight years. I am hoping that will be concluded sooner rather than later. However, the points made by Senator Angus with respect to the advancement of this treaty and the countries that are party to it and the benefits that it will bring to our country are worth supporting.

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

**Hon. Senators:** Question!

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

Motion agreed to and bill read third time and passed.

## CANADA ELECTIONS 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 Johnson, for the second reading of Bill C-16, to amend the Canada Elections Act.

**Hon. James S. Cowan:** Honourable senators, I am pleased to rise to speak to Bill C-16, to amend the Canada Elections Act by providing for fixed election dates.

Let me say at the beginning that there will be considerable support for the concept of fixed election dates on this side of the chamber. Adding predictability and consistency to election timing is a worthy objective and all of us would wish to support that objective.

I would like to express my appreciation for the work done on this legislation in the other place and particularly for the contributions made by the Honourable Stephen Owen, member of Parliament for Vancouver Quadra. The evidence given and examinations made there will serve us well as we move ahead in our consideration of this bill in the Senate.

As we know, systems of fixed date elections have been established in British Columbia, Newfoundland and Labrador. and in Ontario. British Columbia's most recent election was administered under its fixed date system, and we can learn from their experience as we undertake examination of this legislation.

While these systems are present in three Canadian jurisdictions, fixed date elections are more commonly a hallmark of governance systems like those found in the United States, Mexico and other federal republics. The concept is rarely, and only recently, to be found in Westminster-style parliamentary democracies like Canada. In law, Parliament can be dissolved at any time by the Governor General and this bill preserves that prerogative. Therefore, making fixed date elections a reality in this country may require more than is provided in this bill and may require altering the powers of the Governor General. That would mean opening up and changing our Constitution.

That said, we must look carefully at the constitutionality of this bill. Yesterday Senators Joyal and Grafstein both raised valid and important points as to the apparent conflict between Bill C-16 and section 50 of the Constitution Act, 1867, and section 4 of the Charter.

As was pointed out yesterday, section 50 of the Constitution Act, 1867 provides as follows:

> Every House of Commons shall continue for Five Years from the Day of the Return of the Writs for choosing the House (subject to being sooner dissolved by the Governor General), and no longer.

On the face of it to me, the provisions of Bill C-16 would appear to conflict with that section of our Constitution. If we are satisfied that the bill does not offend either the Constitution Act or the Charter, we can then proceed to consider the intent and objective of this legislation. It is clear that one of the primary purposes of Bill C-16 is to limit the power of the Prime Minister to manipulate the timing of an election for political and partisan purposes. If that is the motivation for this bill, then we really have to consider whether or not that objective is being met by the wording of the bill.

I would suggest that the bill falls short of this objective, and if that is what we want to try to do, we should look at ways to improve the legislation.

In particular, the lack of a clear definition as to what constitutes a vote of confidence is troubling, and we should perhaps use the opportunity we have as senators to bring such a definition into the bill.

This is important, honourable senators, because while it is easy to see how this legislation could work quite well in a majority government situation, it is not so clear to me how it would work in the context of minority Parliaments where the stability of Parliament is subject to votes of confidence and non-confidence. That, it appears, is the nature of the political world in which we live at the present time.

• (1640)

While we seek to limit the power of a prime minister in manipulating election dates, we must also consider when it is legitimate for Parliament to be dissolved and a new mandate sought. For example, between elections, a sitting prime minister may, for any one of a number of reasons, resign his or her duties and a new prime minister would be chosen from the governing party. Is it in the best interests of our parliamentary democracy and our country to prevent that new leader from seeking a fresh mandate? Although our Prime Minister is not directly elected to that position, we know that the popularity of party leaders plays an important role in electoral politics in this country, and that is something that we need to look at as we consider Bill C-16.

It has been stated that greater efficiency in election administration, higher voter turnout and higher rates of participation by those who are currently under-represented in Parliament will be beneficial by-products of fixed election dates. While these are laudable objectives, we should carefully examine the evidence before we jump to these conclusions.

In her testimony before the committee in the other place, Ms. Linda Johnson, British Columbia's Deputy Chief Electoral Officer, said, with respect to the suggestion that savings result from a fixed-election-date system, that in her experience and in her opinion such savings were minor in the whole context of election costs. Ms. Johnson went on to say that British Columbia did not see an increase in female candidacy in its most recent election — the first election, as I said, that was administered under fixed-date rules. These issues are important and we should look carefully at them in committee.

There are other issues that need to be looked at as well. Fixed election dates might have some benefits, such as improved electors lists and other efficiencies for Elections Canada. Senator Mercer referred yesterday to those points. It could also lead to difficulties, such as the fact that the advanced poll, as I read this bill, would fall on the Thanksgiving Day weekend if the proposed legislation were passed in its current form. Whether that is desirable in encouraging greater voter turnout is questionable, in my view. The legislation could lead to higher voter turnout or could result in longer, and therefore more expensive, election campaigns and voter fatigue.

Honourable senators, these "coulds," "what ifs," and "maybes" give rise to uncertainty as to the effects of Bill C-16 — to repeat that overworked or oft-used phrase "the law of unintended consequences." That is why it is important that we work together to examine and improve this bill to provide the best environment for all Canadians to exercise their democratic rights and fulfil their civic duties. I look forward to working with honourable senators on both sides of this chamber to achieve this end.

[*Translation*]

**The Hon. the Acting Speaker:** I must inform honourable senators that, if Senator Di Nino speaks at this point, it will have the effect of closing the debate on this bill.

[*English*]

**Hon. Consiglio Di Nino:** Honourable senators, first, let me thank and congratulate Senator Cowan on his remarks. Although I covered some of the questions that he raised during my presentation, I look forward to further examination of those points during committee and during debate. Honourable senators, I should like to return to an issue that was raised during debate on Bill C-16 on Tuesday, November 21.

Senator Joyal argued that if Bill C-16 were enacted we would be:

> ...changing section 50 of the Constitution and section 4 of the Canadian Charter of Rights and Freedoms because we would reduce the maximum life of Parliament to four years while both in section 50 of the Constitution and section 4 of the Charter of Rights and Freedoms the maximum life of the House of Commons is five years.

After the debate, I sought and received opinions on this issue. I trust I can add some value and be helpful in the deliberation of this bill. Accordingly, I should like to address this important issue raised by Senator Joyal and others, including Senator Cowan today. I have been assured that Bill C-16 in no way contravenes section 50 of the Constitution Act, 1867, or section 4 of the Canadian Charter of Rights and Freedoms. These two sections

contain provisions that are similar in scope, purpose and effect in relation to the House of Commons. Section 50 of the Constitution Act, 1867, provides that the life of a House of Commons is five years and no longer, but expressly preserves the Governor General's power to dissolve the House sooner than that. Section 4 of the Charter creates a maximum term of five years for the House of Commons and provincial legislative assemblies.

These provisions ensure that, barring an emergency, no House of Commons will continue for longer than five years. Their eminent purpose is to guarantee that there will be elections of the House at least every five years. This intent in the constitutional maximum provided by these sections is respected by Bill C-16. Nothing in the bill in any way impairs or contravenes the five-year limit. Quite the opposite: The bill works within the constitutional limit contemplating that elections will be held every four years.

The Constitution does not require that the House of Commons continue for as long as five years, as constitutional scholar Peter Hogg notes in his treatise on constitutional law of Canada. He states: "the five-year period (provided by the Constitution) is a maximum term, not a fixed term."

Indeed, honourable senators, section 50 makes it clear that the Governor General retains the ability to dissolve the House at any time sooner than its five-year maximum life. The Constitution does not require or even create the expectation that the House of Commons will actually continue for a full five years. Bill C-16, which contemplates that elections be held every four years, contravenes no constitutional requirement or expectations of a longer term. Bill C-16 expressly preserves the Governor General's powers. The bill makes it clear that nothing in it affects those powers, including the power to dissolve Parliament at the Governor General's discretion.

The Governor General's powers remain those that are held under the Constitution, to dissolve Parliament at any time within the five-year constitutional limit. However, by providing that elections are to be held every four years in October, the bill establishes a statutory expectation that the relative political and administrative officers will govern themselves accordingly to accomplish that end, working within the rules and conventions of Parliament and responsible government. The aim of the bill is to ensure, to the extent possible within the framework of our constitutional system, that the date on which an election will be held may be known in advance, thereby enhancing fairness, transparency, predictability, efficiency and forward planning.

In summary, honourable senators, Bill C-16 respects both the purpose and the provisions of section 50 of the Constitution Act, 1867, and section 4 of the Charter of Rights and Freedoms. It does not affect the maximum term for the life of a Parliament. It does not contravene this maximum. By providing that, subject to the discretion of the Governor General, elections would be called at four-year intervals within that maximum period, the bill will give rise to reasonable expectations of regular and certain election dates. This will not only respect the Constitution but also will enhance the quality of our parliamentary democracy.

In closing, honourable senators, I look forward to further examination and debate on this and all other provisions of Bill C-16 at committee, including those that my colleague and friend Senator Cowan raised today.

[ Senator Di Nino ]

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

**Hon. Senators:** Question!

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

• (1650)

## PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT INCOME TAX ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

**Hon. W. David Angus** moved second reading of Bill C-25, to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act.

He said: Honourable senators, it is now my pleasure to introduce Bill C-25 at second reading. This bill deals with the proceeds of crime and illicit financing of terrorist activities. It is an important piece of legislation. In doing so, I would refer to the remarks I made here on October 31 and to the interim report of the Standing Senate Committee on Banking, Trade and Commerce tabled here last month entitled *Stemming the Flow of Illicit Money: A Priority for Canada*.

Honourable senators, I would suggest that when this matter gets to committee, all of these matters be read together, as they deal with the same subject matter.

Bill C-25 contains the necessary updated measures to help in Canada's fight against money laundering and terrorist financing activities and to enable Canada to honour its international commitments. As honourable senators can imagine, criminals today are very much aware of the sophisticated and fast-changing technological devices available to them. As Senator Grafstein has repeated so often in this chamber, the criminal mind is very ingenious and is always at work to undermine our safety and security.

Criminals know how to use these technological advances in their attempts to conceal and launder their so-called dirty money, often through legitimate or apparently legitimate financial systems. That was never more evident to us than yesterday when a whole coalition of law enforcement bodies in this country joined together after a four-year study on the infiltration of these criminal elements to make 92 arrests in Montreal and its environs. They reportedly have reams of evidence that will enable them to

break up one of the most powerful criminal organizations in this country, including at the airport, the ports and many other spots.

Honourable senators, to make detection more difficult, these criminals are constantly changing their tactics in an effort to avoid being caught. Therefore, we must keep our legislation, regulations and detection devices up to date.

Honourable senators, it is our challenge today, as legislators, to ensure that Canada's enforcement agencies have the tools to stay at least one step ahead of these criminal elements.

Indeed, the new government has made this fight a priority, and important steps have already been taken in this regard. For example, Budget 2006 announced $64 million of new funding to enhance and back up the work being done by law enforcement agencies. This new funding will also help ensure the safety and security of Canadians at large.

Honourable senators, Bill C-25 complements these actions with important new provisions designed to ensure that Canada's anti-money laundering and anti-terrorist financing regime is able to address properly the areas of risk. More important, given that the fight against money laundering and anti-terrorist financing goes far beyond our borders, we must ensure that Canada's legislation also meets revised international standards and that cooperative efforts be taken in this area.

I believe Bill C-25 goes a long way toward providing these assurances, but we should not underestimate the effects of money laundering and terrorist financing. As we said in our remarks on October 31, whether the amount of illicit money in circulation in Canada today is $10 billion or $30 billion or more, we do know that it is an astounding amount of money, and the figure of $30 billion has been used by some of our law enforcement people when they appeared before our committee. Money laundering and terrorist financing have the real potential to seriously affect Canada's economy in a negative way by impacting the integrity of our financial institutions and undermining the reputation of Canada's heretofore renowned financial sector as a whole. Honourable senators, we must not allow that to happen.

I earnestly believe that Canadians trust their financial institutions — at least up to now they have — and they have every reason to do so. Our banking and financial services are exemplary and are looked up to around the world. However, Canadians must also be able to trust their government to ensure that our financial sector is well regulated on an ongoing basis and protected from these evil criminal elements. A healthy financial system is critical to our country's ability to attract investment so that it can increase and sustain overall economic growth and productivity.

Honourable senators, Canada's anti-money laundering and anti-terrorist financing regime is recognized in the global economic community as robust. Our legislation is helping to ensure that Canada is not a haven for money laundering and terrorist financing activities. At the heart of Canada's anti-money laundering and anti-terrorist financing regime is the Financial Transactions and Reports Analysis Centre for Canada, otherwise known as FINTRAC. This is Canada's financial intelligence unit, a specialized agency created in the first iteration of this particular legislation, the Proceeds of Crime (Money Laundering) Terrorist Financing Act. FINTRAC is designed to collect, analyze and disclose financial information and intelligence of suspected money laundering and the financing of terrorist activities. It was created in July of 2000.

FINTRAC is an integral part of our engagement in the global fight against money laundering and financing of terrorism. The centre was created to detect and deter money laundering by providing critical information to support the investigation and/or prosecution of money laundering offences.

In 2001, FINTRAC's mandate was expanded to include the detection and deterrence of terrorist financing. Canada has subsequently had success in detecting suspected cases of money laundering and terrorist financing in the intervening period. An important part of this success has been our commitment to continue to work cooperatively and closely with our domestic and international partners to improve the regime. That work appears to be paying off.

In 2005-06, reporting entities — that is, entities that are required legally to report to FINTRAC — filed upwards of 30,000 suspicious transaction reports with FINTRAC. FINTRAC, in turn, made 168 case disclosures to law enforcement agencies such as the RCMP and CSIS.

Honourable senators, our new government is committed to helping FINTRAC do its job by maintaining a strong and comprehensive anti-money laundering and anti-terrorism financing regime consistent with international standards. That is what makes Bill C-25 so important. It is a bill that requires enactment on an urgent basis. The bill updates the current legislation so that it meets the necessary criteria that Canada has already agreed in an international forum to adopt.

• (1700)

Honourable senators, allow me to briefly outline the key components of this bill. The Financial Action Task Force, or FATF, to which Canada belongs and at the moment chairs, is the international standard-setting body on money laundering and anti-terrorist financing.

I will come back to FATF shortly, but let me say for the moment that the measures in Bill C-25 will update our anti-money laundering and anti-terrorist financing regime to be consistent with international standards as set out by and as continually updated by FATF and agreed to by all of its member states.

I would also stress that Bill C-25 will implement many of the recommendations contained in our recent report to which I just referred, *Stemming the Flow of Illicit Money: A Priority for Canada*. Without being too repetitive, as I mentioned on October 31, we were in the midst of doing a statutory review of the predecessor legislation on money laundering when we found out that this updating bill was in the pipeline. We noted that we had all this evidence and all of the recommendations from our report. We believed it would be unfortunate if the government were to proceed with a memorandum to cabinet in this new bill without the benefit of our recommendation. That is why, as I said on another occasion, our report became an interim report. It went forward, and we are assured by the officials and by in fact the

Minister of Finance, Mr. Flaherty, that our recommendations were all taken into consideration and indeed incorporated into the bill, I believe without exception. That is encouraging in terms of the work we do in this place.

An important element of the new measures set out in the bill relates to the sharing of information among enforcement agencies. For example, Bill C-25 proposes to allow the exchange of information between FINTRAC, the Canada Revenue Agency and various law enforcement agencies such as the RCMP, to prevent, detect and disband those registered charities that it has been discovered are being used illegally for the financing of terrorism. That is just one example.

I indicated earlier how the fight against money laundering and anti-terrorist financing several years ago moved on to the global stage. In this regard, Bill C-25 also proposes to allow the sharing of information between FINTRAC and its foreign counterparts regarding compliance-related information.

One of the difficulties encountered by FINTRAC in its initial years has been how to identify and supervise compliance within the unregulated money service businesses and foreign exchange boutiques. I also mentioned that I walked along Ste-Catherine Street in Montreal two Sundays ago and counted 13 tiny boutiques, each not much more than 10 square feet in size, and they were carrying on what they call money exchanging services. They are growing up like Topsy all over Canada. They are unregistered and unregulated. No one knows officially what they do, but we are told they are an integral part of this international fraudulent activity.

Bill C-25 addresses this problem by proposing to establish a new registration and oversight regime for these businesses. This new regime will provide FINTRAC with an important tool to better ensure that these businesses are aware of their obligations and allow FINTRAC to more effectively and efficiently supervise compliance. Coupled with the registration requirement, a new offence is being created under the bill for operating an unregistered money services business. Current legislation only allows for criminal penalties if the act is contravened.

Bill C-25 establishes a variety of monetary penalties, and I am not sure why they distinguish monetary from criminal, but in any event it is a different type of sanction in addition to those existing criminal sanctions, imprisonment and so on, that are in the earlier act. These will allow FINTRAC to impose graduated penalties that will adequately reflect the nature of the violations that they uncover.

These new monetary penalties, for example, will be used for lesser contraventions of the legislation.

To help FINTRAC do its work effectively, Bill C-25 places the onus on financial intermediaries to improve their client identification and record-keeping measures. These intermediaries will also be required to undertake enhanced measures with respect to the banking relationships of certain high-profile clients. This would include, for example, foreign politically exposed persons. The reporting of suspicious attempted transactions will also be required. That is "suspicious attempted," as opposed to transactions identified as such.

Honourable senators, both the Auditor General and law enforcement agencies in Canada have identified the exclusion of legal counsel or law firms from the money laundering and terrorist financing regime as a gap in the legislation. Under the previous law, lawyers, like many other financial organizations, were required to report these transactions. We were told in committee that it was suspect; it violated the Charter; it impinged on the solicitor-client privilege; that it would be struck down by the courts and there should be another way to go. The bill was passed as such, with the lawyers' provisions in it. The legal profession challenged it, first in British Columbia, then in Saskatchewan, and ultimately there was a moratorium. The courts put everything into suspense. There was an agreement with the Federation of Law Societies of Canada. This federation has been negotiating with the Department of Finance to come to some way around it. Therefore, the old provisions regarding lawyers have been left out of the bill. This concerned us when we were doing our review because we realized that there was a lacuna or a loophole.

What is in this bill is a proposal that legal counsel be required to undertake client identification and record-keeping measures when acting as financial intermediaries as opposed to lawyers. These measures complement the measures already in place that prohibit the receipt of cash over $7,500 by legal counsel. This provision is enforced through provincial and territorial law society rules of professional conduct.

These measures respect the Supreme Court of Canada's *Lavallée* decision, which sets out clear procedures to allow authorities to access certain documents from the possession of lawyers.

I want to conclude this part of my remarks by saying that I am not that comfortable that we fully understand how the lawyers are being dealt with. We have already taken steps such that if, as and when this chamber sees fit to refer this bill to the Banking Committee, we will have witnesses come and explain and table the agreement that has been made with the legal profession. When the committee went to New York, we met with the district attorney's office of Manhattan. They said, "We are dealing all the time with the Canadian money laundering issue." We said, "What about lawyers? Are they not the biggest source, these small law firms where guys come in with their big schemes and they do not have to report?" They said, "What do you mean? We monitor them all the time. They report to us." We asked, "How do you get around the solicitor-client privilege?" It is sacrosanct in the law profession. They said, "We differentiate between verbal communications between the solicitor and the client and transactions that might end up in the lawyer's office." It was an interesting distinction. We have now asked the Canadian bar and the Federation of Law Societies of Canada to tell us whether we have the same solicitor-client privilege rules in Canada as in the U.K., France and the U.S. The legal communities in those countries are complying. The difference, I think we will be told, is the Charter. It is one of those cases where we are getting caught by the Charter and the legal boys have been saying that that is one of the hooks they are hanging their hat on. There is more to be reported on this subject and it is a concern.

To increase the usefulness of FINTRAC's disclosures, the range of information that can be disclosed will be expanded, as well as the list of disclosure recipients. This list would include the Communications Security Establishment and the Canada Border Services Agency.

• (1710)

In this regard, honourable senators, it is important to emphasize that Canada's new government recognizes how essential it is to protect the privacy rights of Canadians. As this bill came through the other place the other day, our learned colleague Senator Grafstein went to the other place and testified at the committee. He said that there was nothing in the bill about privacy.

We had special meetings with the Minister of Finance. I am happy to report that the government introduced an amendment as a result of these interventions that is satisfactory to us and privacy is now protected. The Standing Senate Committee on Banking, Trade and Commerce highlighted the importance of protecting the privacy of Canadians in the interim report I spoke about earlier.

Accordingly, as I said, Bill C-25 was ultimately amended at the behest of the government in the other place so the Privacy Commissioner now, under the law, will conduct a review every two years of the measures taken by Financial Transactions and Reports Analysis Centre of Canada, FINTRAC. It is a kind of oversight of FINTRAC. Under the original statute, the Minister of Finance was the supervisor, period, but we said no, we need more oversight to preserve the privacy rights.

This Privacy Commissioner will perform the review every two years to make sure FINTRAC protects the private information it receives or collects and that the review be tabled in Parliament on a regular basis. This review will further strengthen existing safeguards already in place in this country to protect the privacy rights of Canadian citizens.

For example, FINTRAC is actually at arm's length with, and independent from, the law enforcement agencies that are entitled to receive the information, so there are provisions there. As well, only limited personal information such as key identifying information and publicly available information may be disclosed to police and other designated enforcement agencies.

In short, honourable senators, I am pleased to assure you that the proposals in this bill appear to strike a balance between the privacy rights of Canadians and the need for the appropriate law enforcement in this critical area. The bill does so in a manner that is consistent with the Charter of Rights and Freedoms and the Privacy Act. I am pleased to note as well, honourable senators, that this bill has benefited greatly from our interim report.

I will now make a few final remarks about the leading role that Canada is taking in the global effort to combat terrorist financing and money laundering. Canada's financial sector enjoys a global reputation for its integrity and stability, and our government wishes to ensure that this fine international reputation remains untarnished.

As I mentioned earlier, as a member of the G7 group of countries we belong to the Financial Action Task Force, FATF. This body was established by the G7 in 1989 to delineate global anti-money laundering and antiterrorist financing standards. The FATF now plays a critical role in deterring terrorist activity and money laundering. It does this by developing standards that will enable governments to cut off the financial resources that fund these illegal organizations and activities.

Canada, as I said, is an active participant in FATF, and Canada is currently the president. We played a significant role in developing the standards that are designed to starve these criminals of the cash they need to operate. Recently the FATF held important meetings in Vancouver. These standards are known as the 40 Recommendations on Money Laundering and 9 Special Recommendations on Terrorist Financing. An important element of Bill C-25 is that it will enable the commitments Canada made at FATF to be implemented so we can comply immediately with these FATF standards.

Moreover, this bill will allow Canada's anti-money laundering and terrorist financing regime to remain consistent with those of the other G7 partners. In other words, honourable senators, with the enactment of this bill, our international partners can continue to count on Canada to do its part.

In summing up, these remarks have illustrated how important the measures in this bill are. I hope honourable senators will agree with me. If an up-to-date anti-money laundering regime is not securely in place, our well-respected financial institutions could unwittingly be involved in criminal activity. Evidence of any such activity would have a damaging effect on how our financial sector is perceived not only by Canadians but by our trading partners. Our financial sector plays a significant role in the success of our economy. Our prosperity and security depend on Canada's government taking decisive action to ensure that the reputation of these fine financial institutions remain untarnished.

Honourable senators, I earnestly believe that Bill C-25 will improve our government's ability to act quickly and decisively against possible abuses of Canada's financial sector and to respect its international undertakings in this key area. I therefore urge all honourable senators to approve Bill C-25 in principle and give it second reading without delay and to then send it to the Standing Senate Committee on Banking, Trade and Commerce for sober second thought.

**Hon. Mobina S. B. Jaffer:** Will Senator Angus take a few questions?

**Senator Angus:** Yes, I would be happy to.

**Senator Jaffer:** I am sure that when Senator Angus spoke about the men in our august legal profession he also meant the women as well — men and women?

**Senator Angus:** I certainly did. I am gender neutral. I did not realize that I had made that oversight and if so, I apologize.

**Senator Jaffer:** You called them boys all the time. We are women.

I have another question. I heard the honourable senator say this before as well, that he walks on Ste-Catherine Street. Of course I do not know what Ste-Catherine Street is, but I assume it is a street he frequents and he has seen a number of small stores, shops or whatever, there. Has he made inquiries? Has he gone in to see what kind of work they do?

**Senator Angus:** As a matter of fact I have not, but we were told about these. I was curious to see how much they are growing. A year ago on this same six-block stretch of Ste-Catherine Street

there was one, and I remember where it was. Now there are 13. I verified that what the police are telling us is true. We now look forward to hearing from the police about what is going on there.

They are in that short little place in Montreal, and it is the same in Vancouver, Toronto and Calgary — we are told, all over the country — and I have seen them in Toronto and other cities such as Halifax, where I visited recently. I must tell honourable senators, there are a lot of them. It makes me wonder whether that many people are changing their pounds sterling into Canadian dollars or vice versa. I cannot believe it is a legitimate activity but I do not know.

**Senator Jaffer:** May I respectfully ask, since I am not part of the committee, that I be able to attend to ask my questions when the police come? Maybe these are genuine people who are carrying on what is called hawalah, which in a multicultural community is not the proper banking system as in other countries but maybe they are helping Canadians remit monies to their country of origin. They could also be hawalahs that are carrying on business. I am not sure, I am just inquiring.

**Senator Angus:** We know there is a bit of that, and of course that in itself raises questions when these amounts of money are being transferred. Senator Grafstein relayed an anecdote the other day about the criminal mind. I am not disputing that there are legitimate transfers through those types of foreign exchange offices, but we were told already by the police that they are so clever and they exchange $1,000 here and $1,000 there, so they might go down Ste-Catherine Street to each of those 13 businesses and exchange $1,000 at each one, and that seems a little unusual.

Furthermore, there are other "money service businesses." These exchange businesses are different from the ones I am referring to. They must now be registered under this law. Then there is the payday loan business, which is also being looked at and legislation is coming, I gather, from the Minister of Justice.

**Senator Jaffer:** Perhaps in his thorough review, one of the things the committee could look at is registering these businesses so we can see what is taking place, but I urge honourable senators not to paint every business with not carrying on properly because the businesses may be genuinely carrying on proper hawalah business.

• (1720)

**Senator Angus:** I have noted Senator Jaffer's comment, and I agree fully with it.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Honourable senators, before I take the adjournment, I wonder whether Senator Angus would agree that Ste-Catherine Street is one of the greatest commercial thoroughfares of this fantastic country; and that it is, in fact, very well supplied with bank branches and other places where one can change money; and that, prima facie, one would say that an explosion of 13 new ones in one year in a six-block stretch in an already well-served sector might be worthy of note.

**Senator Angus:** It makes one notice.

**Senator Fraser:** I shall take that as an affirmative answer to my question.

On motion of Senator Fraser, debate adjourned.

## JUDGES ACT

### BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

**Hon. Michael A. Meighen** moved second reading of Bill C-17, to amend the Judges Act and certain other Acts in relation to courts.

He said: Honourable senators, I rise today to introduce second reading debate on Bill C-17, to amend the Judges Act and certain other acts in relation to courts. Senator Nolin is the sponsor of this bill, and I will reserve his right to speak at third reading. I am speaking to this bill today, honourable senators, in the hope that it will assist in its expeditious movement through this chamber.

[*Translation*]

The purpose of this bill is to amend the Judges Act to implement the federal government's response to the 2003 report of the Judicial Compensation and Benefits Commission. This bill also makes a number of technical amendments to other federal acts as well as technical amendments to other federal acts in relation to courts.

Honourable senators, section 100 of the Constitution requires that Parliament, and not the executive alone, establish judicial compensation and benefits following full and public consideration and debate. The House of Commons has examined in detail, debated and passed this bill as introduced by the government, with a few minor technical amendments. It is now up to the Senate to study this bill, in its constitutional role in the parliamentary process under section 100 of the Constitution.

Honourable senators, we know full well that, in addition to the safeguards in section 100, the Supreme Court of Canada has established a constitutional requirement for an "independent, objective and effective" commission whose purpose is to make non-binding recommendations to the government.

A government must publicly respond to the report of that commission within a reasonable period of time. A government which rejects or modifies a recommendation must provide a justification for the departure that meets the standard of rationality. I will say a few words about this standard in a few minutes.

The Judges Act was amended in 1998 to strengthen the current procedures of the commission, consistent with the constitutional requirements defined by the Supreme Court of Canada. At the federal level, the independent, objective and effective commission that makes recommendations to the government is called the Judicial Compensation and Benefits Commission. The commission meets every four years to inquire into the adequacy of judicial compensation and benefits and is required to report and make recommendations.

It was in response to amendments proposed by the Senate that objective criteria were specifically set out in the Judges Act to govern the commission's consideration as well as that of the government and Parliament in determining the adequacy of the judges' compensation. These criteria include the prevailing economic conditions in Canada, including the cost of living and the overall economic and financial position of the federal government, the

role of financial security of the judiciary in ensuring judicial independence, the need to attract outstanding candidates to the judiciary and any other objective criteria that the commission considers relevant.

The last commission reported in May 2004. Unfortunately, there were major delays in the implementing of the commission's recommendations under the previous government. Allow me to explain the situation.

[*English*]

The commission fulfilled its role by conducting an inquiry and delivering a report with these recommendations. The former government responded to that report and introduced Bill C-51 to implement its response. However, despite an introduction date of May 20, 2005, Bill C-51 never proceeded beyond first reading and died on the Order Paper when the federal election was called in November 2005.

This government believes strongly in the principle of judicial independence, as I know all honourable senators do. The government recognizes that the integrity of this entire process is dependent in part on timely passage of implementing legislation.

The government is also firmly of the view that it had a responsibility to take the time to consider the report and recommendations in light of the mandate and priorities upon which it had been elected. However, this review was undertaken as quickly as reasonably possible.

The government provided its response to the commission report on May 29, 2006, followed almost immediately by the introduction of Bill C-17 in the other place on May 31, 2006. The bill was referred after first reading for further study to the Standing Committee on Justice and Human Rights on June 20, 2006.

The committee began its consideration of the bill on October 24 and tabled its report in the other place on November 1, 2006, approving the bill with some minor technical amendments.

Report stage and second reading occurred on November 7. Third reading debate was finally concluded on November 21.

Honourable senators, I am sure we can all appreciate the critical importance of completing the final stage of the 2003 quadrennial cycle through the passage of this legislation, especially since we must very soon begin preparations for the next quadrennial commission, which will commence its work in less than one year's time.

Bill C-17 proposes to implement virtually all of the commission's recommendations. The exceptions are the commission's recommendation on the 10.8 per cent salary increase and the representational cost proposal. Instead, the government is prepared to support a salary increase of 7.25 per cent and to increase reimbursement of representational costs to 66 per cent from the current level of 50 per cent.

I know honourable senators will have read the government's response explaining its rationale for the modification of the commission's salary recommendation. I therefore intend to briefly summarize this response on this issue. Before doing so, I think it important to speak to the standard of rationality against which our justification for this modification of the commission's recommendations by Parliament will be assessed.

It is necessary to displace some of the misconceptions that are at play in this area and, in particular, suggestions that respect for the constitutional judicial compensation process and for judicial independence, broadly speaking, can only be demonstrated through full verbatim implementation of commission recommendations.

To ensure public confidence in the process, I think it is absolutely critical that we have a shared appreciation and a shared understanding of the very balanced guidance that has been provided by the Supreme Court of Canada in the key cases of the *P.E.I. Judges Reference* and *Bodnar*. In both decisions, the court has quite rightly acknowledged that allocation of public resources belongs to the legislatures and to governments.

Careful reading of these cases also indicates that governments are fully entitled to reject and modify commission recommendations provided that a public, rational justification is given, one that demonstrates overall respect for the commission process.

• (1730)

Honourable senators, the government is fully confident that it has met this requirement. The effectiveness of the commission is not measured by whether all of its recommendations are implemented unchanged. Rather, it is measured by whether the commission process — its information gathering and analysis and its report and recommendations — play a central role in informing the ultimate determination of judicial compensation.

The commission's work and analysis have indeed been critical in the government's deliberations. The response respectfully acknowledges the commission's efforts and explains the government's position in relation to two modifications to the commission's proposals.

In justifying the proposed modification of the salary recommendation, as reflected in Bill C-17, the government gave careful consideration to all four of the criteria established by the Judges Act, and to two of them in particular. Those two are as follows: the prevailing economic conditions in Canada, including the cost of living and the overall economic and financial position of the federal government; and, second, the need to attract outstanding candidates to the judiciary.

With respect to the first of these, the government concluded that the commission did not pay sufficient heed to the need to balance judicial compensation proposals within the overall context of economic pressures, fiscal priorities and competing demands on the public purse. In essence, the government ascribed a different weight than the commission did to the importance of this criterion.

In terms of attracting outstanding candidates, the government took issue with the weight that the commission placed on certain comparative groups against which the adequacy of judicial salary should be assessed.

The government recognizes that the task of establishing appropriate comparators for judges has been a perennial challenge for past commissions as well as parliamentarians, given the unique nature of the judicial office. The commission very carefully and thoroughly considered a range of comparative information, including senior civil servants', GIC appointees' and private practice lawyers' incomes.

Honourable senators, a key concern was the fact that the commission appeared to accord a disproportionate weight to incomes earned by self-employed lawyers and, in particular, to those practitioners in Canada's eight largest urban centres. In addition, there was an apparent lack of emphasis given to the value of the judicial annuity.

As the response elaborates, the government believes that the commission's salary recommendation of 10.8 per cent overshoots the mark of defining the level of salary increase necessary to ensure outstanding candidates for the judiciary.

The government is proposing a modified judicial salary proposal for puisne judges of $232,300, or 7.25 per cent, effective April 1, 2004, with statutory indexing to continue effective April 1 in each of the following years, with proportional adjustments for Chief Justices and justices of the Supreme Court of Canada.

[*Translation*]

The other proposed amendment pertains to the commission's recommendation that judges are entitled to a higher rate of reimbursement for their expenses in respect of their participation in the work of the commission. It recommended increases of between 50 per cent and 66 per cent for legal expenses and between 50 per cent and 100 per cent for costs.

For your information, costs related to the work of the commission include not only photocopies and messenger services but, in particular, the cost of large contracts for consultants with expertise in compensation and other matters.

In our opinion, the reimbursement of 100 per cent of costs provides little or no financial incentive for judges to incur reasonable expenses. Consequently, Bill C-17 would increase the current level of reimbursement by 50 per cent to 66 per cent.

The answer also indicates that it is up to parliamentarians, and not the government, to decide which proposals to implement, whether they are made by the commission or by a third party.

The Justice Committee examined Bill C-17 with the utmost of care. It heard the commissioners from the Judicial Compensation and Benefits Commission. Representatives of the Canadian Bar Association appeared before the committee as well as Professor Garant, who gave his opinion as an academic on this constitutional process.

The Justice Committee returned Bill C-17 with some minor amendments and the bill was approved after debate at both second and third reading in the House of Commons.

[ Senator Meighen ]

[*English*]

Honourable senators, I want to alert each and every one of us to the fact that Bill C-17 is not just about salary increases for judges. Most notably, this bill includes a long overdue proposal aimed at levelling the playing field for partners of judges in the difficult circumstances of a relationship breakdown by facilitating the equitable sharing of the judicial annuity. The judicial annuity is currently the only federal pension not subject to such a division, despite the fact that the judicial annuity represents a significant family asset.

The proposed annuity amendments essentially mirror the provisions of the federal Pension Benefits Division Act. Like the PBDA, these provisions uphold the overarching principles of good pension division policy, allowing couples to achieve a clean break, certainty and portability.

These provisions are also consistent with both the objectives of probative retirement planning and the constitutional requirement of financial security as a part of the guarantees of judicial independence.

While on its face extremely complicated, the policy objective of this mechanism is very simple — that is, to address a long outstanding equity issue in support of families undergoing breakdown of the spousal relationship.

Honourable senators, it has been my honour to speak to the important amendments found in Bill C-17, proposals that are consistent with the legal and constitutional framework that governs judicial compensation.

In light of the length of time that has passed since the commission report, and in order to ensure the continued integrity of this process, it is of great importance, it seems to me, that we deal with this bill with all due dispatch. I therefore call on all honourable senators to give careful but timely consideration to Bill C-17. Let us reach a final implementation of these long overdue proposals, proposals that are both fair and reasonable to all.

Honourable senators, in so doing, we will help ensure that Canada continues to have a judiciary whose independence, impartiality, commitment and overall excellence not only inspires the confidence of the Canadian public but is envied around the world.

**Hon. Eymard G. Corbin:** Would the honourable senator accept a question?

**Senator Meighen:** Certainly.

**Senator Corbin:** I would refer him to Part 2, on page 23 of the bill, under the title Federal Courts Act. I should like to read clause 20 of the bill, which replaces section 5.4 of the Federal Courts Act with the following:

> At least five of the judges of the Federal Court of Appeal and at least 10 of the judges of the Federal Court must be persons who have been judges of the Court of Appeal or of the Superior Court of the Province of Quebec, or have been members of the bar of that Province.

I do not know if that proposed new section of the Federal Courts Act seeks to operate an increase in the representation on the court bench of members from Quebec or if this is in fact an entirely new disposition.

Perhaps to stay in the spirit of things, could the honourable senator inform me as to whether this is a way of affirming that Quebec is a distinct society or a nation within the federation?

**Senator Comeau:** Or a nation of Quebecers?

**Senator Meighen:** If we could rely on debate yesterday in the other place, it would appear that most members of the House of Commons believe Quebecers to be a nation within a united Canada.

• (1740)

As to whether that represents an increase, I must confess to Senator Corbin that I do not know the answer to that question, but I would be glad to try to find it as quickly as possible and transmit it to him.

**Senator Corbin:** I thank the honourable senator.

**Hon. Anne C. Cools:** I was observing carefully Senator Meighen and his clear-mindedness, which is a real pleasure. This is a subject matter that I have studied a fair amount.

The honourable senator made a reference to representational allowances and increases in those allowances. Perhaps he should tell the house what "representational allowances" are.

**Senator Meighen:** I assume it is lawyers paying other lawyers to represent them. To the best of my knowledge, the judges were represented by counsel, and I assume that counsel did not work for free.

**Senator Cools:** My understanding is that representational allowances had to do with allowances to the judges and chief judges for hospitality and expenses like that, but that is another question. We can look at that more carefully later.

When a previous judges bill was before the Senate, there was much talk, as always, that high salaries are required because of the difficulties in getting good lawyers to serve as judges. At the time, the Senate committee questioned all of that.

The data show that, contrary to there being any difficulty to obtain candidates for judicial office, in point of fact there were numerous hopefuls for each vacancy. At that time, many of the committee members thought that the government or its advocates should relinquish the constant mantra that they cannot get good candidates because the salaries might not be attractive enough. At the time, the committee members learned that the highest salaries in the country are those of judges.

I am encouraged by much of what the honourable senator had to say, but I am wondering if he could clarify a bit more. It would take a most unreasonable person to argue that Canada's judges are not well paid or that there are many more seekers of judicial office than there are official positions to which to appoint persons.

**Senator Meighen:** Based on my experience, I certainly could not deny that a good number of lawyers are interested in becoming members of the judiciary. I do not find there is a great lack of applicants.

That being said, I think all honourable senators would agree that we are interested in high-quality judges, and quality cannot be obtained, in all cases, if the salary is not commensurate with the responsibilities that we place upon these people.

As I indicated, the government is proposing a level of 7.25 per cent rather than 10.8, I think, for some of the reasons the honourable senator cited.

The commission tended, as I indicated, to look at the salaries of lawyers in private practice in the large urban centres. Many of our judges are drawn from outside the large urban centres. Also, many judges are drawn from a community of lawyers who are not in private practice. For those two reasons, it seemed appropriate to reconsider the level proposed by the commission.

**Senator Cools:** I agree with the honourable senator.

**Senator Meighen:** The fact of the matter is also that judges have not had an increase for four plus two years, so six years, if the commission reported two years ago. They have been waiting for that.

**Senator Cools:** It is retroactive, though.

**Senator Meighen:** It is retroactive, so that will solve the problem of those two years.

Other than that, I do not think there is much that I can add to the determination of the 7.25 per cent. It is over a 3 per cent reduction from what was proposed, and we think it is highly adequate.

**Senator Cools:** The last time that this issue was before us, the government of the day basically tied judicial salaries to members' salaries. At the time, many of us here objected to that decision. Barely a year later, the government of the day then found some of the recommendations a little too rich for their blood. The government thought it was too rich for members, so they soon severed the connection between judges' and MPs' salaries, particularly the Chief Justice's salary to the Prime Minister's salary. Many of us had thought that it was a bad idea in the first place.

Section 100 of the Constitution basically attempts to bring judges under "the public purse." It says, in part:

> The Salaries, Allowances and Pensions of the Judges...shall be fixed and provided by the Parliament of Canada.

Around the time the compensation commission was made a permanent body under the Judges Act, there was a body of opinion which, roughly expressed, said that the commission could become a situation whereby they fixed the salaries, and Parliament provided them, rather than Parliament fixing and providing the salaries.

Has the honourable senator thought about that? If he has not, there will be ample time to do so. The notion that, constitutionally, salaries must be fixed and provided had been altered to mean that the judges fix and Parliament provides.

**Senator Meighen:** I tried to emphasize in my remarks that it is up to us and up to those in the other place to establish and to fix the salaries. As I see it, the commission has made a recommendation and the government has commented on that recommendation. The government has introduced legislation which passed in the other place and it is now before us, so it is really us who make the determination.

On motion of Senator Fraser, debate adjourned.

• (1750)

## HERITAGE LIGHTHOUSE PROTECTION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carney, P.C., seconded by the Honourable Senator Murray, P.C., for the second reading of Bill S-220, to protect heritage lighthouses.—(*Honourable Senator Comeau*)

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I rise to speak to the substance of Bill S-220, which was introduced by Senator Carney on October 3, 2006.

It is important to note that our dear colleague, Senator Forrestall, who passed away on June 8 of this year, was the major driving force behind this bill. Senator Carney is the sponsor of the bill in this session of Parliament, but Senator Forrestall introduced this bill, an act to protect heritage lighthouses, on five previous occasions.

He introduced Bill S-21 in the Second Session of the Thirty-sixth Parliament; Bill S-43 in the First Session, Bill S-7 in the Second Session and Bill S-5 in the Third Session of the Thirty-seventh Parliament; and finally Bill S-14 in the Thirty-eighth Parliament. Indeed, during the last session of Parliament, Bill S-14 proceeded all the way to committee stage in the other place, which I believe is a testament to the widespread support this bill had among all parliamentarians.

It is unfortunate that Bill S-14 did not receive Royal Assent in the Thirty-eighth Parliament. I know Senator Forrestall would have been delighted to see his many years of hard work and dedication acknowledged. He was a tireless advocate for the protection of all of Canada's heritage monuments, including lighthouses, and we should continue to honour his legacy and hard work.

Honourable senators, the purpose of Bill S-220 is to protect and preserve heritage lighthouses within the legislative authority of Parliament by providing for their designation as heritage lighthouses and by requiring that these lighthouses be maintained as heritage monuments.



The government is pleased to support Bill S-220, just as we were pleased to support previous versions of the bill when we were in opposition. Protecting heritage lighthouses is a laudable goal. However, the sponsor of this bill has raised the fact that she has consulted with Environment Canada about several potential amendments to the bill. I call the attention of senators to important matters we may wish to study when this bill is referred to committee.

The Department of Fisheries and Oceans is the custodian of approximately 750 lighthouses in Canada. The department has approximately 246 light stations and 504 aids to navigation, which are viewed as lighthouses and to which Bill S-220 would apply. Some of these lighthouses are accessible only by helicopter or ship, and certainly not by conventional transportation. Because lighthouses are exposed to more extreme weather conditions than other landmarks, they are also vulnerable to deterioration.

The annual budget of the Department of Fisheries and Oceans is $1.7 billion. There is no designation for funds to implement Bill S-220 if this bill were enacted. We know that the Department of Fisheries and Oceans has a small budget in comparison to its mandate to protect Canada's fisheries and to promote healthy and accessible waterways, and we know the department works hard to achieve good value for money for Canadian taxpayers. I am sure that Senator Rompkey agrees with that. We must be sensitive to that situation and ensure that the cost of implementing Bill S-220 would not compromise the ability of the Department of Fisheries and Oceans to meet its operational requirement to Canada's coastal communities.

I also call the attention of the Senate to the remarks of the Auditor General in her November 2003 report, *Protection of Cultural Heritage in the Federal Government*. In her report, the Auditor General stated that a more strategic report is needed for the way we protect lighthouses in this country. In particular, she wrote that the government must make a concerted effort to protect heritage sites but that these choices need to be focused and consistent with the resources available.

The Auditor General has also questioned the logic of protecting many of the same heritage building sites, mentioning lighthouses in particular as an example. We need to be aware of her concerns.

The government is committed to protecting Canada's historic places for future generations, and this protection includes heritage lighthouses. We support Bill S-220, but we also believe that it can be improved.

In Budget 2006, Parks Canada was provided with significant new funding for the Historic Places Initiatives, which furthers Canada's history of heritage conservation and ensures that historic places are an integral part of our society. The government support for the aims of Bill S-220 builds on that initiative, and we hope to do it in a fiscally responsible manner. This is what Canadians of all regions expect and deserve.

I look forward to working with my Senate colleagues to promote and strengthen the objectives of Bill S-220 and to put forward a fiscally responsible approach to protecting Canada's heritage landmarks, which Canada deserves.

On motion of Senator Rompkey, debate adjourned.

## BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, as the time is approaching six o'clock, is there an indication from the house as to whether or not I see the clock?

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** We agree not to see the clock.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** That is agreed.

## PERSONAL WATERCRAFT BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Segal, for the second reading of Bill S-209, concerning personal watercraft in navigable waters.—(*Honourable Senator Comeau*)

**Hon. Tommy Banks:** Honourable senators, this bill, similar to the one Senator Comeau spoke to, has been introduced in this place a couple of times in successive parliaments going back to the Thirty-sixth Parliament, if I recall correctly.

I rise because the Standing Senate Committee on Energy, the Environment and Natural Resources, to which I think this bill might be referred for study, has at the moment, because of preparation of two aspects of its current mandated report, an opportunity in the next two weeks to study this bill once again. Senators will recall that a couple of weeks ago I asked for permission to bring forward all the previous testimony on this bill.

Since this order stands in the name of Senator Comeau, would he entertain a motion to move this bill to committee for study in order that we can report on it quickly?

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I thank Senator Banks for his request and the spirit in which he made it. However, Senator Spivak has not been well. I talked to her some time ago about the possibility of moving the bill to committee as soon as she is able to return and be part of the process of studying the bill. I think it would be fair for us to wait until Senator Spivak is here before we move it to committee in order that she could be part of the process.

**Senator Banks:** My request is partly in respect of that. We have received in writing from Senator Spivak a request that it be sent to committee. Senator Spivak intends to return to the Senate on December 5. During that week and before the Christmas break, the committee will be able to deal with this matter. My concern is that when that window closes, we will move into the second phase of our mandatory examination of the Canadian Environmental Protection Act, and that will preclude the consideration of this bill probably until February or March. It is precisely in the interests of enabling Senator Spivak to participate in the committee's deliberations on this bill that I ask for this referral.

**Senator Comeau:** It would have been nice, in the interests of house management, if Senator Spivak had copied me on the letter she sent to Senator Banks about her return date. That would have given me an opportunity to be in the loop. Perhaps Senator Banks will send me a copy of that message.

**Senator Banks:** I have given a misimpression, honourable senators, and I wish to correct it. We asked Senator Spivak to give us her authority to ask that the bill be moved into committee. I received no letter indicating the date on which she would return. We received information from her office, directed to the clerk of the committee, that she will be back in the Senate on that date. I will be happy to send a copy of that information to Senator Comeau.

• (1800)

**Senator Comeau:** I shall send the honourable senator a note myself, inquiring as to her intentions. This will be done next week.

Order stands.

[*Translation*]

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

REPORT OF OFFICIAL LANGUAGES COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Chaput, seconded by the Honourable Senator Tardif, that the second report of the Standing Senate Committee on Official Languages, entitled: *Understanding the Reality and Meeting the Challenges of Living in French in Nova Scotia*, tabled in the Senate on October 5, 2006 be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Canadian Heritage, the President of the Treasury Board and the Minister for Official Languages being identified as Ministers responsible for responding to the report.—(*Honourable Senator Corbin*)

**Hon. Maria Chaput** moved adoption of the report.

Motion agreed to and report adopted.

[*English*]

## CANADA'S COMMITMENT TO DARFUR, SUDAN

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Dallaire calling the attention of the Senate to the situation in the Darfur region of Sudan and the importance of Canada's commitment to the people of this war-torn country.—(*Honourable Senator Jaffer*)

**Hon. Mobina S. B. Jaffer:** Honourable senators, this inquiry was initiated by Senator Dallaire, and I thank him for that initiative.

I know all honourable senators will join me in wanting to let Senator Dallaire know that he is in our minds when we deal with this very difficult inquiry.

Honourable senators, because of the lateness of the hour, and given the heavy week we have all had, I should like to complete my remarks on Darfur at another time.

**The Hon. the Speaker:** Honourable senators, does the item stand in the name of Honourable Senator Jaffer?

**Hon. Senators:** Agreed.

On motion of Senator Jaffer, debate adjourned.

## QUESTION OF PRIVILEGE

**The Hon. the Speaker:** Honourable senators, pursuant to rule 43(5) of the *Rules of the Senate*, the clerk received this morning notice of a question of privilege from the Honourable Senator Cools; and in accordance with rule 47(7), I now recognize the Honourable Senator Cools.

**Hon. Anne C. Cools:** The hour is late and I think honourable senators are in hurry to go home. I do not have the heart to keep honourable senators here for another hour or however long it would be take.

What I would ask is that perhaps I could do it on Tuesday. If that is not acceptable, I will find another rubric.

My experience in this place is that on Thursday night at 6:30 p.m. senators really do not want to be here, and I do not want to exhaust them further.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** It is extremely unusual to postpone discussion on a question of privilege — and the Speaker may tell me that it simply cannot be done. However, it is true that it has been a long and stressful week and, as such, I would be prepared to let this matter be carried over until Tuesday, if that can be done. I really do not have views on the procedural correctness or even the possibility of this.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** I do not know what to say in this regard. The rules, I thought, were quite clear that the question of a motion of privilege has to be brought up very quickly, because someone's privileges have been denied. If one's privileges have been denied, all of our privileges have been denied, the way I view it.

If my privileges had been denied through someone else's privileges having been denied, I want to know what those privileges are. I do not even know what the privileges are that have been denied so far, so I think we need to know. I do not think we can have this hanging over us over a number of days without knowing how someone's privileges have been trampled on or denied through what I heard were "words and actions." I need to know what they are.

I think our rules are quite clear that we cannot postpone; it must be brought up at the first opportunity.

**Senator Cools:** Honourable senators, on many occasions here the discussion has been postponed a day or two. The rule is pretty clear that, under this rubric, which is asking the Speaker for a prima facie ruling, the matter must be raised at the first opportunity. However, to the extent that once something has been noted here, it becomes an indication to the house that something further will be coming. I have been part of many discussions here — two occasions where I remember the debate was even adjourned. It is unusual, but it has happened.

Honourable senators, I appreciate Senator Comeau's concern. My point is that, in the instance, if Senator Kinsella were to find a prima facie case, then the debate would have to occur immediately on the motion that I would propose. My sentiments, honourable senators, are as follows: It is 6:30 p.m., and I simply do not have the heart to keep us here for another hour. We have been here for a very long time, and it would be very easy for me to do this on Tuesday.

I am not going to press the matter. I shall not push the matter. There are other rubrics under which I can raise these very same issues. I just do not think, quite frankly, even with the diminished numbers that are currently present in the chamber, that it does any debate any good at this particular time of day. That is all I am saying.

If I can do it Tuesday, fine; if not, I can use other rubrics.

**Senator Comeau:** We will leave it to His Honour to determine whether this matter can be postponed to Tuesday, as requested by Senator Cools. My opinion is that we should be dealing with it, if privileges have been trampled on.

**The Hon. the Speaker:** Honourable senators, the Speaker is a servant of the house. As honourable senators have indicated, privilege is a very important matter, and I do not see leave being granted. This is the time to deal with the matter.

I shall operate on the assumption that leave has not been granted. This is the time to do it, Senator Cools.

**Senator Cools:** I said earlier that I do not have the heart to do this, and that I ask for senators to allow me to speak to this issue on Tuesday. The decision belongs with all senators, the whole Senate.

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

**Some Hon. Senators:** No.

**Senator Cools:** That was easy. Let the record show that Senator Comeau said no.

• (1810)

**Senator Comeau:** Absolutely. I would want it on the record if my privileges as a senator had been trampled on or violated in any way. I would need to know what was said and done yesterday, and I would need to know right away, according to the rules. I am simply obeying the rules as we currently have them. If we do not like the rules and we want to postpone questions of privilege over

a number of days, that is fine, and we can change the rules. However, for the time being, the rules are such that if actions done and words spoken trample on our privileges, we should know what they are.

**Senator Cools:** I assure you that nothing is that urgent. This rule has been debated thousands of times, but not in this jurisdiction. As a matter of fact, these issues have never been properly studied in this particular jurisdiction. The point is that when one raises these issues, the rule says "at the earliest opportunity" so as to be able to indicate to the Senate that you want to do something. In any event, if you say "no," you have said "no," and I will accept that, but I happen to know as I look around at the scant number of senators in this chamber that, quite frankly, the Conservatives do not even have enough people present to maintain quorum right now. I do not think it is fair to persist. The issue is not life-threatening. If it were life-threatening, it would be a different matter. If it were life-threatening, I would have gone to the other rule which would have brought it on immediately and I would not have had to wait all afternoon. There are some questions of principle, and the debate I would like to have is a substantive and profound one. I do not believe we could do it justice at this hour. I am not the kind of person who can present in a half-hearted way when I know that everyone is waiting to go home.

**The Hon. the Speaker:** Honourable senators, the chair requires help. Where are we?

**Senator Fraser:** It is my understanding, Your Honour, that leave has been denied to postpone consideration of the question of privilege and that Senator Cools has considered the circumstances of the day and has, with some consideration for the endurance of senators who have had a long and difficult week, said she wishes not to proceed with the matter at this time.

She also said — and it is important that we take note — that she realizes there are other rubrics under which she could proceed with her matter. As Senator Stratton reminded us not very long ago, there is rule 59(10), or one can have an inquiry or one can have a motion. Although I did say that I would have been prepared, if Your Honour thought it was in order, to postpone consideration under the initial question of privilege, I want to be very clear that we understand that this matter can be proceeded with in another way at another time.

On our side, once we have further details of the concerns that Senator Cools wishes to raise, we will participate in that debate. I would not wish Senator Cools to believe that she is suffering in any way by the immediate proceedings in this chamber.

**Senator Cools:** I thank the senator for her kindness and her generosity — I would even say her nobleness and even magnanimity. My experience in life is that, at the end of the day on Thursdays, when everyone is tired, that is not the time of day to raise profound, difficult issues — issues that are difficult constitutionally and difficult legally.

In addition, the chamber is pretty empty, so most senators have already gone, and that is a pretty good indication of where senators want to be. I asked to defer until Tuesday as a matter of courtesy, and it has been done before. Fine. I will accept that. I understand exactly what is going on. I am not the least bit mystified at all. His Honour was asked to make a decision, but it is not his decision to make. He should never have been asked.

As I said before, I know that it is Thursday evening, I know that senators want to go home, I know that I want to place some deep concepts before us, and I know that I want senators to partake in the debate on these important questions.

**Senator Fraser:** And we will.

**Senator Cools:** I also happen to know, because I have a tremendous political instinct, that this is not the time. Most senators, with the exception of the one who denied me permission, are feeling a sense of relief that I am offering not to tax their minds on these taxing matters at this very late hour of the day.

## HUMAN RIGHTS

### MOTION TO AUTHORIZE COMMITTEE TO STUDY ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE 2006 RESOLUTION ON ANTI-SEMITISM AND INTOLERANCE—DEBATE ADJOURNED

**Hon. Joan Fraser (Deputy Leader of the Opposition),** for Senator Grafstein, pursuant to notice of September 26, 2006, moved:

That the following Resolution on Combating Anti-Semitism and other forms of intolerance which was adopted at the 15th Annual Session of the OSCE Parliamentary Association, in which Canada participated in Brussels, Belgium on July 7, 2006, be referred to the Standing Senate Committee on Human Rights for consideration and that the Committee table its final report no later than March 31, 2007:

RESOLUTION ON
COMBATING ANTI-SEMITISM
AND OTHER FORMS OF INTOLERANCE

1. Calling attention to the resolutions on anti-Semitism adopted unanimously by the OSCE Parliamentary Assembly at its annual sessions in Berlin in 2002, Rotterdam in 2003, Edinburgh in 2004 and Washington in 2005,

2. Intending to raise awareness of the need to combat anti-Semitism, intolerance and discrimination against Muslims, as well as racism, xenophobia and discrimination, also focusing on the intolerance and discrimination faced by Christians and members of other religions and minorities in different societies,

The OSCE Parliamentary Assembly:

3. Recognizes the steps taken by the OSCE and the Office for Democratic Institutions and Human Rights (ODIHR) to address the problems of anti-Semitism and other forms of intolerance, including the work of the Tolerance and Non-Discrimination Unit at the Office for Democratic Institutions and Human Rights, the appointment of the Personal Representatives of the Chairman-in-Office, and the organization of expert meetings on the issue of anti-Semitism;

4. Reminds its participating States that "Anti-Semitism is a certain perception of Jews, which may be expressed as hatred towards Jews. Rhetorical and physical manifestations of anti-Semitism are directed towards Jewish or non-Jewish individuals and/or their property,

towards Jewish community institutions and religious facilities", this being the definition of anti-Semitism adopted by representatives of the European Monitoring Centre on Racism and Xenophobia (EUMC) and ODIHR;

5. Urges its participating States to establish a legal framework for targeted measures to combat the dissemination of racist and anti-Semitic material via the Internet;

6. Urges its participating States to intensify their efforts to combat discrimination against religious and ethnic minorities;

7. Urges its participating States to present written reports, at the 2007 Annual Session, on their activities to combat anti-Semitism, racism and discrimination against Muslims;

8. Welcomes the offer of the Romanian Government to host a follow-up conference in 2007 on combating anti-Semitism and all forms of discrimination with the aim of reviewing all the decisions adopted at the OSCE conferences (Vienna, Brussels, Berlin, Córdoba, Washington), for which commitments were undertaken by the participating States, with a request for proposals on improving implementation, and calls upon participating States to agree on a decision in this regard at the forthcoming Ministerial Conference in Brussels;

9. Urges its participating States to provide the OSCE Office for Democratic Institutions and Human Rights (ODIHR) with regular information on the status of implementation of the 38 commitments made at the OSCE conferences (Vienna, Brussels, Berlin, Córdoba, Washington);

10. Urges its participating States to develop proposals for national action plans to combat anti-Semitism, racism and discrimination against Muslims;

11. Urges its participating States to raise awareness of the need to protect Jewish institutions and other minority institutions in the various societies;

12. Urges its participating States to appoint ombudspersons or special commissioners to present and promote national guidelines on educational work to promote tolerance and combat anti-Semitism, including Holocaust education;

13. Underlines the need for broad public support and promotion of, and cooperation with, civil society representatives involved in the collection, analysis and publication of data on anti-Semitism and racism and related violence;

14. Urges its participating States to engage with the history of the Holocaust and anti-Semitism and to analyze the role of public institutions in this context;

15. Requests its participating States to position themselves against all current forms of anti-Semitism wherever they encounter it;

16. Resolves to involve other inter-parliamentary organizations such as the IPU, the Council of Europe Parliamentary Assembly (PACE), the Euro-Mediterranean Parliamentary Assembly (EMPA) and the NATO Parliamentary Assembly in its efforts to implement the above demands.

She said: Honourable senators, I will echo the sentiments expressed so clearly by Senator Cools a moment ago.

**Senator Comeau:** Where is Senator Cools?

**Senator LeBreton:** She is gone.

**Senator Fraser:** At this time of day on a Thursday, at the end of a very stressful week, we cannot perhaps give complete consideration to matters of great importance. The resolution that Senator Grafstein is bringing to our attention is of profound importance, but I would very much like, with the indulgence of the chamber, to move the adjournment of the debate for the balance of my time.

On motion of Senator Fraser, debate adjourned.

[*Translation*]

## OFFICIAL LANGUAGES

### MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE— ORDER WITHDRAWN

On Motion No. 125 by the Honourable Senator Chaput:

That the Standing Senate Committee on Official Languages have the power to sit on Monday, November 27, 2006 at 4:00 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

**Hon. Maria Chaput:** Honourable senators, with leave, I would like the motion in my name to be withdrawn from the Order Paper.

Order withdrawn.

## ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, November 28, 2006, at 2 p.m.

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

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, November 28, 2006, at 2 p.m.

# THE SENATE OF CANADA
# PROGRESS OF LEGISLATION

(*indicates the status of a bill by showing the date on which each stage has been* ***completed***)

## (1st Session, 39th Parliament)

## Thursday, November 23, 2006

(**Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.*)

### GOVERNMENT BILLS
### (SENATE)

| No. | Title | 1st | 2nd | Committee | Report | Amend | 3rd | R.A. | Chap. |
|---|---|---|---|---|---|---|---|---|---|
| S-2 | An Act to amend the Hazardous Materials Information Review Act | 06/04/25 | 06/05/04 | Social Affairs, Science and Technology | 06/05/18 | 0 | 06/05/30 | | |
| S-3 | An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act | 06/04/25 | 06/06/22 | Legal and Constitutional Affairs | | | | | |
| S-4 | An Act to amend the Constitution Act, 1867 (Senate tenure) | 06/05/30 | | (subject-matter 06/06/28 Special Committee on Senate Reform) | (report on subject-matter 06/10/26) | | | | |
| S-5 | An Act to implement conventions and protocols concluded between Canada and Finland, Mexico and Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income | 06/10/03 | 06/10/31 | Banking, Trade and Commerce | 06/11/09 | 0 | 06/11/23 | | |

### GOVERNMENT BILLS
### (HOUSE OF COMMONS)

| No. | Title | 1st | 2nd | Committee | Report | Amend | 3rd | R.A. | Chap. |
|---|---|---|---|---|---|---|---|---|---|
| C-2 | An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability | 06/06/22 | 06/06/27 | Legal and Constitutional Affairs | 06/10/26 | 156 Observations + 3 at 3rd (including 1 amend. to report) 06/11/09 Total 158 | 06/11/09 Message from Commons-agree with 52 amendments, disagree with 102, agree and disagree with 1, and amend 3 06/11/21 Referred to committee 06/11/23 | | |

| No. | Title | 1st | 2nd | Committee | Report | Amend | 3rd | R.A. | Chap. |
|---|---|---|---|---|---|---|---|---|---|
| C-3 | An Act respecting international bridges and tunnels and making a consequential amendment to another Act | 06/06/22 | 06/10/24 | Transport and Communications | | | | | |
| C-4 | An Act to amend An Act to amend the Canada Elections Act and the Income Tax Act | 06/05/02 | 06/05/03 | Legal and Constitutional Affairs | 06/05/04 | 0 | 06/05/09 | 06/05/11 | 1/06 |
| C-5 | An Act respecting the establishment of the Public Health Agency of Canada and amending certain Acts | 06/06/20 | 06/09/28 | Social Affairs, Science and Technology | 06/11/02 | 0 observations | 06/11/03 | | |
| C-8 | An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2007 (*Appropriation Act No. 1, 2006-2007*) | 06/05/04 | 06/05/09 | — | — | — | 06/05/10 | 06/05/11 | 2/06 |
| C-9 | An Act to amend the Criminal Code (conditional sentence of imprisonment) | 06/11/06 | | | | | | | |
| C-13 | An Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006 | 06/06/06 | 06/06/13 | National Finance | 06/06/20 | 0 | 06/06/22 | 06/06/22* | 4/06 |
| C-15 | An Act to amend the Agricultural Marketing Programs Act | 06/06/06 | 06/06/13 | Agriculture and Forestry | 06/06/15 | 0 | 06/06/20 | 06/06/22* | 3/06 |
| C-16 | An Act to amend the Canada Elections Act | 06/11/06 | 06/11/23 | Legal and Constitutional Affairs | | | | | |
| C-17 | An Act to amend the Judges Act and certain other Acts in relation to courts | 06/11/21 | | | | | | | |
| C-19 | An Act to amend the Criminal Code (street racing) and to make a consequential amendment to the Corrections and Conditional Release Act | 06/11/02 | 06/11/21 | Legal and Constitutional Affairs | | | | | |
| C-25 | An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act | 06/11/21 | | | | | | | |

## COMMONS PUBLIC BILLS

| No. | Title | 1st | 2nd | Committee | Report | Amend | 3rd | R.A. | Chap. |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

## SENATE PUBLIC BILLS

| No. | Title | 1st | 2nd | Committee | Report | Amend | 3rd | R.A. | Chap. |
|---|---|---|---|---|---|---|---|---|---|
| S-201 | An Act to amend the Public Service Employment Act (elimination of bureaucratic patronage and geographic criteria in appointment processes) (Sen. Ringuette) | 06/04/05 | 06/06/22 | National Finance | 06/10/03 | 1 | | | |
| S-202 | An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks) | 06/04/05 | 06/05/31 | Legal and Constitutional Affairs | 06/06/15 | 1 | 06/06/22 | | |

| No. | Title | 1st | 2nd | Committee | Report | Amend | 3rd | R.A. | Chap. |
|---|---|---|---|---|---|---|---|---|---|
| S-203 | An Act to amend the Public Service Employment Act (priority for appointment for veterans) (Sen. Downe) | 06/04/05 | Dropped from the Order Paper pursuant to Rule 27(3) 06/06/08 | | | | | | |
| S-204 | An Act respecting a National Philanthropy Day (Sen. Grafstein) | 06/04/05 | | | | | | | |
| S-205 | An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein) | 06/04/05 | 06/10/31 | Energy, the Environment and Natural Resources | | | | | |
| S-206 | An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein) | 06/04/05 | 06/10/31 | Legal and Constitutional Affairs | | | | | |
| S-207 | An Act to amend the Criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.) | 06/04/05 | | | | | | | |
| S-208 | An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein) | 06/04/06 | | | | | | | |
| S-209 | An Act concerning personal watercraft in navigable waters (Sen. Spivak) | 06/04/25 | | | | | | | |
| S-210 | An Act to amend the National Capital Act (establishment and protection of Gatineau Park) (Sen. Spivak) | 06/04/25 | | | | | | | |
| S-211 | An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe) | 06/04/25 | 06/05/10 | Social Affairs, Science and Technology | 06/06/13 | 0 | 06/10/17 | | |
| S-212 | An Act to amend the Income Tax Act (tax relief) (Sen. Austin, P.C.) | 06/04/26 | Bill withdrawn pursuant to Speaker's Ruling 06/05/11 | | | | | | |
| S-213 | An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden) | 06/04/26 | 06/09/26 | Legal and Constitutional Affairs | | | | | |
| S-214 | An Act respecting a National Blood Donor Week (Sen. Mercer) | 06/05/17 | 06/10/03 | Social Affairs, Science and Technology | | | | | |
| S-215 | An Act to amend the Income Tax Act in order to provide tax relief (Sen. Austin, P.C.) | 06/05/17 | | | | | | | |
| S-216 | An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.) | 06/05/30 | | | | | | | |
| S-217 | An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal) | 06/05/30 | 06/10/18 | National Finance | | | | | |

| No. | Title | 1st | 2nd | Committee | Report | Amend | 3rd | R.A. | Chap. |
|---|---|---|---|---|---|---|---|---|---|
| S-218 | An Act to amend the State Immunity Act and the Criminal Code (civil remedies for victims of terrorism) (Sen. Tkachuk) | 06/06/15 | 06/11/02 | Legal and Constitutional Affairs | | | | | |
| S-219 | An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.) | 06/06/27 | | | | | | | |
| S-220 | An Act to protect heritage lighthouses (Sen. Carney, P.C.) | 06/10/03 | | | | | | | |
| S-221 | An Act to establish and maintain a national registry of medical devices (Sen. Harb) | 06/11/01 | | | | | | | |

## PRIVATE BILLS

| No. | Title | 1st | 2nd | Committee | Report | Amend | 3rd | R.A. | Chap. |
|---|---|---|---|---|---|---|---|---|---|
| S-1001 | An Act respecting Scouts Canada (Sen. Di Nino) | 06/06/27 | 06/10/26 | Legal and Constitutional Affairs | | | | | |

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