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OFFICIAL REPORT  
(HANSARD)

**Tuesday, February 13, 2007**



THE HONOURABLE ROSE-MARIE LOSIER-COOL  
SPEAKER *PRO TEMPORE*

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## THE SENATE

Tuesday, February 13, 2007

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

Prayers.

### SENATORS' STATEMENTS

#### NEW HORIZONS FOR SENIORS PROGRAM

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I take very seriously my new portfolio as Secretary of State for Seniors, and as such I was quite concerned last Wednesday, February 7, when during Question Period Senator Chaput stated:

There is a rumour that the government is thinking of slashing and eliminating the New Horizons for Seniors program.

Exactly where this alleged rumour originated was not disclosed. As I said in response last Wednesday, in all of my recent meetings with seniors organizations and individual seniors, I have not heard any concerns raised about the future of this program. There have been no media stories calling into question the Conservative government's commitment to this program.

The New Horizons for Seniors Program provides funding for hundreds of community-based projects across Canada that encourages seniors to contribute to their communities through social participation and active living. Non-profit projects receive small grants of less than \$25,000 for initiatives that enrich the lives of seniors by helping them share their experiences, volunteer in their communities and improve their life skills.

The 2005-06 grants budget for the New Horizons for Seniors Program is \$15.6 million. Just within the last month, on January 18, Minister Solberg announced funding under this program to benefit two seniors groups in New Brunswick and to help Metis elders in Saskatchewan share their skills and culture with young people.

• (1405)

Honourable senators, I do not challenge the absolute right of any member of this chamber to pose questions related to government policies during Question Period. However, I firmly believe that it is incumbent upon all of us to be mindful that unfounded rumours and fear mongering have no place in Parliament, especially when they impact upon our seniors.

[Translation]

#### THE HONOURABLE MARCEL PRUD'HOMME, P.C.

CONGRATULATIONS  
ON FORTY-THIRD ANNIVERSARY  
AS MEMBER OF PARLIAMENT

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, unfortunately, the man of the hour I would like to talk about had to excuse himself for a few minutes.

Today, I would like to pay a special tribute to the most senior member of our Parliament, the Honourable Senator Marcel Prud'homme, whose forty-third anniversary in Parliament we celebrated on Saturday, February 10. This is my first opportunity to highlight his achievement.

Senator Prud'homme was first elected to Parliament in 1964 at barely 30 years of age. Voters in the riding of Saint-Denis went on to re-elect him eight times. He even survived the Conservative wave that washed over Canada in 1984 and 1988.

Senator Prud'homme was appointed to the Senate in 1993. His tenacity, his fighting spirit, his deep sense of conviction and, above all, his legendary and unparalleled political acumen have earned him the title of longest-serving parliamentarian.

Senator Prud'homme has always listened carefully to his constituents and has become well-known for building very strong connections with cultural communities and helping immigrants adapt to their new lives in Canada.

[English]

Moreover, whether in the House of Commons or the Senate, he has made and continues to make a significant contribution to the debate on issues he cares most about, such as disarmament, peace in the Middle East and parliamentary diplomacy.

[Translation]

Marcel Prud'homme is a fiery orator, a great Canadian patriot and a peerless politician. As a dean of Parliament and our own institutional memory, he deserves our sincere praise as well as our deep respect.

[English]

To last so long in a profession where it is often said that one week is an eternity requires a great deal of generosity, vision and dedication. We congratulate Senator Prud'homme and wish him all the best on the occasion of this very special anniversary.

[Translation]

May his wisdom, experience and many talents continue to enrich the work of this chamber and serve as an example for all our colleagues, and particularly those who have had the pleasure of sitting with him in the other place. I wish Senator Prud'homme many more years of success.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I am pleased to rise today to honour our colleague, Honourable Senator Marcel Prud'homme, who, last Saturday, February 10, 2007, celebrated the 43rd anniversary of his election to the Parliament of Canada.

Senator Prud'homme is, without a doubt, an excellent parliamentarian who has proven himself for more than four decades, and is a credit to the Senate and to Parliament as a whole.

As a brand new member in 1984, making my first appearance on Parliament Hill, I remember Senator Prud'homme as one of the first members to welcome me. Marcel Prud'homme made certain that all new members in those days felt welcome on the Hill.

At that time, Marcel Prud'homme sat in the opposition caucus and it was therefore somewhat difficult for me to believe that a member sitting on the other side of the House could think so well of us. Over time, I came to understand that Marcel Prud'homme treated everyone in that way, no matter what political party a member belonged to.

I would therefore like to congratulate Senator Marcel Prud'homme on a long career in service to his country and thank him for everything he does on a daily basis for Canadians.

[English]

### NATIONAL BAN ON SMOKING IN PUBLIC PLACES

**Hon. Mac Harb:** Honourable senators, I rise today to share the news that the European Union's executive is seeking a comprehensive ban on smoking in public places across the EU's 27 countries. Each year, 650,000 Europeans die from tobacco-related diseases, and EU Health Commissioner Markos Kyprianou said that a general ban on smoking in all public places would have the most beneficial effect on public health.

[Translation]

Here in Canada, although the Senate unanimously passed a motion calling on the federal government to protect Canadians by banning smoking areas in enclosed workplaces under federal jurisdiction, the government has not acted.

• (1410)

This is a non-partisan issue which has remained unresolved despite domestic and international pressure to ensure workers' safety and to meet our international treaty obligations for smoke-free workplaces.

[English]

Honourable senators, I believe that this matter can be resolved quickly with the cooperation of the various departments involved. There are a number of options available to clean up our legislation and our air. The options include an amendment to the proposed clean air act, the Non-smokers' Health Act or to the Canada Labour Code, perhaps entitled the "Heather Crowe Amendment" in recognition of her public campaign against second-hand smoke and her untimely death.

The European Union is marching toward a ban, despite having to build consensus among 27 countries. Surely, honourable senators, we can achieve this ban in one country by coming together in a non-partisan and cooperative way to ensure that all federal workplaces are safe for Canadians.

I call on the federal government to respect the will of Canadians and the will of this chamber and to take action now.

[ Senator Comeau ]

### INTERNATIONAL SOCIAL SERVICE CANADA

**Hon. Terry M. Mercer:** Honourable senators, I rise today to echo the comments made by the Honourable Senators Dallaire, Munson and Mitchell on International Social Service Canada. ISS Canada is a non-profit agency that provides linkages to social service agencies worldwide. By cooperating with federal and provincial government departments, ISS Canada develops and promotes national and international policies relating to the protection of children, our most vulnerable citizens.

As one of many advocates of the work done by non-profit organizations in Canada, it is disheartening to hear that the invaluable work done by ISS Canada is in jeopardy because of funding cuts by Canada's new government. As with many non-profit organizations, a majority of funding for these types of organizations is based on donations. However, they are usually not enough and many rely on government funding to get their important work done.

In order to fulfill its mandate, ISS Canada normally receives a grant of \$150,000 from the Department of Foreign Affairs and International Trade. However, through budget cuts last fall, ISS Canada will not receive funding for next year, which means it might have to close its doors. It appears that Canada's new government thinks that the work of ISS Canada is not important, but I beg to differ.

I received an email from an old colleague of mine at the YMCA who currently serves on the ISSC board. She commented that the Toronto Children's Aid Society informed the board that it costs an average of \$30,600 to serve one child in care. In 2005-06, ISSC managed 435 often complex cases in 65 countries on a budget of just over \$300,000, which is less than \$700 per case. This is the result of low overhead, significant volunteer labour and fundraising. I applaud these people for their work.

In addition, honourable senators, ISS Canada works in conjunction with groups such as the Adoption Council of Canada, the Child Welfare League of Canada and the National Children's Alliance, to name a few. How will the work of these groups be affected by the funding cuts to ISS Canada? Will they have funding cuts of their own? I find it deplorable that people are ignoring these current budget cuts to valuable programs, which Canada's new government seems to have done in order to merely provide tax cuts to the wealthy friends of the Conservative Party. The existence of programs such as ISS Canada and many literacy and women's programs is in jeopardy.

Honourable senators, who will replace their services? How can we replace a modest yet highly effective service of this type once it is gone? Who will fight for the children?

### THE LATE SISTER BERNICE CULLEN

**Hon. Catherine S. Callbeck:** Honourable senators, our nation is enriched by the contribution of citizens from all walks of life. The fabric of our society is strengthened because of the spirit of public service of those who give so selflessly to others around them. Many, in their own quiet and unassuming way, have helped to make our country a better place.

Today I want to pay tribute to the life of one of those remarkable and outstanding citizens. Sister Bernice Cullen of the Congregation of Saint Martha died in Charlottetown, Prince Edward Island, at the age of 92, following a long and distinguished life in service to her faith and to her country. She was a teacher, a spiritual leader, a friend and, above all, a devoted servant to her congregation and her God.

• (1415)

Sister Cullen grew up in rural Prince Edward Island and was the last surviving member of her family of 11 brothers and sisters. She joined the Congregation of Saint Martha and continued her studies at Saint Dunstan's University in Charlottetown. In 1941, as a mark of her character and conviction, she became the first female to ever receive a degree from that university.

Sister Cullen went on to become a teacher and faithful member of her congregation. With the support and encouragement of her congregation, she completed her doctoral studies at Notre Dame. Following her graduation, she became the first woman member of the religious studies department at Saint Dunstan's University, which was later merged with the University of Prince Edward Island.

The respect and admiration in which she was held by her colleagues and many friends was reflected in the presentation to her of a University of Prince Edward Island Founders Award, in which she was cited for her dedication to her faith and her devotion to her profession.

Yet, she will be remembered most for her endearing qualities, her perceptive wit and wisdom and her deep and abiding generosity of spirit. It can be said of Sister Cullen that she enriched the lives of all those who knew her. As she said towards the end of her long life of service to others, her vocation was at the centre of her being.

Honourable senators, it is people like Sister Bernice Cullen who have made such an outstanding contribution to our quality and way of life. It is people like her who have done so much in their own quiet way to make the world around them a better place for all. Her humility and service to her fellow citizens and to her faith stand as a legacy to a most warm and gentle human being.

In paying tribute to the life of Sister Bernice Cullen, I also express my deepest condolences to the Congregation of Saint Martha, to the members of her extended family and to her many friends and colleagues. She has left a void that will never be filled.

## NORTHWEST TERRITORIES

### WINTERLUDE—SNOW SCULPTURE TEAM— CONGRATULATIONS ON WINNING FIRST PRIZE

**Hon. Nick G. Sibbeston:** Honourable senators, I am pleased to tell you that the team from the Northwest Territories won first prize in the National Snow Sculpture Competition held this past weekend as part of Ottawa's Winterlude Festival. They were chosen by their peers to receive the prestigious Artists' Choice Award.

The Northwest Territories' 16-foot high winning entry depicted a polar bear locked arm-in-arm with a hunter in a wild dance during an encounter in the Arctic. Both whimsical and moving,

this gravity-defying sculpture captured the need for joy and spontaneity and expressed the close connection between man and nature felt deeply by all Northerners.

The winning team was truly representative of the North, consisting of Eli Nasogaluak, who is Inuvialuit from the Mackenzie Delta area, John Sabourin, who is Dene from the Deh Cho area, and my son, Randy Sibbeston, a Metis.

Because of the cold temperatures last week, the condition of the snow for completing the sculpture was ideal.

I know all of the representatives from across the country enjoyed building their sculptures. I found it amazing and exciting to watch the various figures arise from the big cubes of snow.

Nova Scotia won second prize, British Columbia won third and Alberta won the Public Choice Award.

• (1420)

[Translation]

## ROUTINE PROCEEDINGS

### AUDITOR GENERAL

#### FEBRUARY 2007 REPORT TABLED

**The Hon. the Speaker *pro tempore*:** Honourable senators, I have the honour to table, in both official languages, the report of the Auditor General of Canada to the House of Commons, *Status Report 2007*, pursuant to section 7(5) of the Auditor General Act.

[English]

### BUDGET IMPLEMENTATION BILL, 2006, NO. 2

#### REPORT OF COMMITTEE PRESENTED

**Hon. Joseph A. Day,** Chair of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, February 13, 2007

The Standing Senate Committee on National Finance has the honour to present its

#### TENTH REPORT

Your Committee, to which was referred Bill C-28, A second Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006, has, in obedience to the Order of Reference of Wednesday, January 31, 2007 examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOSEPH A. DAY  
*Chair*

He said: Honourable senators, this bill is being reported without amendment but on division.

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

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

## SCRUTINY OF REGULATIONS

### FOURTH REPORT OF JOINT COMMITTEE PRESENTED

**Hon. J. Trevor Eyton**, Joint Chair of the Standing Joint Committee of the Senate and House of Commons for the Scrutiny of Regulations, presented the following report:

Tuesday, February 13, 2007

The Standing Joint Committee for the Scrutiny of Regulations has the honour to present its

#### FOURTH REPORT (Report No. 78 - Disallowance)

Pursuant to section 19.1(1) of the *Statutory Instruments Act*, R.S.C. 1985, c. S-22, as amended by S.C. 2003, c.18, and having notified the Minister of Fisheries and Oceans in accordance with section 19.1(2) of that Act, the Joint Committee resolves that section 36(2) of the *Ontario Fishery Regulations, 1989*, as enacted by SOR/89-93, be revoked.

The text of the provision it is proposed to disallow is reproduced in Appendix A to this Report. Appendix B contains the statutory notice to the Minister of Fisheries and Oceans. The Committee's reasons for disallowance are set out in Appendix C.

Pursuant to section 19.1(5) of the *Statutory Instruments Act*, the resolution contained in this Report shall be deemed to have been adopted by the Senate or the House of Commons on the fifteenth sitting day after the Report is presented to that House unless, before that time, a Minister files with the Speaker of that House a motion to the effect that the resolution not be adopted.

A copy of the relevant *Minutes of Proceedings and Evidence (Issue No. 8, First Session, Thirty-Ninth Parliament)* is tabled in the House of Commons.

Respectfully submitted,

J. TREVOR EYTON  
*Joint Chair*

(For text of appendices, see today's Journals of the Senate, Appendix, p. 1052.)

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

[ Senator Day ]

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

## THE SENATE

### NOTICE OF MOTION TO APOLOGIZE TO FORMER STUDENTS OF INDIAN RESIDENTIAL SCHOOLS

**Hon. Nick G. Sibbeston:** Honourable senators, I give notice that at the next sitting I will move:

That the Senate make a formal apology to all former students of Indian Residential Schools for the harm suffered to their language, culture and well-being, especially those students who were also victims of physical and sexual abuse, and;

That the Senate call on the House of Commons and the Government of Canada to issue formal apologies to all former students.

[Translation]

## CRISIS IN CANADIAN CULTURE

### NOTICE OF INQUIRY

**Hon. Andrée Champagne:** Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the crisis in Canada's cultural sector.

• (1425)

## QUESTION PERIOD

### JUSTICE

#### JUDICIAL APPOINTMENTS—COMPOSITION OF SELECTION COMMITTEES

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate. Need I remind this chamber that the underlying principle of every democracy, as defined by Montesquieu, is the separation of the legislative, executive and judicial powers?

On this side of the chamber, we are particularly troubled by the deliberate manner in which the government is attacking the independence of the judiciary.

Indeed, this government has altered the composition of the judicial advisory committees. First, it appropriated the majority of seats; second, it imposed police representative as a member; third, it is appointing partisan representatives for the purpose of screening candidates so that those nominated share the particular ideology of the Conservative Party.

Will the government listen to the Chief Justice of the Supreme Court of Canada, the Right Honourable Beverley McLachlin, who urged that the public's confidence in the appointment process be maintained and that the process not be politicized?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for her question. The government makes no apologies for including competent and professional individuals on the judicial advisory panels. The committee process, as I explained in an answer in this place before the Christmas break, was set in place by the Conservative government in 1988. We have complete confidence in individuals who serve on those advisory panels, and the government will continue to appoint judges based on merit and legal excellence, and we will take into account the views of a broad range of individuals that will serve on these judicial advisory committees.

[Translation]

**Senator Hervieux-Payette:** Honourable senators, this government, which likes to wrap itself in integrity, ethics and transparency, is demonstrating that it has none of these attributes. It is wallowing in manipulation and secrecy, as demonstrated by such manoeuvres, which undermine the spirit of our institutions and are denounced by most people who are familiar with our system.

During the election campaign, the Prime Minister wanted to reassure Canadians when he said that the judicial system and the Senate would provide some check on his government. Not only does this statement denigrate our institutions, but we can now expect to see a politicized judiciary leaning toward the extreme right.

After one year of "new government", at a time when there are more than 1,000 names on the eligibility lists for judicial appointments and the Prime Minister is trying to diminish the role of the Senate, can the Leader of the Government in the Senate tell us when the Prime Minister is going to instruct his Minister of Justice to appoint qualified new judges to serve justice and those who come before the courts, when the provinces have been calling for these appointments for over a year?

[English]

**Senator LeBreton:** Honourable senators, in 2006 our government appointed 54 individuals as federal judges, based on the recommendations of the judicial advisory committee in each jurisdiction. Those advisory committees, of course, were set up by the previous government. Appointments are based solely on merit. Political connections have no impact on whether a person is recommended for appointment, and candidates who are well qualified should not be excluded simply because of their previous political connections. Certainly, that is the case of many judges that presently serve on the court who have backgrounds in several political parties. They are never accused of letting their political affiliations interfere with their ability to properly adjudicate.

The former Liberal Minister of Justice, Irwin Cotler, said in a speech in Vancouver on August 15, 2005:

Indeed, to exclude excellent and engaged professionals from consideration for judicial office would not only limit the available pool of candidates for both political and judicial office but it also might chill participation in the democratic process itself.

• (1430)

To answer the question as to when future vacancies will be filled, Minister Nicholson has recently taken over this portfolio from Minister Toews. Minister Nicholson is working with his provincial counterparts and with the judicial advisory councils to ensure that the individuals he will present to cabinet are well-qualified, competent individuals who will serve our judiciary in an exemplary fashion.

## LEADER OF THE GOVERNMENT

### COMMENTS REGARDING LIBERAL SENATORS

**Hon. Lorna Milne:** Honourable senators, my question is to the Leader of the Government in the Senate. On Wednesday last week, the minister stood in the foyer of the Senate with the government House leader from the other place to make disparaging remarks about some senators.

Throughout the entire history of this place, I believe that was the first time that the person who held the honourable senator's position used that position to denigrate the essential role that this place plays in our bicameral parliamentary system rather than to support the work this place does.

Does the minister realize that by poor mouthing "non-elected Liberal senators" she is not only attempting to destroy the reputation of Liberal senators in this place but also runs down the hard work done by all senators on both sides of this chamber? Mud sticks to the person who throws it as well as to the person it is directed at.

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

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I thank the senator for that question. I participated in a media conference with the Leader of the Government in the other place to make the point that a simple bill, namely Bill S-4, on Senate tenure, is long overdue. As I pointed out at that press conference, the basic premise of the bill is supported by the honourable senator's new leader, the Honourable Stéphane Dion.

As far as my role as the Leader of the Government in the Senate is concerned, I did not disparage individuals. I simply made a statement on something that is obvious to most people in this country; that is, an unelected body should not thwart the will of the elected House of Commons on any issue. We introduced this bill in the Senate because we thought the Senate should have a say in this important legislation, which is two paragraphs long.

Honourable senators, I take my responsibilities seriously. I believe it is incumbent upon us all to recognize that renewal and reform is required for the Senate of Canada. I make no apologies for speaking in the interests of the Canadian taxpayer.

**Senator Milne:** Honourable senators, I believe I pointed out that it was, I think, the first time in history that sort of thing has happened.

**Some Hon. Senators:** Shame.

**Senator Milne:** The Leader of the Government in the Senate has always been known and somewhat respected for the way she defended a past Prime Minister. In fact, the minister has the reputation of being an attack dog in his defence. Why has she become such a docile lap dog for this Prime Minister?

**Senator LeBreton:** Honourable senators, that question does not even deserve an answer, because any position I take in the Senate, either on my own behalf or on behalf of the government, is something in which I truly believe. I believe that the Senate requires reform. I believe that the Canadian public is desirous that this place change. I will not talk about Senate "firsts." I have not checked the record to see if there was a precedent, but if we were to talk about Senate "firsts", I do not think the Honourable Senator Milne would want to go there.

• (1435)

We do not want to get into the issues of senators starving themselves on benches, of GST debates, where people were shouting down a speaker, blowing whistles and kazoos, showing a complete disrespect for Parliament, which I would argue was the beginning of the end for the respect the public had for the Senate.

**Senator Cools:** There were no kazoos!

## HEALTH

### PROPOSAL TO CREATE NATIONAL MENTAL HEALTH COMMISSION

**Hon. Catherine S. Callbeck:** Honourable senators, my question is directed to the Leader of the Government in the Senate. During the election campaign, her party committed to establishing a public health commission, as recommended by the Senate Social Affairs Committee, on which I have the honour to serve. However, the Conservative government has just ended an online public consultation about establishing such a commission. The online questionnaire states that the consultation is seeking Canadians' views, in particular — among other things — on "the need (or lack thereof) for a mental health commission."

Does the fact that the consultation is now closed mean that the government is having second thoughts about establishing a mental health commission?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for her question. As we addressed in our platform during the last election, the government is committed to a mental health commissioner. Online consultation is something that we in the government have engaged in, to involve the Canadian public directly in the consultation process.

I can assure the honourable senator that the issue of mental health is one that the government takes very seriously. We know the consequences not only in personal terms but also in terms of the financial burden on families and on our society.

The honourable senator ought not to read anything negative into the fact that we decided to consult with the public.

**Senator Callbeck:** I am pleased to hear that the government is still committed to a mental health commission, because it certainly will be of great benefit to many Canadians. Mental health affects one in five Canadians during their lifetime.

In October, in this house, the Leader of the Government in the Senate indicated that the Minister of Health was having talks with the provinces on the establishment of a mental health commission. Could the leader bring us up to date on those discussions and indicate to us when we can expect to hear from the Minister of Health regarding the establishment of a mental health commission?

**Senator LeBreton:** Honourable senators, last fall, when I answered that question, I indicated that setting up this particular body had significant budgetary consequences and would therefore be part of the budget consultation process. The Minister of Health met with all ministers of health last Friday. They had a successful meeting on the issue of wait times. I do not know whether Minister Clement specifically addressed the issue of a mental health commission with his provincial counterparts, so I will take that portion of the question as notice and get back to the honourable senator as quickly as possible.

[Later]

**Hon. Marilyn Trenholme Counsell:** Honourable senators, I was listening carefully to the question of the honourable senator and the reply of the honourable Leader of the Government in the Senate. I picked up the same thing, or maybe it is my hearing, but I thought I heard exactly the same thing last fall and I should have questioned it then. It seems to me that the honourable senator who asked the question was referring to the mental health commission and I think again today I heard a little flubbing of this matter on behalf of the honourable leader who used the word "commissioner." The leader said the government "was committed to a mental health commissioner," which is a very small part of the concept that was hailed by Canadians from coast to coast to coast of a mental health commission.

Did the Leader of the Government in the Senate use the word "commissioner"? If so, was that word an intended reduction of the original commitment to a commission?

**Senator LeBreton:** Honourable senators, when Senator Callbeck first asked the question, she referred to a "public health commission." I then realized that she was talking about a mental health commission. I may have used the term "commissioner." Obviously, if a mental health commission is set up it needs a commissioner.

I imagine that would be the first order of business once Minister Clement has assessed the needs and requirements and the money has been allotted in a budget to establish such a body. I believe I did refer to it as a body, although I may have used the word "commissioner" because, at different times, I have had various people suggested to me who would be excellent candidates for the position of commissioner of the mental health commission.



## NATURAL RESOURCES

### COMMERCIAL BUILDING INCENTIVE PROGRAM— CANCELLATION

**Hon. Tommy Banks:** My question is to the Leader of the Government in the Senate. I apologize for not having given notice on this, because I think it might require a little homework. A deferred answer would be fine.

I want to talk about commercial buildings. It is hard to believe, but there are about \$500 billion worth of new commercial buildings on the drawing board in Canada at the moment. Commercial buildings are in existence for a long time, and the role they occupy in the ecology and environment is important. The way a building is built will determine how it will react in our environment for a long time.

For eight years, a program called the Commercial Building Incentive Program has been in place in Canada, to assist people who put up commercial buildings in making them more ecologically responsible. The program has been successful. It provides design and money assistance of up to \$60,000 in a building to help make it more environmentally responsible as a building. The program is hugely successful. Nine hundred commercial buildings have been put up in Canada since that program began, in practically every city across the country. Builders have set good examples of how commercial buildings ought to be built for the long term. The buildings have resulted in much higher energy efficiency, much lower operating costs and much higher resale values.

• (1440)

To quote from a press release from Natural Resources Canada, dated January 20:

Natural Resources Canada's Office of Energy Efficiency encourages the design and construction of new, energy-efficient commercial, institutional and multi-unit residential buildings and facilities. The Commercial Building Incentive Program (CBIP) provides design assistance and funding of up to \$60,000. . . .

Energy-efficient buildings yield long-term energy savings. Lower operating costs increase the resale value of the building and provide a competitive leasing advantage over standard buildings.

We now learn that the program has not only been fully subscribed, but that it will be cancelled. How soon will the leader be able to tell us why the government would cancel a program that has such demonstrable efficiency with respect to doing good things for Canadian business and the Canadian environment?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I watched a news item on the CBC last week about the Commercial Building Incentive Program. They cited a building here in Ottawa's west end with which I am familiar. The outcome of the story was that the government has made a decision to invest money that is spent on this program on small business and on individual homes. I will

take the suggestion and the first part of the question on the larger corporations and businesses as notice, but I know that Minister Lunn has announced, or is in the process of announcing, a program that will assist small businesses which, by the way, are the backbone of our country, and individual homeowners.

**Senator Banks:** Honourable senators, will the leader also take into account in the answer the fact that programs were already in place to assist small businesses and to assist in the cost, design and retrofitting of private dwelling houses? The programs already exist. We do not need to cancel one program to do something for programs that already exist, but I look forward to the answer.

• (1445)

### ENERGY PROGRAMS TO ASSIST LOW INCOME CITIZENS

**Hon. Lorna Milne:** Honourable senators, supplementary to the question by Senator Banks about the reintroduction of the Liberal EnerGuide Program, what is not known about the new program is that the component designed to help low income households was not reintroduced. This means that many low income families who could have committed themselves to saving energy will now choose not to because they cannot afford the energy audits.

With this situation in mind, my question is for the Leader of the Government in the Senate. Is this government committed to saving energy for some groups of Canadians and not for others? Is this government interested only in cleaning up the environment in some neighbourhoods and not others?

I ask this question because it appears to the outside observer that this government, while pledging itself to protect Canada's environment, is allowing low income Canadians to be literally shut out in the cold.

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, Senator Milne needs to tone down her scare tactics. In the whole issue of the environment — poor air quality, poor water quality, toxins in our food, et cetera — I do not think anything discriminates between poorer Canadians or more wealthy ones.

I saw an announcement today on a special housing initiative that the government has embarked upon to assist people to have more energy-efficient homes. I do not believe our policies discriminate against anyone. I think we take this issue seriously; and any program to assist homeowners to make their homes more energy efficient will obviously apply to all homeowners whether they are low income, middle income or upper income. I cannot imagine that the program would discriminate against any Canadian who wished to access it.

**Senator Milne:** Honourable senators, I do not know if I should thank the Leader of the Government in the Senate for that answer or not, because I prefer to think I have taken my lessons on asking questions from her.

Minister Lunn said that there are more than 13 million homes and 380,000 buildings in this country. They use 30 per cent of our energy and are responsible for about 30 per cent of the greenhouse gas emissions. Unfortunately for this government,

they are not all in Rockcliffe or Rosedale. Some of these houses are in low income neighbourhoods and these people also deserve the chance to save energy and help protect our environment.

It is increasingly difficult to believe that only two years ago, the EnerGuide Program received the unanimous support of the Conservative Party in a vote in the other place. It has been almost 400 days since this government has taken power. Can the Leader of the Government in the Senate assure honourable senators that this government will spend its next 400 days being more productive in protecting the environment and helping low-income Canadians?

• (1450)

**Senator LeBreton:** Honourable senators, I will not get into the demographics of Rosedale or Rockcliffe, but the people who support the Conservative Party are more likely to be what I call “my Tim Hortons focus groups.” In January, the government announced a \$60-million eco-energy initiative for buildings. As I pointed out in response to previous questions, more than 50 per cent of the costs associated with the EnerGuide Program were administrative. The current government will take the dollars invested in such programs and put them where they belong — in the hands of Canadians who are desirous of retrofitting their homes or building new homes. Obviously, while some lower income Canadians live in their own homes, others live in public housing. I feel certain that the federal government will work hard with all levels of government and with industry to ensure that our programs are accessible to Canadians. When the statistics become available, I am sure we will discover that more middle- and low-income Canadians will have access to the programs than the people who live in Rockcliffe or in Rosedale.

## THE ENVIRONMENT

### NORTHERN CLIMATE EXCHANGE PROGRAM— OUTCOME OF MEETINGS TO RESTORE FUNDING

**Hon. Nick G. Sibbeston:** Honourable senators, my question to the Leader of the Government in the Senate concerns funding cuts to organizations that deal with climate change in the North. The issue of climate change is so relevant to the North because the North is so vulnerable. Last week, it was reported in the *Ottawa Citizen* and on CBC North that the federal government is cutting \$320,000 to Northern Climate Exchange, in Whitehorse, Yukon. The NCE has been operating since 2000 to provide credible independent information, to develop shared understanding and to promote action on climate change in Northern Canada. The organization has played an important role in facilitating Arctic science and engaging Northerners in climate change.

The Government of Yukon supports the Northern Climate Exchange. Premier Fentie was in Ottawa last week to meet with Minister Baird and his colleagues to discuss the importance of restoring funding to the NCE. Could the Leader of the Government in the Senate tell the Senate whether Premier Fentie was successful in his efforts to have the federal funding restored to this important organization for climate change initiatives in the North?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, the Northern Climate Exchange program was funded out of

the former One-Tonne Challenge program, although that was not made clear in the news reports.

I shall take as notice the honourable senator’s question on the outcome of Premier Fentie’s meeting with Minister Baird.

In recent weeks, the government has announced \$2 billion for the ecoENERGY Initiatives, respecting clean energy technology, renewable energy and greater efficiency use by Canadians. The Prime Minister announced the new Canada ecoTrust to support provincial and territorial governments. We heard the first part of that announcement yesterday. Unlike the failed voluntary emission reductions approach of the previous government, this government will regulate both greenhouse gases and air pollution with short-term, medium-term and long-term targets.

[*Translation*]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, pursuant to rule 27(1), I hereby give notice that when we proceed to Government Business, the Senate will address the items beginning with Item No. 3 under Bills, followed by the other items in the order in which they stand on the Order Paper.

• (1455)

[*English*]

### CONSTITUTION ACT, 1867

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

On the Order:

Resuming debate on the motion of the Honourable Senator LeBreton, P.C., seconded by the Honourable Senator Comeau, for the second reading of Bill S-4, to amend the Constitution Act, 1867 (Senate tenure).

**Hon. George J. Furey:** Honourable senators, the situation presented to the Senate by the introduction of Bill S-4 is complex and delicate. The bill in itself is simple, but its implications are far reaching.

We are all aware that in 1979, the Supreme Court of Canada advised government that it may unilaterally alter the Senate with a housekeeping measure. Some have argued, perhaps because of its simplicity, that Bill S-4 is a mere housekeeping measure. It seems to me there was a false note in such a characterization of Bill S-4. It could only be so characterized in the minds of reasonable people if it were truly analogous to the 1965 amendment to impose mandatory retirement at the age of 75.

I do not believe, honourable senators, that it is constructive to attempt to turn this debate on the pedantic argument that a mandatory retirement clause is the same as an eight-year

tenure. I believe it would trivialize the importance of what has been discussed here, and what will be discussed here, to enter into sterile arguments about whether eight years is too short or 12 years is too long. I suggest that there is no inherently right tenure answer because length of tenure, per se, is not the issue. Whether the Senate can effectively carry out its functions under an eight-year tenure, that is the issue.

In 1965, the Honourable John Diefenbaker, speaking as then Leader of the Opposition, explained the logic of the age amendment introduced to the Senate. He compared the Senate to the judiciary and said that since judges were forced into an age tenure so, too, should the Senate.

We can carry this reasoning one step further and ask the basic question whether the judiciary in the country would consider it mere “housekeeping” to be reduced to an eight-year term. I am quite confident that the judiciary would balk at such a notion. Honourable senators may wish to review the *Provincial Court Judges Reference* to appreciate how seriously the judiciary takes the view of independence, even in so small a matter as a minimal reduction in judicial salaries associated with a general government-wide cost-cutting exercise.

Many senators have looked beyond the bill to try to understand its implications. Immediately, the issue of Senate election becomes central to a proper understanding of the functioning of Bill S-4. It is disingenuous to assert, and it should not be accepted, that Bill S-4 stands or falls on its own merits. This Senate may well, in its wisdom, choose to pass Senate election legislation and thus be induced by necessity to include concomitant term limit machinery.

This is not the same as saying Bill S-4 is unconstitutional. It may be unconstitutional. I agree with Senator Joyal; I believe it is unconstitutional. On its own, Bill S-4 severely impairs the independence of the Senate. That alone makes it unconstitutional. It is part and parcel of election machinery. That alone makes it unconstitutional.

I am sure senators would agree that the assertiveness and independence of the Senate would be increased by elections. Elections carry their own legitimacy, and elected senators would have little difficulty asserting their independence under an eight-year term.

An unelected Senate restricted to an eight-year term would have no such ability. Consider what George Brown, leader of the early Reform Party, said on term limits:

. . . but it has been said that though you may give the power to the executive to increase the numbers of the Upper House, in the event of deadlock you might limit the term for which the members are appointed. I was myself in favour of that proposition. I thought it would be well to provide for a more frequent change in the composition of the Upper House and lessen the danger of the chamber being largely composed of gentlemen whose advanced years might forbid the punctual and vigorous discharge of their public duties. Still the objection made to this was very strong. It was said: Suppose you appoint them for nine years, what will be the effect? For the last three or four years of their term they would be anticipating its expiry and anxiously looking to the

administration for the day for reappointment; and the consequence would be that a third of the members would be under the influence of the executive. The desire was to render the Upper House a thoroughly independent body — one that would be in the best position to canvass dispassionately the measures of this House and stand up for the public interests in opposition to hasty or partisan legislation.

• (1500)

Honourable senators, parliamentary politics are a fluid and inexact affair. When a newly elected prime minister states that it is time to reform the Senate, he must be taken seriously. This does not mean that his plan is necessarily a wise one. It may mean his plan courts a sequel of events we do not want to see again in this country. It may mean the plan needs to be rejected with whatever consequences may follow.

There is room to refuse Senate acceptance of Bill S-4 on the simple grounds that it is colourable legislation. It is election machinery legislation without the full details of the election process laid out in that same legislation. On this ground alone, it could be refused.

Having admitted the real purpose behind the legislation, I need only quote Mr. Justice La Forest in the *Provincial Court Judges Reference* when he said:

Purpose is nevertheless relevant. As Dickson C.J. noted in *Beauregard* . . . legislation dealing with judges' salaries will be suspect if there is “any hint that . . . [it] was enacted for an improper or colourable purpose.”

Senator Joyal referred to the British House of Lords in his recent speech and gave us some insight into how Westminster views such changes in a modern world. It is a very helpful reference. In this regard, I wish to make a few comments about a pivotal election in British history that might help give us some perspective on how to address and view Bill S-4.

In 1906, the Liberal Party of England under Henry Campbell Bannerman won a massive majority and faced a Conservative Lords. It indicated that if the Lords made it impossible for the Liberals to govern, there would be need for legislation to restrict them. The Lords ignored the warning and, in fact, rejected the budget of Lloyd George. The government of H.H. Asquith, which succeeded Bannerman, went to an election on the issue of reopening the Constitution on both the Lords and Home Rule.

Like our elections, honourable senators, other issues often dominate and obscure central issues or elements. This election was fought more along the lines of free trade and only passing reference was made to the Lords. The Liberals won the election and introduced the now famous Parliament Act of 1910. The Parliament Act removed the Lords' power of rejection of money bills and gave a mere suspensory veto over remaining legislation.

The Canadian Senate has never acted quite so precipitously as the Lords in Britain did in 1906; and, if it did, the Commons would not find it as easy to change the Senate by a mere election. The mere fact that a government wants a thing is not sufficient and has never been sufficient in our system of law to bring the thing about. There must be agreement with the stakeholders. It is

of the utmost importance to note that the Senate was created on behalf of the regions of this great country, and regional agreement must be obtained for fundamental changes.

Honourable senators, I do not believe that any in this chamber fear change. I do not believe that any in this chamber would impede improvement, nor do I believe that any in this chamber would wish to thwart the known will of the Canadian people. However, I do believe that everyone in this chamber is of the view that change and improvement must be brought about with careful and deliberate debate, and must meet the rigour of constitutional correctness. To allow otherwise would be to descend into political chaos.

Fellow senators have all been witness to events on the constitutional plane involving the Senate over the last generation. None of these events changed the Senate. When I listen to people discuss the Senate-related constitutional events that took place between 1979 and 1992, I often hear of the “failure to reform the Senate.” That same language is being freighted into Bill S-4 discussions.

Honourable senators, there are certain fundamentals that can be acknowledged about constitutional events involving the Senate over the last 28 years. In 1979, the then Prime Minister asked the Supreme Court whether government could alter the composition of the Senate, giving half the appointments to the provinces or, in the alternative, could it be abolished. The Supreme Court said no.

The federal and provincial governments spent the next three years amending the Constitution and left the Senate alone. Shortly thereafter, the Charlottetown Accord presumed to radically alter the Senate to suggest equality and election.

Honourable senators, I would like to briefly reflect on what Stephen Harper, then the Policy Director of the Reform Party, had to say about Charlottetown. After careful reflection, Stephen Harper insisted on objecting to the accord because “this was no deal.” Fifty issues, many on the reform of the Senate, needed to be resolved, including things that needed constitutional amendment.

Stephen Harper argued that the Charlottetown Accord was “worse than the status quo.” He said:

Well our constitution today may be flawed, but surely that is no reason to dump it for something that is undefined and to start negotiating the constitution for years to come. That’s exactly what Canadians don’t want . . .

. . . the public is making clear to us that they’ll not support further constitutional negotiations at this time. . . . You’re going to have to give up your pet constitutional projects because the public —

— and these are the words of Stephen Harper —

— is absolutely sick to death of this.

Honourable senators, what has changed since then? In the last two federal elections, I did not detect any appetite for reopening the Constitution from any of our leaders. More importantly, it did not seem to me that Stephen Harper had changed his 1992 position regarding the lack of appetite for reopening the Constitution. Every statement that Mr. Harper made then

against the Charlottetown Accord applies today to Bill S-4. It is not a complete, self-contained reform. It has been indicated that it is a preliminary part of election machinery. The election-machinery part will no doubt require constitutional change, yet Bill S-4 is being introduced before there is any sense that the Constitution will be changed to carry out full reform.

In order to see Bill S-4 in its proper perspective, honourable senators, it is also useful to look again at what the founders of Confederation were thinking about on this issue in the run-up to 1867. The original intention of the Fathers of Confederation regarding the Senate is an important compass point to any argument to change it. Their intention founded our great country, and though it does not bar modern evolution, it does require careful reflection on the only Senate agreement that actually gained national support.

The unelected nature of the Senate was one of the most careful and deliberate factors in the constitutional formation conferences of Charlottetown, Quebec and London. Like so many other things in Canada that have stood the test of time, the Fathers of Confederation had actually thought of this issue in exactly the same terms as we are thinking about it and debating it today. This is not to say that their intentions need to be decisive, but we must be careful before we simply dispose of a Constitution we have for one we do not. This, honourable senators, is doing no more than echoing Prime Minister Harper from his own Charlottetown debate in 1992.

Historian G.P. Browne said that on September 26, 1864, the Lieutenant-Governor of Prince Edward Island explained to the British colonial secretary what Galt, Cartier and Brown had told him. He states:

. . . the discussions of the conference were for the most part conducted in a conversational and informal manner. Two subjects were debated at length: judicial appointments and composition and mode of election of the Senate. It was generally desired that the members of this body should be nominated for life by the crown and with hardly an exception the elective principle as applied to the (Senate) was decidedly condemned . . .

. . . the mode of election is far less important than the retention of the seat for life when once obtained. The possession of a seat for life tends, as I have often had occasion to observe, to encourage freedom of thought, speech and action, and it is on this character of comparative independence that one of the main uses of the legislative council is to be found.

On October 11, 1864, Sir John A. Macdonald said:

. . . with respect to the mode of appointments to the Upper House, some are in favour of the elective principle. More are in favour of appointment by the Crown. I will keep my mind open on that point as if it were a new question to me altogether. At present, I am in favour of appointment by the Crown. While I do not admit that the elective principle has been a failure in Canada, I think we had better return to the original principle.

• (1510)

During that debate there were several ideas similar to Prime Minister Harper's idea put before the conference. For example, Coles of Prince Edward Island suggested that the provincial legislature appoint the Senate every eight years. The next day, the original motion of Sir John A. Macdonald was carried unanimously.

The Quebec conference ended October 27, 1864, with the resolutions that would, by and large, form the British North America Act. However, in the ensuing three years Britain made several attempts to alter the Senate.

**The Hon. the Speaker *pro tempore*:** Honourable Senator Furey, are you asking for more time? Your time has expired.

**Senator Furey:** May I have five more minutes, please?

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

**Hon. Senators:** Agreed.

**Senator Furey:** On December 3, 1864, the British colonial secretary wrote the Canadian Governor General stating:

... the second point which Her Majesty's Government desires should be reconsidered is the constitution of the legislative council. . . . They appreciate the considerations which have influenced the conference in determining the mode in which this body so important to the legislature. . . . But it appears to Her Majesty to require fuller consideration whether if members be appointed for life . . . .

The British government disagreed with the Canadian idea of Senate tenure for life. The disapproval was conveyed to the delegates who meanwhile were in their legislative assemblies defending the 1864 resolutions.

By July 24, 1866, Her Majesty had more to say on the legislative council. In a letter to Lord Carnarvon, Governor General Monck states that he:

... objects to the legislative council being composed of members appointed for life, with their number fixed.

The London Conference opened in England on December 4, 1866. It is clear that the delegates were facing pressure from the English government to deal with the issue of Senate tenure.

As one may expect, their minds were focused on the one issue that the Crown had identified as a problem. I would like to quote Archibald from Nova Scotia to sum up the tenor of the debate that took place. He said:

... this lies at the root of our whole scheme the spirit of which is that each province shall be sectionally represented in the legislative council. The Upper House may disagree with the House of Commons. Its value will be that of occasional obstruction.

At the end of that conference, on Christmas Eve, 1866, the delegates submitted their revised resolutions.

By February 2, 1867, the third draft of the BNA Act included tenure for life.

I realize, honourable senators, that this has been a somewhat tedious and, for some, perhaps a pedantic exercise in raking historical ashes. However, the exercise is compelling for one important reason. The Senate was not some arbitrary, undemocratic concoction of unthinking, anachronistic, 19th century men. There was careful and explicit reasoning for establishing the tenure term as it was established. There was explicit reference to possible appointment for nine years and it was explicitly rejected.

Now we are faced in the Senate with Bill S-4 as the decided will of the Prime Minister and the Conservative government, and it must be given respectful consideration. However, it seems to me that it is deficient. The origin of the country was a long dialogue between component parts where eight-year Senate tenure was reviewed and decidedly rejected. The various attempts at Senate reform in the 20th century failed to gain national support and, more importantly, had negative effects on the country's stability. Decisions of the judiciary suggest that such a term limit would be rejected by the judiciary. Decisions of the judiciary further suggest that colourable legislation is invalid. The lengthy and thoughtful debates of Galt, Tilly, Langevin, Cartier, Brown and Macdonald, to name just a few, suggest otherwise as well.

Honourable senators, Bill S-4 is not a piece of mere legislation and, given its historic importance, does not appear to manifest the decided will of the country to make this historic change. I do not object to such a change where the deliberate will of the country is manifest, but I urge all honourable senators to await that occasion before agreeing to Bill S-4.

As an unelected legislator, I do not feel competent to second-guess the Prime Minister on the ultimate wisdom of electing the Senate. If the country wishes it after a meaningful and reflective debate, it will happen. However, the explicit intentions of the founders of our great country cannot be thrown over by a mere piece of questionable legislation.

Walter Bagehot was a famous English journalist and writer of the 19th century. He was an early editor of *The Economist* magazine and wrote the English Constitution. Christopher Moore, the writer of the recent Canadian book, *1867: How the Fathers Made a Deal*, identifies Bagehot as taking a special and sustained interest in the formation of the British North America Act in 1867. Incidentally, Bagehot was worried about the Canadian Senate creating perpetual deadlock with the Commons.

Nevertheless, it was Bagehot who properly identified the effective reality of modern parliamentary government in Britain and Canada, and it is in light of his following comments that we must be prepared to protect the Senate:

... the most dangerous of all sinister interests is that of the executive government, because it is the most powerful. It is perfectly possible — it has happened, and will happen again — that the Cabinet, being very powerful in the Commons, may inflict minor measures on the nation which the nation did not like but which the nation did not

understand enough to forbid. If therefore, a tribunal of revision can be found in which the executive, though powerful, is less powerful, the government will be the better, the retarding Chamber will impede minor instances of parliamentary tyranny, though it will not prevent or much impede revolution . . .

. . . it is almost the same thing to say the House of Lords is independent. It would not be powerful, it would not be possible, unless it were known to be independent. The Lords are in several respects more independent than the Commons. Their judgment may not be so good a judgment but it is emphatically their own.

Honourable senators, it seems to me that with these points in mind the best course for the Senate to take is a simple rejection of Bill S-4.

**Hon. Lillian Eva Dyck:** Honourable senators, I was unsure as to whether I should join the debate on second reading of Bill S-4, to amend the Constitution Act, 1867 (Senate tenure). However, after listening to Senator McCoy, in particular, I felt the need to speak.

From what Senator McCoy said, it was clear that the original allocation of senators was intended to protect minorities, the less densely populated regions and the francophone population from the tyranny of the majority of anglophone Central Canada. I believe that if the Senate is to be truly reformed, it also ought to be configured in a way that protects the interests of the four designated groups: women, the disabled, Aboriginals and visible minorities. A reformed Senate ought to listen to and incorporate their thoughts, and it ought to include members of these four groups in the same proportion as in the general population.

In March 2005, the then Prime Minister, Paul Martin, summoned nine Canadian citizens to the Senate of Canada. To my complete surprise, I was one of them. I received a phone call from the Prime Minister's Office right out of the blue, and not the Conservative blue. I did not know how it came to be that I was selected for appointment. The only details that I gleaned with respect to the selection process were that a person had to be at least 30 years of age, had to reside and continue to reside in their home province, had to own \$4,000 worth of property and had to have a record of public achievements.

At the dinner reception for us newly appointed senators, we heard speeches about how wonderful a country Canada is. It is great. I am proud to be a Canadian. Canadians have much to be proud of; our nation believes it and passes legislation that provides for basic fundamental freedoms and equality of its citizens.

On the one hand I know this to be true, yet at the same time I know for some of us it is not necessarily true. As I look at the history of federal legislation and how it affected my family and others like me, the ideals of our country and the reality of our lives do not necessarily match up. There is a political and cognitive dissonance.

For example, Canadian Indians were not given the right to vote federally until 1920. Then they could only vote if they were willing to become enfranchised; that is, if they were willing to give up their legal status of "Indian" as defined by the Indian Act. It was

not until 40 years later, in 1960, that Indians were allowed to vote without losing their Indian status.

Honourable senators, can you imagine what this meant in real life? What it meant in my family is this: My mother did not have the right to vote as a status Indian until 1960. She would have been 40 years old before she could vote. It also meant that I would have been 15 years old and in grade 9 before she had the right to vote. Can you imagine being in grade 9 and having a parent who was born in this country and yet was not allowed to vote? It seems unbelievable.

• (1520)

My father, who was a Chinese Canadian, did not have the right to vote federally until 1947. Though he was an immigrant and my mother was a native Canadian, so to speak, as an Indian, an indigenous person, she did not have the right to vote until 13 years later, in 1960.

On reflection, I can see why politics was not talked about at the supper table in my home. My parents were not treated like true citizens of Canada. For most of their lives they did not have the right to vote. They were disenfranchised for most of their lives here in Canada. Yet I am a senator here in Ottawa in the Senate.

Only in Canada could someone like myself, whose parents were desperately poor, whose parents were treated as second-class citizens for most of their lives, whose parents had little or no formal education, only in Canada could the daughter of such parents have had the opportunity to advance herself through education, hard work, and through community work to somehow be summoned to the Senate.

While some say the system for selecting senators is flawed, I think in my case at least, it worked, although I am biased.

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

**Senator Dyck:** However, it worked only because the Prime Minister apparently made a conscious choice to summon someone who did not fit the usual mould, someone who was not a male, Anglo-Saxon lawyer or former politician.

When I was summoned to the Senate, I was told that I had a choice. I could sit as a Liberal or an independent. Others in our group were offered different choices, or were even told what party affiliation they must choose. However, in my own case, after conferring with the clerk's office, I was told that I could choose to sit as a member of any political party, so I chose to be an NDP senator.

The rapid manner in which I was appointed did not allow me to investigate what being a senator entailed or what the implications of being an NDP senator were. There was no time. I was asked to accept or decline the invitation to become a senator immediately. I said I needed to think about it overnight. I was asked not to talk to anyone about the offer. I agreed. I did not talk to anyone about the offer, other than my dog, whom I knew would not talk to the press.

To my dismay, the headline of our local newspaper read, "NDP Rejects Dyck." Unfortunately, Mr. Layton appeared to think that Mr. Martin had deliberately appointed me as an NDP senator, rather than it being my choice. Subsequently, many

NDP members from Saskatchewan, including Premier Lorne Calvert and Minister Pat Atkinson, lobbied unsuccessfully on my behalf. I have not been able to attend federal NDP caucus meetings, though the NDP women invite me to their caucus meetings and I do attend.

I was even challenged to either refuse the Senate appointment or sit as an independent senator. Neither of these options seemed to me to be reasonable or fair, though I have changed my designation to independent NDP, as it is a more accurate reflection of the situation.

How could I say no to a Senate appointment? The issue of my appointment as a senator was much bigger than me alone or the official party policy of the NDP on the Senate. I could not refuse the appointment because I can help voice the concerns of others like me. I am a First Nations woman. I am a first generation Chinese Canadian. I could not deny other Canadians of similar heritage the opportunity to feel that they too are good enough to sit here in the chamber, and that they have a right to sit here in this chamber. To me, this issue is far more important than any official party policy based on theory rather than on the realities of being a minority person.

I outlined my story to illustrate the lack of clarity surrounding the process for selecting senators and the power that the Prime Minister exercises in this regard. Even our current Prime Minister, Stephen Harper, used the power of his office alone without any advisory elections to appoint a senator.

Interestingly, when the Senate is mentioned in the media these days, the phrase “Liberal dominated” is often used with a negative connotation. In this context, then, introducing Bill S-4 here rather than in the other place is an interesting tactic. It essentially places all senators, perhaps more so for the Liberals, in a Catch-22 situation whereby we can be criticized if we vote for the bill, and we can be criticized if we vote against the bill. If we vote for the bill, it could be said that we agree with the view that senators become stagnant if we are in the job for more than eight years. We could also be accused of being hypocritical as we would retain our longer terms of appointments but limit those of newly appointed senators. However, if we vote against the bill, we could be criticized for blocking the passage of the bill for purely partisan reasons, even though there may be valid reasons not to pass this bill. We are damned if we do, and we are damned if we do not.

Bill S-4, to reduce the tenure of senators appointed in the future to eight years, is apparently the first step of this minority Conservative government to reform the Senate. This bill, however, seems aimed more at enhancing the job performance of individual senators rather than the purposes or functions of the Senate.

It has been argued that reducing the tenure of senators will increase the turnover of senators and thereby introduce fresh ideas into the Senate chamber. I agree that it is good to have people with fresh ideas, but at the same time, it is good to balance that with the wisdom of our elders whose knowledge and experience here in this chamber has been acquired over many more years than eight.

Is reducing the tenure of senators the best way to introduce fresh ideas? I do not think so. It is possible for the Prime Minister

alone to reform the Senate — that is, to reconfigure the makeup of the Senate — without enacting any legislation whatsoever, simply by making different choices of the types of people the Prime Minister appoints.

As other senators have said, the Prime Minister has the power to appoint whomever the Prime Minister wants to the Senate, and perhaps we ought to debate whether the Prime Minister should be required to follow a minimum set of guidelines. Perhaps parameters ought to be devised and publicized to guide the Prime Minister in choosing new senators.

For example, if the Prime Minister were required to aim for parity for the four designated groups — women, the disabled, visible minorities and Aboriginals — that would create much greater diversity of ideas and experience in the Senate than simply reducing the length of term that any individual senator could serve.

When I was summoned to the Senate, I was surprised that about 30 per cent of senators were women, and I was pleasantly surprised to note too that there were five Aboriginal senators at that time.

The greater representation of women in the Senate compared to the other place seems to be a consequence of deliberate choices by former prime ministers, such as Jean Chrétien, who selected approximately equal numbers of men and women in his senatorial appointments. At the time that I was summoned, Paul Martin also chose nearly equal numbers of men and women. There were four women and five men in our class of 2005 in the spring.

However, why should the representation of women or minorities in the Senate be determined solely by the goodwill or the whim of the Prime Minister? In a modern democracy, should not proportional representation of women and minorities be a requirement in the guidelines for selection of senators that the Prime Minister must follow?

In conclusion, I do not think that Bill S-4 is necessary to reform the Senate in terms of its revitalization. However, setting parameters on the senatorial selection process that the Prime Minister follows, requiring the Prime Minister to ensure parity for the four designated groups — women, the disabled, Aboriginals and visible minorities — will revitalize the Senate more so than simply reducing tenure.

**Hon. Lorna Milne:** I move adjournment of the debate.

**The Hon. the Speaker *pro tempore*:** It was moved by Senator Milne, seconded by Senator Gill, that further debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker *pro tempore*:** Those in favour will please say “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker *pro tempore*:** Those opposed will please say “nay.”

**Some Hon. Senators:** Nay.

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

*And two honourable senators having risen:*

**The Hon. the Speaker *pro tempore*:** Is there agreement for a 30-minute bell? The bells will ring for 30 minutes. Call in the senators.

• (1600)

Motion agreed to and debate adjourned on the following division:

YEAS  
THE HONOURABLE SENATORS

Atkins	Furey
Austin	Gill
Bacon	Goldstein
Baker	Grafstein
Banks	Hays
Biron	Hervieux-Payette
Bryden	Joyal
Callbeck	Mahovlich
Carstairs	Milne
Chaput	Mitchell
Cook	Moore
Corbin	Munson
Cordy	Pépin
Cowan	Peterson
Dallaire	Phalen
Dawson	Poulin
De Bané	Ringuette
Downe	Robichaud
Dyck	Smith
Eggleton	Spivak
Fairbairn	Stollery
Fitzpatrick	Tardif
Fox	Trenholme Counsell—47
Fraser	

NAYS  
THE HONOURABLE SENATORS

Andreychuk	LeBreton
Angus	Meighen
Champagne	Nancy Ruth
Comeau	Nolin
Di Nino	Segal
Eyton	St. Germain
Gustafson	Stratton—15
Johnson	

ABSTENTIONS  
THE HONOURABLE SENATORS

Cools	Prud'homme—2
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CRIMINAL CODE

BILL TO AMEND—SECOND READING—  
DEBATE ADJOURNED

**Hon. J. Trevor Eyton** moved second reading of Bill C-26, to amend the Criminal Code (criminal interest rate).

He said: Honourable senators, it is my pleasure to rise today to speak in support of Bill C-26, an act to amend the Criminal Code, criminal interest rate.

Bill C-26 proposes amendments to the Criminal Code that will result in greater consumer protection for those in Canada who have come to use the services of the payday lending industry on a regular basis. This industry has existed in Canada for a little over a decade, but to date has operated in the absence of an industry-specific regulatory framework. Bill C-26 will assist in remedying this absence. I urge all honourable senators to join with me in supporting the quick passage of this important bill into law.

Concerns in relation to the Canadian payday lending industry have existed for some time. Federal, provincial and territorial governments, the media and consumer groups all have engaged in discussions about the most appropriate way to address the legitimate concerns, including questionable business practices associated with debt collection, the high cost of borrowing and the faulty disclosure of contractual terms.

Honourable senators, there is agreement across the country that something should be done to ensure that consumers are afforded effective consumer protection in respect of the payday lending industry. Bill C-26 will enable this protection, and I am pleased to report that this proposed legislation coming before us was informed by consultations between the federal, provincial and territorial governments, notably through the work of the ministers responsible for consumer affairs.

Payday lending and the payday lending industry have come to occupy a visible place in Canada's cities and towns. For better and for worse, the short-term, small loans offered by payday lenders have become a common way for many to borrow money.

The reasons people use these alternative retail lenders to borrow money are varied, but what is abundantly clear is that they are, in fact, borrowing a great deal. According to some estimates, \$1.7 billion is borrowed annually by consumers through the estimated 1,300-plus payday lending centres operating in every province and territory across Canada, except Quebec. In Quebec's case, the absence of a payday lending industry is the result of that province's decision not to issue licences to businesses charging more than 35 per cent annual interest. That decision has effectively precluded the operation of the payday lending industry in that province. In all other provinces and territories, they flourish. What is obvious to anyone is that the payday lending industry is now solidly established in Canada and continues to grow. It is important, therefore, to ensure that the consumers who use the services of payday lenders are protected from exploitive practices.

What is a payday loan? Generally speaking, it is a small loan, averaging about \$300, which is often secured against the borrower's paycheque. A paycheque, however, is not necessarily the only possible security for this type of loan. In many cases, all



that is required is proof of steady incomes for example, pension income is included. In addition, the loan period for a payday loan is typically short, generally something like 10 days or perhaps until the borrower's next scheduled receipt of income.

Qualifying for this type of loan is relatively easy. To do so, a person must provide a postdated cheque or some other form of pre-authorized debit and proof of income. The postdated cheque will cover the cost of repaying the loan, including the principal amount, interest charged and other associated fees.

By all accounts, this scenario appears simple and relatively anonymous for the borrower. These characteristics, in fact, are why so many people come to rely upon the services of these alternative retail lenders. Unfortunately, others have come to rely upon payday lending out of necessity, to make it from paycheque to paycheque and to cover their bills. Regardless of the reasons, Canadian consumers might reasonably expect their governments to enact the necessary legislative framework to provide appropriate protection. This government is committed to meeting these expectations and, in so doing, improving the quality of life for our citizens.

- (1610)

Bill C-26 will amend the Criminal Code and ensure that provinces and territories have the needed flexibility to enact legislative measures to regulate the payday lending industry in their jurisdictions. They will be able to do so in the manner they feel most appropriate and best addresses the needs of their resident consumers. This can be accomplished by creating an exemption scheme from section 347 of the Criminal Code, the criminal interest rate provision.

Some may argue that this is not an appropriate way to provide protection to those who use the services of payday lenders; that, instead, the federal government should establish a national scheme to address borrowing costs for payday lending. Others may argue that it is not the place of the federal government to intrude into the affairs of the provinces and territories. To this, let me say that the approach proposed by Bill C-26 appropriately balances the needs of all jurisdictions and recognizes that the provinces and territories are best placed to implement consumer protection measures to address the payday lending industry. Let me also say there is general agreement across the jurisdictions for the need to exempt legitimate and deserving payday lenders from section 347 of the Criminal Code, as proposed by Bill C-26.

Section 347 makes it a criminal offence to enter into an arrangement or agreement to receive interest in excess of 60 per cent annually. Section 347 was first added to our Criminal Code to combat organized crime and its specific role in the practice of loan sharking. This provision was not intended to regulate otherwise legitimate business transactions. However, despite its intended purpose, section 347 has nonetheless been interpreted as applying to most lending arrangements in Canada.

Honourable senators, section 347 is not the appropriate mechanism to provide consumer protection and we are not alone in this assessment. We have heard from many jurisdictions, and they have indicated that section 347 is not a suitable mechanism for consumer protection. For example, the Public

Interest Advocacy Centre has indicated that the criminal interest rate provision is in fact a barrier to the effective provincial regulation of the payday lending industry. For this, and other reasons previously mentioned, the proposed amendments contained in Bill C-26 are important, ultimately resulting in greater protection for consumers.

Bill C-26 proposes to add a new provision to the Criminal Code, section 347.1. This section would set out an exemption from section 347 of the Criminal Code for payday lenders under specific and circumscribed instances. In so doing, Bill C-26 clears the way for the provinces and territories to regulate this industry.

Reflective of the fact that a payday loan is generally a small-sum loan for a short period of time, Bill C-26 defines payday loan to mean:

An advancement of money in exchange for a post-dated cheque, a pre-authorized debit or a future payment of a similar nature, but not for any guarantee, suretyship, overdraft protection or security or property and not through a margin loan, pawnbroking, a line of credit or a credit card.

What is evident from this definition is that the proposed legislation is directed specifically at the payday lending industry, for the proposed exemption will not apply to pawnbrokers or other methods of lending, such as through a line of credit. This makes sense since the policy considerations associated with those other forms of lending are quite different.

Bill C-26 further limits the lending arrangements by providing an exemption to payday loans which are \$1,500 or less for periods that do not exceed 62 days. Again, these parameters are reflective of a typical payday loan scenario and were developed in consultation with the provinces and territories. These limits will provide flexibility to borrowers, lenders and provincial regulators while capturing the essential nature of payday loans; that is, a short-term loan for a small amount.

Bill C-26 proposes additional requirements before the exemption from section 347 of the Criminal Code would take effect. Particularly, the payday lender will need to be licensed or otherwise authorized by the laws of the province or territory to enter into a payday loan agreement. This requirement speaks to the ultimate goal of the proposed legislation: effective regulation of the payday lending industry in Canada. The province or territory will also be required to have in place consumer protection measures that are applicable to the payday lending industry. Of course, the precise content of that legislation will largely be left to the respective provincial and territorial jurisdiction concerned. It is this fact, honourable senators, which speaks to the innovation of the proposed amendments.

Bill C-26 recognizes that the provinces and territories are best placed to identify the elements that are necessary to ensure effective consumer protection within their respective jurisdictions. Thus, they will be free to build upon their existing legislation, as is necessary, and in a manner complementing their existing legislation in this area. In many cases, this will mean amendments to existing consumer protection legislation that has been enacted through the constitutional competence the provinces

and territories have over property and civil rights. Indeed, this has been the case in both Nova Scotia and Manitoba, where both jurisdictions have passed amendments to their consumer protection laws to address the payday lending industry. Both of these jurisdictions are awaiting the passage of Bill C-26.

For an exemption from section 347 to exist, Bill C-26 will also require the provincial consumer protection scheme to include a limit on the total cost of borrowing. This is very important, for consumers will be protected from exorbitant charges and given clear disclosure requirements, such that they will know precisely the cost of borrowing from any payday lender. This will ultimately result in a more informed decision, while at the same time ensuring a timely, transparent and competitive environment. What their limits will be will also be left to the provinces and territories to decide, for the provinces and territories are best placed to identify the total cap that should be charged, again having regard to the existing legislation framework and local circumstances.

The final requirement proposed by Bill C-26 for an exemption to apply is that the province or territory in which the payday lender is operating be designated by the federal government. This is a straight forward process. In practice, a province or territory would, through a letter to the federal Minister of Justice, demonstrate it has legislative pressures in place that set out consumer protection measures for those seeking payday loans, including, as noted, a limit on the total cost of borrowing along with a regime that ensures a transparent and competitive marketplace.

If, upon the recommendation of the federal Minister of Industry, the Minister of Justice is satisfied that the province meets these requirements for an exemption, a recommendation to grant the exemption will be made to the Governor-in-Council. It should be pointed out that Bill C-26 provides that this designation can be rescinded in those instances where the province or territory no longer meets the requirements for the designation or where the decision has been requested by the province.

It is important to point out that Bill C-26 will not apply to federally regulated financial institutions, such as banks. Banks are a matter of federal responsibility under Canada's Constitution and there are numerous federal pieces of legislation regulating these institutions.

Honourable senators, Canada is a vast and diverse country and the needs of our citizens will vary from jurisdiction to jurisdiction. It is important, therefore, that our legal systems respond appropriately to address these needs. While all of our citizens require effective consumer protection, the exact nature of that protection should be reflective of the particular circumstances of the respective jurisdictions.

I believe that the approach proposed in Bill C-26 is a sensible one and responds to the needs of all jurisdictions and the relevant constitutional considerations. Moreover, it is reflective of this government's commitment to work with the provinces and territories to find solutions to issues of mutual interest. Ultimately, that will mean greater protection to Canadian consumers.

In closing, I strongly urge all honourable senators to support this important piece of legislation. It will assist consumers across

Canada by making it possible for the provinces and territories to enact consumer legislation as they see fit that will protect the users of the payday lending industry. I believe Bill C-26 is a sensible and pragmatic response to an issue which we can all agree requires immediate attention.

On motion of Senator Callbeck, debate adjourned.

• (1620)

## NATIONAL PHILANTHROPY DAY BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-204, respecting a National Philanthropy Day.—(*Honourable Senator Comeau*)

**Hon. Consiglio Di Nino:** Honourable senators, as I am sure many, if not most — maybe all — of our colleagues in the Senate are aware, philanthropy is of enormous benefit and value to our country. I am sure many honourable senators have been involved in raising money for charities and not-for-profit organizations.

This item is now in its fifteenth day. Given the importance of philanthropy, I should like to speak to Bill S-204, but I have not prepared a speech for today. As such, I should like to adjourn this item in my name for the time I have remaining of my 15 minutes.

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

**Hon. Senators:** Agreed.

Motion agreed to.

[*Translation*]

## CONSTITUTION ACT, 1867

### REPORT OF SPECIAL COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Fraser, for the adoption of the second report of the Special Senate Committee on Senate Reform (*motion to amend the Constitution of Canada (western regional representation in the Senate), without amendment but with observations*), presented in the Senate on October 26, 2006;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Campbell, that the second report of the Special Senate Committee on Senate Reform be not now adopted but that

the motion to amend the Constitution of Canada (western regional representation in the Senate), be amended as follows:

(a) by replacing, in the third paragraph of the motion, the words “British Columbia be made a separate division represented by 12 Senators;” with the following:

“British Columbia be made a separate division represented by 24 Senators;”;

(b) by replacing, in clause 1 of the Schedule to the motion, in section 21, the words “consist of One hundred and seventeen Members” with the following:

“consist of One hundred and twenty-nine Members”;

(c) by replacing, in clause 1 of the Schedule to the motion, in section 22, the words “British Columbia by Twelve Senators;” with the following:

“British Columbia by Twenty-four Senators;”;

(d) by striking out, in clause 2 of the Schedule to the motion, in section 27, the words “or, in the case of British Columbia, Twelve Senators;” and

(e) by replacing, in clause 2 of the Schedule to the motion, in section 28, the words “exceed One hundred and twenty-seven.” with the following:

“exceed One hundred and thirty-nine.”—(*Honourable Senator Nolin*)

**Hon. Pierre Claude Nolin:** Honourable senators, I am pleased to participate in this debate on the Murray-Austin motion and on Senator Tkachuk’s motion in amendment.

At the outset, I would like to provide some context for the main motion. For those who may have forgotten or who would like me to refresh their memory, this motion proposes a constitutional amendment.

This amendment would increase the number of senators by 12. This increase would be divided as follows: six more senators for British Columbia, for a total of 12; four more senators for Alberta, for a total of 10; and one more senator each for Saskatchewan and Manitoba, for a total of seven each.

A corollary amendment results from section 26 of the Constitution Act, 1867, which allows the Governor-in-Council to increase the number of senators by four or eight. The corollary provision in Senator Murray’s motion proposes amending this number to 5 or 10 senators, in order to allow for equal representation in each of the senatorial divisions. Thus, this motion aims to give the Senate greater regional representation through the creation of a fifth division.

The committee that examined this question also looked closely at the amending formula needed to implement this amendment. The amending formula is set out in section 38 of the Constitution Act, 1982. This amending procedure requires ratification by the

Senate, the House of Commons and the legislative assemblies of at least two-thirds of the provinces having at least 50 per cent of the population of Canada.

This is commonly referred to as the 7/50 formula, since Canada has ten provinces. I believe I have summarized the main motion.

As for the motion in amendment, its aim is to double this number. I will focus on analyzing the main motion. Thus, it is a question of creating two divisions in an area of Canada where there is currently only one.

I would first like to thank those honourable senators who worked so hard to examine this issue. Following my remarks, I will make a recommendation, which I trust will please them.

We must recognize, as they do in their report, that for more than 30 years, all plans for reform, all discussion, all the documents that have been signed and all serious analyses dealing with Senate reform suggested increasing the representation of Canada’s western provinces.

It is a recurring theme, and one that is not incidental. That is the reality. Since 1971, the Province of British Columbia has wanted to be considered as a separate region, and not only for the purpose of calculating senatorial representation. More recent history has shown that its desire goes much further. The province is requesting this distinction in order to become what the report identifies as “Canada’s Pacific region.”

The report lists a series of distinctive characteristics that make British Columbia a region in its own right, separate from the rest of Western Canada and very distinct in its composition.

I think that it is important to inform all the senators who have looked at this report and those who have not looked at it that none of the expert witnesses voiced any major concerns about the creation of this fifth region. I think it is important that all senators be aware of that.

Some witnesses raised concerns, but on the whole, the expert witnesses the committee heard did not voice any major concerns about the creation of this fifth region, which would be the Province of British Columbia.

It is important to mention that the committee opted for a concept that I would call the “concept of pragmatic balance.” We often hear references to “regional balance,” to “parity,” and to the compromise of 1915, when the four Senate divisions were created or recognized.

• (1630)

The committee is to be congratulated for exploring and maintaining this principle of pragmatic balance. I would like to quote a passage from page 13 of the report:

The result, in Senate representation, has been a unique Canadian balance that takes population size, geographical size, political identity and commonality of interest into account, without the rigidity that would apply to any strictly-applied formula for allocating seats. The concept of “region” remains useful in this balance, as a way

of recognizing distinctive representational needs in combination with significant concentrations of population and economic weight while, as the assignment of seats to the three territories demonstrates, not precluding responsiveness to other needs.

In our analysis, we have to keep in mind the reason why the committee opted for this concept of pragmatic balance, which allows us to set aside this strict, perfect balance and take a much more pragmatic approach, with a view to achieving better representation in the upper house of the Parliament of Canada.

The committee believes — and I agree — that the recognition of British Columbia as a fifth region needs to be assessed in conjunction with the recognition of the Prairie provinces as a region, as well as on its own. Again, the committee was able to maintain the concept of pragmatic balance.

We must also applaud the committee members for their sound analysis in comparing the provinces and recognizing the existence of “middle tier” provinces. I would like to cite a passage from the report, on page 13:

Recognition of two regions in the West responds to the fact that population growth, especially in Alberta and British Columbia, has made these provinces middle tier provinces within the Canadian federation. As minority provinces, compared with Quebec and Ontario, they continue to require heightened representation but, at the same time, the current populations and economic weight of Alberta and British Columbia call for representation beyond that of provinces in Atlantic Canada. Considered on its own, the demographic and economic distinctiveness of British Columbia provides ample reason for regional status, as was recognized by Parliament in the mid-nineties (in regional ratification legislation outlined in “Background,” above).

In view of the time I have left, we can wait until another day to debate whether or not it is necessary to recognize the five regions in order to approve the proposed motion. We must agree with the committee’s proposal as expressed in Senator Murray’s motion.

My commentary does not stop there. By the way, I do not agree with Senator Tkachuk’s proposed amendment. It undermines this principle of pragmatic balance upheld by the committee, a principle we should keep in mind.

The amendment proposed by Senator Tkachuk does not respect this pragmatic balance. The number proposed in the amendment to the amendment is too high and we cannot describe this proposal as balanced. That is why I prefer Senator Murray’s main proposal.

Throughout this debate, we must look at this motion in amendment as a component of a much greater debate that affects the reform of our institution. Every time we talk about Senate reform and when experts, or so-called experts, talk about it, one word keeps coming up and it is not the word you think. It is not “election” or “equality.” The word that keeps coming up in the

report is “effective.” We should linger over this word because it represents the primary reason we should be considering reform of our institution.

I have three comments. The first I make as a Quebecer. Some of you are wondering why, with 24 protected seats in the Senate, on par with Ontario, obtained through a historic compromise in 1864 — to which Senator Furey referred in another debate — a Quebecer can set aside his traditional position and agree to study a minor reform that will give British Columbia the status of region and, consequently, increase its representation.

Quebec took note of the debates in the early 1990s. As Minister Pelletier stated when testifying before the committee, Quebec cannot remain stubbornly entrenched in its positions and refuse to participate in any debate concerning the institution’s effectiveness. Those who believe that Quebec’s position on this issue has not changed should take another look at their own positions. Quebec has decided to take a much more active and broad-minded position in this debate.

When Quebec negotiated with Ontario the hard-won 1864 compromise that created the Senate of Canada, Quebec was the bastion of Catholic French Canadians.

Unfortunately, that is all the time I have been allocated. I would ask for five more minutes.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to grant Senator Nolin five more minutes?

**Some Hon. Senators:** Agreed.

**Senator Nolin:** However, Quebec was not the only region with French Canadians. Acknowledging this historic fact must remain a priority when Quebec decides to seriously participate in the evolution of our federation. It is imperative for Quebec — and that is why Quebec has agreed — to examine all the possibilities for the evolution of our Parliament into a much more effective Parliament and one that has greater respect for the aspirations of all Canadians, not only those of Quebecers or those Quebecers who believe that, because we were once a bastion of Catholic French Canadians, but today somewhat more divided, that the end of the world is upon us.

• (1640)

Quebecers today recognize — and Minister Pelletier reiterated this — that in Canada there are a million francophones who are not Quebecers. That is why we have to develop or find solutions to improve our parliamentary system and to make this reality possible.

I believe that seeking effectiveness is not just an external endeavour. Those who think that any solution necessarily requires a constitutional amendment are wrong. Many of these reforms can be done internally. If we took the time to look at everything we can do internally to improve the effectiveness of our institution, we would be surprised. Senator Banks referred to this last week when he talked about regional caucuses, independent from the political parties, caucuses that bring together colleagues from the same region to develop and reflect together on proposals that are of interest to their region.

Before concluding, I would like us to think about creating a standing Senate committee that would — not an ad hoc or temporary basis, but on a permanent one — examine the state of Canadians' knowledge of the Senate, the evolution of public opinion, and changes in terms of the options available. Why? To involve those who argue that it is a parceled out and divided proposal and that we cannot review a change because we cannot isolate it and because Senate reform is so complex that it must be done as a whole. When we go to vote on this, we should vote on reform as a whole and not isolate the reforms. I am sorry, but that is not what politics is all about. I think politics is the art of the possible.

That said, I think we should have in our institution a group of senators whose responsibility it is to glean this information and provide it to us when the need arises. I think that it would be in our best interest to invest time and money in setting up this committee that would strive for effectiveness.

**Hon. Daniel Hays:** Honourable senators, I thank Senator Nolin for his speech, which illustrated the spirit of Canada as it existed in 1867, especially considering this was a speech by a senator from Quebec. I do not have any questions; I simply wanted to thank the honourable senator.

[English]

I appreciate the honourable senator's comments about the committee's report. I think the committee did some good work.

[Translation]

I also appreciate the concepts of pragmatic balance and effectiveness, which shone out clearly in Senator Nolin's comments.

On motion of Senator Ringuette, debate adjourned.

[English]

## STUDY ON RURAL POVERTY

### INTERIM REPORT OF AGRICULTURE AND FORESTRY COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report (interim) of the Standing Senate Committee on Agriculture and Forestry, entitled: *Understanding Freefall: The Challenge of the Rural Poor*, tabled in the Senate on December 13, 2006. —(Honourable Senator Fairbairn, P.C.)

**Hon. Joyce Fairbairn:** It is my pleasure, honourable senators, to tell you a little bit about the work the Standing Senate Committee on Agriculture and Forestry is doing. As senators know, our committee is in the midst of a wide-ranging study on rural poverty. This is the first time we are aware that this focus has been placed in either parliamentary chamber. On the basis of the broad testimony we heard last fall, we wrote our interim report, which was tabled in the Senate chamber on December 13, 2006, and which, by all accounts, has really struck a nerve across the country. Canadians are taking note, and they have let us know that. I think every member of the committee, even though the report was released just before Christmas, was overwhelmed by phone calls from media and others to ask more about what we were doing.

Honourable senators, something is happening in rural Canada, and it is time that we paid attention to it. Indeed, for too long, the plights of rural Canada and the rural poor, in particular, have been largely ignored; not anymore, honourable senators. We are not ignoring this issue here in the Senate. Indeed, we are continuing our hearings here in Ottawa. In the coming months, we will be travelling to every province in the land and visiting rural Canadians in their communities, in their workplaces and even in their homes. It is our hope to visit the northern territories as well before a final report is produced. Our travels begin next Monday, in Corner Brook, Newfoundland and Labrador, following which we will travel to Nova Scotia, New Brunswick, and then out to Prince George, in British Columbia, and then across the Prairies. We look forward to reporting back to honourable senators on those findings as well. Periodically, we will be back here in Ottawa, to have hearings in both Quebec and Ontario, which are close by.

For the moment, I should like to focus on some of the major themes from our interim report. The first thing to say about the rural poor is that, in some ways, they are invisible. They are invisible because they do not beg for change. They do not congregate in downtown cores. They rarely line up in homeless shelters because, with few exceptions, there are no homeless shelters. They are invisible. As some of our witnesses told us last week, they only visit their food banks in the evening after dark when they cannot be easily identified. They rarely complain about their plight because that is just not the way things are done in rural Canada. In fact, the incidence of poverty is higher in rural Canada than in urban Canada, and most of the new food banks, we are told, are now opening in the rural part of this country and not the big cities.

Even these statistics, though, do not quite capture the full breadth of the problem. Statistics rarely do. Rural families in difficulties often end up in our cities, forced out of their communities by a lack of economic choice, and suddenly find themselves devoid of the familial and social supports that are such an important part of our daily life. At least some portion of urban poverty is, in a sense, rural poverty.

This out-migration points to a large systematic problem, which is that rural Canada is losing its people. Statistics Canada tells us that rural Canada's population fell for the first time ever between 1996 and 2001. Rural Canadians, and especially young people, are leaving for the cities in search of economics, educational opportunities and a decent standard of living.

• (1650)

Who can blame them when the farm sector is beset by one crippling challenge after another, whether it is bovine spongiform encephalopathy, BSE, drought, a strong Canadian dollar or trade action? Who can blame them when the forestry sector is shedding jobs at an unprecedented rate, threatening the existence of the more than 300 rural communities that depend on forest-sector jobs? Who can blame rural Canadians and rural youth, in particular, when everywhere they turn, the media, and largely the urban media, are full of stories about the excitement of the cities that do not focus on the importance, productivity and history of the land, the people and the communities that live on it?

Only last week the Conference Board of Canada came out with yet another study saying that Canada needs to think of itself as an urban country first and foremost. It argued that strong growth in the hub cities of Toronto, Montreal, Vancouver, Halifax, Winnipeg, Regina, Saskatoon, Calgary and Edmonton is all it takes to lift up all parts of our country.

That scenario might be fine in some parts of the country but where does it leave Newfoundland, Prince Edward Island, New Brunswick or even Nova Scotia: provinces without the kind of hub cities in the urban part of this country? Where does that leave a place, for instance, such as Kapuskasing, Ontario, which is 850 kilometres from Toronto, or Keg River, Alberta, which is approximately 700 kilometres from Edmonton?

Honourable senators, the situation in rural Canada in many ways is challenging, but I would be remiss if I did not tell you today that it is not only an image of gloom and doom. Despite serious challenges there is every reason to be hopeful about rural Canada's future.

To begin with, rural Canada is becoming an increasingly desirable place for manufacturers who are drawn into its low real estate prices and skilled labour. Everyone knows, for example, that farm families are some of the best workers anywhere in this country. Despite all the youth out-migration, rural Canada is benefiting from a wave of in-migration comprised mostly of young families and baby boomers nearing retirement who want to leave the city pressures behind.

Finally, rural Canadians themselves have demonstrated time and again their resilience and progressive attitude. These citizens have deep reservoirs of talent, skill and work ethics, and are waiting for an opportunity to show the world what they can do. Our travels will reflect this sense of optimism. While we will visit places and meet people who are struggling, the committee also believes it is important to visit places and talk to people who have managed, perhaps with a bit of help, to turn their situation around, and their own experience and skill has led them through it.

Most of the policy proposals that are dismissed in our interim report, which is called *Understanding Freefall: The Challenge of the Rural Poor*, are the top-down style of helping rural Canada. That approach is no longer appropriate, if it ever was. Instead, governments must help our rural citizens to capitalize on their strengths and assets, which we have identified.

A cynic may well say, and they have, why bother? Why should we not leave them to work through their own challenges? In the words of one of our witnesses, we care because this issue is ultimately a matter of citizenship. We also care because our urban society needs rural Canada, not only for its farm products, minerals, water, trees and natural beauty, but also for its people, culture and promise.

I want to thank all the members of the committee. I want to thank, in particular, Senator Segal for raising this issue shortly after he entered this chamber as a senator. It is a great committee, honourable senators. Every member needs to be thanked for the effort that they continue to make on this study, and we look forward to reporting our recommendations.

[ Senator Fairbairn ]

Finally, I give a special thanks to my co-chair, Senator Gustafson. We have been hanging around the Standing Senate Committee on Agriculture and Forestry for more years than we want to admit. He has been an absolute welcoming angel because he is a farmer. He is a real farmer, he cares what this industry is all about and he has great knowledge and concern about where it is going.

Altogether, with that kind of prodding from our colleague, we are trying to accomplish this goal with what is one of the most important studies that we have had in the Senate for a long time.

**Hon. Hugh Segal:** Honourable senators, I want to speak in support of my colleague, Senator Fairbairn, our distinguished chair of the committee, to indicate that, both in terms of the majority and the minority, there is a strong consensus on the committee, without regard to any partisan division, about the importance of this issue.

I want to reflect on one phone call I received amongst the many that honourable senators on the committee received after the most recent report came out. The call was from a reporter calling from Germany on behalf of a German national magazine, who was stunned to find out that Canada was essentially an urban country at 94 per cent to 95 per cent urbanization. Australia and Canada are the two countries in the world with the greatest level of urbanization. The German view, which she reflected, was that Canada is a country of wheat fields, massive farming capacity and large farming communities that feed North America and the world.

I had to disabuse her, not of the productivity of our farming, not of its efficiency, not of the quality of what is done, but to let her know that, sadly, large parts of Canada are being depopulated because the conditions for any meaningful quality of life and economic opportunity are diminishing so rapidly.

When I gave her some of the statistics she was truly stunned. When I said that Germany was in fact the more agricultural country with a more rural real density than Canada, she was overwhelmed. That is the hard truth. I want to express my support for the report that we all embrace in a non-partisan way, for the work of our chair, which has been outstanding, and for the commitment that we all share to ask the core question.

• (1700)

We invest strategically in this country in many important things. We invest in shipbuilding. It may be cheaper to buy the hulls in Korea, but we believe we should have a shipbuilding industry in Canada. We invest in as much defence procurement in Canada as possible, whether or not it is cheaper to buy it abroad. When our auto workers are unemployed, we have a special employment program that the government and the auto companies contribute to so we keep our workers in place for when the downturn is over. We make a series of those strategic investments in aerospace. The core questions underlying the work of this committee as we gather the data and personal testimony are as follows: Are we prepared as a society to make the strategic investment in the importance of our rural communities? If we are prepared, then how do we do it best and most effectively using the strength of both the private and the public sectors, which is

the Canadian tradition? If we are not prepared, then will we have the courage to tell rural Canadians that we are not on their side and that they cannot count on us? Those are the core questions that the committee is endeavouring to ask. I want to associate myself with the motion to adopt this report now before the house.

On motion of Senator Cowan, for Senator Callbeck, debate adjourned.

[*Translation*]

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

### COMMITTEE AUTHORIZED TO STUDY EFFECTIVENESS OF CANADA'S PROMOTION OF DEMOCRATIC DEVELOPMENT ABROAD

On the Order:

Resuming debate on the motion of the Honourable Senator Tkachuk, for the Honourable Senator Segal, seconded by the Honourable Senator Stratton:

That the Standing Senate Committee on Foreign Affairs and International Trade be authorized to examine and report on the effectiveness of Canada's promotion of democratic development abroad; the role of the Parliament of Canada in this context; and

That the Committee shall present its final report no later than December 31, 2007, and that the Committee shall retain all powers necessary to publicize the findings of the Committee as set forth in its final report until March 31, 2008;

And on the motion in amendment of the Honourable Senator Corbin, seconded by the Honourable Senator Day, that the motion be amended by deleting at the end of the first paragraph the word "and", and by adding after the first paragraph the words "That the Committee be authorized to travel outside Canada for the purpose of its study; and".  
—(*Honourable Senator Comeau*)

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** moved adoption of the motion.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt Senator Corbin's motion in amendment?

**Some Hon. Senators:** Agreed.

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

**Some Hon. Senators:** Agreed.

Motion agreed to, as amended.

[*English*]

## STATE OF LITERACY

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Fairbairn, P.C., calling the attention of the Senate to the State of Literacy in Canada, which will give every Senator in this Chamber the opportunity to speak out on an issue in our country that is often forgotten.—(*Honourable Senator LeBreton, P.C.*)

**Hon. Francis William Mahovlich:** Honourable senators, I rise today to speak to an important and meaningful issue. Despite its significance, though, unfortunately the issue to which I refer is one that is quite often placed on the back burner by our busy society. The issue I am speaking about is literacy in Canada. We have heard many senators speak out on this issue, all of them passionate on the importance of literacy. Literacy affects every citizen of this nation, whether it involves reading to your child, reading and understanding medication directions or finding a job to pay the bills. Literacy is not an issue that we can continue to sweep under the rug.

As all senators know, however, on September 25, 2006, the federal government did just that by cutting funding to literacy organizations by \$17.7 million over the next two years. These cuts have resulted in the closing of many necessary agencies across the country, agencies that help Canadians with literacy. For example, the Saskatchewan Literacy Network, the Yukon Literacy Coalition, the Northwest Territories Family and Community Literacy Development project and the Newfoundland Literacy Coalition and Hotline were all forced to close their doors, making their services no longer available to those who need them most. In addition to the closure of several key literacy agencies, the future viability of many other programs is unclear. This is, of course, very troubling because so many Canadians need the services that these organizations provide.

In fact, 42 per cent of working-age Canadians have literacy skills that are below the international standard for literacy. Honourable senators, in a country as developed and privileged as Canada, this number is unacceptable. What is further unacceptable, honourable senators, is that rather than focusing its efforts on improving literacy levels, the government is instead cutting funding. With so many Canadians struggling with the challenge of literacy, why is the government not doing more?

Honourable senators, what is perhaps equally of concern is that low literacy levels pose harsher challenges to some of Canada's most vulnerable populations. Typically, those who come from poor families or who live in poverty tend to have lower levels of literacy. This poses further barriers to them as they have fewer job choices resulting in lower income employment. On average, people with literacy challenges have only two thirds the income of other adults. This creates a vicious circle that is made even bleaker by these recent cuts to literacy programs.

Despite the negativity of these cuts, however, it is my belief that there is still hope because many people in this great country are working tirelessly on this issue. Of course, we have one of the

biggest champions of the cause in our presence in the Senate — and to that end I say thank you, Senator Fairbairn. In addition, being a senator for the province of Ontario, I could not speak today without recognizing the efforts of our own Lieutenant Governor, the Honourable James K. Bartleman. He has worked very hard to help promote the importance of literacy in Ontario, particularly in Northern Ontario. Lieutenant Governor Bartleman grew up in a poor family and learned to read from comic books that were left at the local dump. From his experiences, he understands that education and literacy are important in breaking the poverty cycle.

Lieutenant Governor Bartleman has done much, especially in native communities in Northern Ontario, to bring about positive changes to the current situation faced by so many. In 2004, he created the Lieutenant Governor's book drive, in which people from across the province donated books that were then provided to libraries in Northern Ontario's native communities. The program's goal was to collect 60,000 books, but more than 1.2 million books were donated. The program was such a success that there was another book drive in the month of January this year, when another 500,000 books were donated. These books will go a long way to help those in my home area of Northern Ontario. The book drive was only the first of four literacy initiatives started by Lieutenant Governor Bartleman.

In addition to creating these inspiring book drives, the Lieutenant Governor has also created a bridge-building program between Aboriginal and non-Aboriginal schools in Ontario. This program — which has been so successful it has been extended to Nunavut — allows students to participate in pen pal programs and student exchanges. Two other initiatives include a reading club for young Aboriginal readers and literacy summer camps in northwestern Ontario. These programs are a tremendous way to bring together both native and non-native cultures to learn about and understand each other.

These are all wonderful initiatives and I applaud Lieutenant Governor Bartleman for his work. While the participation of the general public in this program was tremendous, an issue as important as literacy deserves the government's active participation.

When I was growing up in Timmins, Ontario, my parents were offered two options for my future: to play hockey and get an education at St. Michael's College School in Toronto or play for a team in St. Catharines, Ontario, and get a farm. My parents realized that the most important thing for me would be to get an education. They knew that education would give me the best and brightest possible future, and I am grateful for their choice.

Literacy programs are important and should not be taken for granted. They are needed by millions of Canadians across this vast country. Therefore, I urge the federal government to restore funding to literacy organizations, to invest in our future and to invest in Canadians. Thank you, honourable senators.

On motion of Senator Comeau, for Senator LeBreton, debate adjourned.

[ Senator Mahovlich ]

• (1710)

## THE SENATE

### MOTION TO URGE CONTINUED DIALOGUE BETWEEN PEOPLE'S REPUBLIC OF CHINA AND THE DALAI LAMA—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Andreychuk:

That the Senate urge the Government of the People's Republic of China and the Dalai Lama, notwithstanding their differences on Tibet's historical relationship with China, to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet.—(*Honourable Senator Munson*)

**Hon. Jim Munson:** Honourable senators, I rise briefly today to speak in favour of the motion of the Honourable Senator Di Nino. During my five years as a reporter living in China, I witnessed many violations of human rights, particularly when it came to the question of Tibet. I personally saw on a number of occasions Tibetan monks beaten and heard their stories of repression. I even had the opportunity to spend a bit of time in a Chinese jail — more than one — and was forced on this particular occasion to hand over tapes of what I saw. What the Chinese police got were blank tapes. I was able to smuggle out the real picture of what was happening in Tibet at that time.

That was almost 20 years ago, and there has been some progress, but it has been minimal. Today, the time is long overdue for China to recognize the aspirations of the people of Tibet. A dialogue between the Government of the People's Republic of China and the Dalai Lama is a promising step towards a resolution of this longstanding impasse.

Honourable senators, it is on the international level that pressure must come because within China itself, organizations that work toward strengthening human rights are repressed and suppressed. China does not allow the existence of domestic human rights groups, and the government blocks interventions by international human rights groups.

Canada has a role to play. Canada does have influence, and we can have an impact toward helping China and Tibet reach an agreement regarding Tibet's autonomy.

I am pleased to support the motion of Honourable Senator Di Nino and hope that many of my esteemed colleagues will support it, too.

On motion of Senator Munson, for Senator Jaffer, debate adjourned.



**ABORIGINAL PEOPLES**

COMMITTEE AUTHORIZED TO REFER DOCUMENTS  
FROM STUDY ON BILL S-16 DURING  
THIRTY-EIGHTH PARLIAMENT  
TO CURRENT STUDY OF BILL S-216

**Hon. Gerry St. Germain**, pursuant to notice of February 6, 2007, moved:

That the papers and evidence received and taken and the work accomplished by the Standing Senate Committee on Aboriginal Peoples during the First session of the Thirty-eighth Parliament during its study of the subject

matter of Bill S-16, An Act providing for the Crown's recognition of self-governing First Nations of Canada, be referred to the said Committee for its study on Bill S-216, An Act providing for the Crown's recognition of self-governing First Nations of Canada.

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

Motion agreed to.

The Senate adjourned until Wednesday, February 14, 2007, at 1:30 p.m.

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