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Thursday, April 19, 2007

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Thursday, April 19, 2007

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

Prayers.

SENATORS' STATEMENTS

THE LATE AGNES BENIDICKSON

Hon. Janis G. Johnson: Honourable senators, I rise today to pay tribute to Agnes McCausland Benidickson, a great Canadian who gave this country a lifetime of outstanding achievement.

Although many of us in this chamber knew Agnes Benidickson as the wife of the Honourable Bill Benidickson, a former Member of Parliament and senator, I first came to know her as the daughter of Winnipeg's renowned businessman, James Armstrong Richardson.

Agnes' brother, who is likewise named James A. Richardson, served under the Trudeau government as Minister of National Defence. Agnes achieved prominence in her own right, serving as the first female Chancellor of Queen's University and receiving both the Order of Ontario and Companion to the Order of Canada.

Agnes was a modest woman, and it was her tireless commitment to community and country that will always be remembered. She was born in fortunate circumstances and grew up meeting family dinner guests such as Winston Churchill.

The family fortune was built on hard work and constant innovation. In 1926, for example, her father purchased a rough, open-cockpit bush plane and hired a war hero to fly it. That single airplane, which Richardson dubbed *The City of Winnipeg*, launched the company that would later become Canada's first national airline.

Her mother, Muriel Richardson, was likewise a prominent community leader and was once described as "The First Lady of Canadian Business." From both her parents, Agnes Benidickson learned the value of hard work and dedication to one's community. As a young woman during the Second World War, she volunteered for the Red Cross in Winnipeg. Prompted by the strong social conscience that drove her for the rest of her life, she went on to serve as President of both the Canadian Council on Social Development and the national Association of Canadian Clubs.

In 1980, she was elected Chancellor of Queen's University, succeeding Roland Michener. Normally, the Chancellor of Queen's is a three-year position, but her tremendous effectiveness in that role resulted in her being re-elected for an unprecedented 16 years.

She loved her work in public service, so much so that her admiring colleagues once gave her a licence plate with one word: "Queens."

During her time there, Agnes conferred 64,000 degrees to individuals ranging from prison convicts to Prince Charles. She was uncomfortable with being singled out for praise, and upon her retirement, she declined several offers from the university to name a building after her. Knowing her love of nature, the school instead named a campus green space, Benidickson Field.

When she attended Queen's as a student, Agnes Benidickson won the coveted Tricolour Award. Fifty years later, she was deeply touched when the school renamed the award after her. The award is the highest tribute a student can receive for extracurricular activity, and the students of Queen's will never have a better role model. I extend my deepest sympathies to her family.

• (1340)

MR. SERGE D. GOURGUE

DIRECTOR GENERAL, PARLIAMENTARY PRECINCT SERVICES—TRIBUTES ON RETIREMENT

Hon. George J. Furey: Honourable senators, I would like you to join with me today to pay tribute to one of the most hard-working members of our Senate staff, Mr. Serge Gourgue.

Serge is leaving his position as Director General of Parliamentary Precinct Services to join the ranks of the retired. I must admit that the news of his retirement left me somewhat disappointed for our institution, but at the same time somewhat happy for Serge and his wife, Marielle.

As we all know, he has brought his single-minded dedication to everything that he has worked on in the Senate. A 16-year veteran with the Senate administration, he ran Parliamentary Precinct Services with the same sense of responsibility and commitment that marked his years of service with the Canadian Armed Forces. It is because of that sense of commitment that his directorate is such an admired and well respected unit in the Senate, throughout the government and indeed in many other jurisdictions. Our institution has been well served by this dedicated and loyal public servant.

Whether it is the Accommodation and Planning unit or Protective, Material and Building Services, everything runs like clockwork. Each directorate is a testimony not only to his managerial skills, but also to his ability as a leader and mentor to his team. Indeed, it was always as a team member that he viewed himself. Whenever there was credit due for successes in enhancing services, upgrading technology or dealing with the ever-difficult task of juggling accommodation requirements, Serge always deferred that credit to his team.

Honourable senators, it is now time to accord credit where credit is due. Please join me in extending a warm and heartfelt thanks to our friend Serge Gourgue for his meritorious service to the Senate and the Government of Canada and to wish him, his wife, Marielle, and his family the very best as he begins this new phase of his life.

[*Translation*]

On behalf of all the honourable senators, I wish him a well-deserved retirement.

Hon. Pierre Claude Nolin: Honourable senators, I would also like to express the sincere gratitude of this chamber to the Director General of Parliamentary Precinct Services, Serge Gourgue, who is unfortunately leaving us to take what I hope is a well-deserved retirement.

Since he first came to the Senate 16 years ago, Mr. Gourgue has taken on a number of challenges under the Clerk of the Senate and the Parliaments, Mr. Bélisle. His vision, insight and determination have greatly contributed to improving safety on the Hill, upgrading the Senate's facilities and services, and improving the effectiveness, and particularly the efficiency of the services and of the employees under him who were providing these services.

I would be remiss if I did not highlight his significant contribution to establishing a workforce that is diverse and more accessible to persons with a disability, and a healthier environment.

The Parliament buildings are an important symbol of our democracy, our history and our architecture. Those who have worked alongside Serge Gourgue, in the Senate or in the organizations with which we interact, will never forget his active involvement in protecting and preserving these national treasures, all the while maintaining efficient operations in the Senate and giving the public access to their Parliament.

We knew we could count on Mr. Gourgue's availability, ingenuity and judgment. His commitment to serving the Senate has been a source of inspiration to us. He has excelled in his work, and his leadership has won our admiration.

The Senate administration will not soon forget the extent of his numerous services, equalled only by the wisdom he has always demonstrated.

• (1345)

Personally, I hold Mr. Gourgue in the highest esteem and I am saddened by his departure. I am consoled by the knowledge that he has set an excellent example for those who will succeed him and who will, I am convinced, carry on the values that he cherished and that have served us so well.

On behalf of all honourable senators, I would like to wish him a happy, fulfilling retirement. May the well-deserved recognition he is receiving here today always remind him of our sincere gratitude and unfailing friendship. I would also like to join his family and friends in wishing him happiness and contentment in all his future endeavours. For, without a doubt, we know that he still has many projects in mind and many years ahead to achieve them all.

Thank you, Serge.

[Senator Furey]

[*English*]

AIR FORCE APPRECIATION DAY

Hon. Joseph A. Day: Honourable senators will have noticed a number of air force personnel on Parliament Hill today, helping to commemorate Air Force Appreciation Day. Honourable senators will also know that the air force is the junior force within the Canadian Armed Forces, but that has not prevented it from developing a wonderful history. Air crews served as part of the British Army, Royal Flying Corps and the Royal Navy Air Service during the First World War.

Following the First World War, the Canadian Air Force was established and in 1924 the prefix "Royal" was added to help create the Royal Canadian Air Force.

During the Second World War, the air force grew exponentially to become the fourth largest air power in the Allied Forces, having at its peak over 200,000 personnel. In Canada, a vast training organization was established to train air crews, such that by 1943 Canada was training 3,000 air crew per month. Over a period of three years, over 82,000 air crew were trained in Canada under the British Commonwealth Air Training Plan.

Today, the Canadian Air Force is an important and integral part of the Canadian Armed Forces, providing many different services, including fighter aircraft as part of NORAD activity; search and rescue operations; aid to government departments, particularly in the North and on the East and West Coasts; support to fisheries, immigration and the Royal Canadian Mounted Police; and gathering information.

For the future of the air force, honourable senators, all of those activities will continue, including the transporting of Armed Forces personnel and the resupplying of Armed Forces personnel on operations throughout the world.

With respect to the future of the Canadian Air Force, there is an increasing use of unmanned aerial vehicles to gather information over large geographic areas, and the air force's participation in the space program, with astronauts such as Canadian Air Force Colonel Chris Hadfield.

Honourable senators, there is a reception this afternoon, from five until seven o'clock in room 236-S, to which I invite all of you. Air force and air space personnel and retired personnel will be in attendance. They would very much like to see you drop by for a short while.

THE LATE MURIEL MCQUEEN FERGUSSON

Hon. Marilyn Trenholme Counsell: Honourable senators, during our Easter break I paused to remember a woman who distinguished my province of New Brunswick perhaps more than any other. The Honourable Muriel McQueen Fergusson, PC, OC, QC, died on April 11, 1997. A decade later, she is spoken about with profound reverence, with deep respect, with enduring gratitude and with boundless love.

This winsome, tiny lady was a monumental figure in New Brunswick, in Canada, and, yes, right here in the Senate. It gives me a very special feeling every time I stop to look into her

face, on the magnificent portrait hanging beside our chamber. She speaks to me even today, just as she did more than a decade ago whenever I had the privilege and the joy of being with her.

• (1350)

In her gracious, utterly simple way, she inspired me and countless others to hold fast to our ideals, our principles and our vision. She led by example through her energetic and tireless pursuit of a nobler, more humane society.

The years did not seem to matter. It was the fight against family violence that kept her spirit so young to the end and for which she is immortalized through the Muriel McQueen Fergusson Foundation and the Muriel McQueen Fergusson Centre for Family Violence at the University of New Brunswick.

It is with the utmost humility that I have offered this tribute to the first woman to have been Speaker of the Senate of Canada, and it is with the deepest admiration that I will continue to tell her story to others, especially to young women. The Honourable Muriel McQueen Fergusson continues to be a blessing and a guiding light for all who seek to leave a positive footprint in the sand when we have crossed the bar.

FUNDING FOR TREATMENT OF AUTISM

Hon. Jim Munson: Honourable senators, as you know, last month the Standing Senate Committee on Social Affairs, Science and Technology released its final report — *Pay Now or Pay Later* — on my inquiry on the funding for the treatment of autism.

While I am proud of that report and pleased that the Senate has brought the issue of autism to the attention of the government and to the people of this country, this is just the beginning. The next step is for the government to take the recommendations, put some policies in place and ensure that the Canadian families who are coping with this crisis are not alone.

A report is nothing if it is not backed by action. Autism affects 50,000 children and 150,000 adults in Canada, and those numbers are growing. This report draws our attention to a pressing and urgent issue — but it does not deliver treatment. It does not provide a break for families who are faced with the full-time care of a high-needs child. It does not pay the bills that are neglected because of the high cost of private autism therapy. It cannot mend the marriages that break up due to the stress autism causes in a family. The incidence of autism is a crisis that requires a national strategy.

We talk about waiting lists for surgery, cataract surgery and knee and hip replacements — and of course, we need to shorten these waiting lists. However, we have another waiting list. Children with autism across Canada are on waiting lists to get treatment. Some will never get treatment because they will not be eligible after a certain age. Some will be eligible for treatment but no therapists will be available. Others still will regress into silence and isolation after their treatment, judged no longer necessary, is withdrawn.

We recognize as a nation the need to tackle health issues together. Cancer, strokes, heart attacks, obesity; all of these health issues affect Canadians across the country and we all consider them worthy of national action and attention. My hope is that the Senate report will take us one step closer to putting autism on the list of urgent health issues that require our immediate attention.

THE LATE JUNE CALLWOOD, O.C., O.ONT.

Hon. Jerahmiel S. Grafstein: Honourable senators, I rise in a belated tribute to the passing of an extraordinary Canadian and a good friend — June Callwood. June was a beautiful woman inside and out. June Callwood; what a lovely name, fresh as spring and as inviting as our trees and forests.

June was more than an acquaintance. She became a friend and advocate for any good cause that warranted public attention, especially for the underdog. June was quiet, graceful, elegant and witty; her gentle demeanour hid an inner will of steel and a heart of great passion and compassion for people and unpopular causes.

People rightly called her "the conscience of Canada," but June was more. She was a woman of many talents, a Renaissance person, a writer, a commentator, an author, a licensed pilot, an avid swimmer and sportswoman, and always an articulate spokesperson for the neglected underside of our society.

June was the first advocate — I believe the very first advocate — for those suffering from AIDS, at a time when it was not popular in our country. She was always the first to take on unpopular causes and transform public opinion.

• (1355)

June had no enemies. No one ever said an unkind word about her. She was blessed with legions of friends and admirers.

June, your race is run, your battles done, your victories won; now come to rest.

Our hearts go out to Trent Frayne and June's wonderful and talented family and friends. Regrettably, honourable senators, I doubt that we will see the likes of a June Callwood again in our time.

To you, June, *pax vobiscum*, Godspeed.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw your attention to the presence in the gallery of the Honourable David Hawker, Speaker of the House of Representatives of Australia, and a delegation of distinguished members of the Senate and House of Representatives of Australia. The Speaker and the delegation are accompanied by His Excellency William Fisher, the High Commissioner of Australia to Canada.

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

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

CRIMINAL CODE

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Jerahmiel S. Grafstein, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday April 19, 2007

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

FIFTEENTH REPORT

Your Committee, to which was referred Bill C-26, An Act to amend the Criminal Code (criminal interest rate), has, in obedience to the Order of Reference of Wednesday, February 28, 2007, examined the said Bill and now reports the same without amendment. Your Committee appends to this report certain observations relating to the Bill.

Respectfully submitted,

JERAHMIEL S. GRAFSTEIN
Chair

OBSERVATIONS
TO THE FIFTEENTH REPORT
OF THE STANDING SENATE COMMITTEE
ON BANKING, TRADE AND COMMERCE
(BILL C-26)

The Standing Senate Committee on Banking, Trade and Commerce has the honour to report Bill C-26, An Act to amend the Criminal Code (criminal interest rate), without amendment, but with the following observations.

The Committee has decided to report Bill C-26 without amendment, even though we have reservations about the Bill as drafted, because of the following factors.

First, the Committee unanimously supports measures designed to facilitate the protection of consumers in respect of payday loan services and does not wish to delay access to legislated protection for these borrowers, some of whom we believe to be vulnerable. We have some familiarity with the section of the *Criminal Code* that would be amended by the Bill as well as with issues related to payday lending. In particular, in 2005, we examined a bill proposed by our former colleague, Senator Plamondon, which also sought to amend section 347 of the *Criminal Code*, and — in the context of our study of consumer protection in the financial services sector — heard from witnesses on the subject of alternative financial service providers, particularly payday lenders.

We continue to be somewhat puzzled by the reasons underlying the rapid growth of the payday lending sector. This growth suggests that the services provided by such lenders are needed by consumers. Important considerations for us are the reasons for the emergence and growth of this sector as well as what appears to us to be a lack of involvement by chartered banks in short-term, low-value lending.

During its recent presentation to us on Bill C-37, the Canadian Bankers Association indicated that it, too, is perplexed. It also indicated that the chartered banks provide a range of credit options on a short-term basis. Nevertheless, the Committee believes that the payday lending sector's growth may be related, in part, to a relative unwillingness by Canada's chartered banks to lend to certain borrowers, who then become customers of payday lenders. Consequently, we urge Canada's chartered banks — which are federally regulated, belong to an independent complaint resolution mechanism, and are involved in some aspects of financial education — to begin making short-term, low-value loans.

Moreover, we believe that implementation of the proposed legislation could result in the federal government granting exemptions to designated provinces with insufficient assurances that provincial actions would provide the level and nature of consumer protection in this sector that this Committee seeks. As well, there is no assurance that all provinces will enact protection measures following enactment of this legislation. Finally, we are concerned that a patchwork of non-uniform protection measures could develop across the country.

Thus, we urge provinces, in adopting consumer protection measures pursuant to this Bill regarding the payday lending sector, to include minimum requirements in at least the following areas: limitations on rollovers and back-to-back loans; mandatory participation by payday lenders in an independent complaint resolution mechanism; mechanisms ensuring full and accurate disclosure of contract terms; acceptable debt collection practices; and a right for the borrower to rescind the loan and obtain full reimbursement no later than the end of the day following the making of the loan. Efforts made by payday lenders in the area of consumer financial education would also be welcome.

Consistent with the Committee's mandate, we will continue to monitor developments in the payday lending sector, and hope that the enactment of Bill C-26 will allow effective protection to consumers. In our view, if the provinces fail to meet minimum standards in the areas indicated above, the federal government should take appropriate legislative action.

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

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

CANADA PENSION PLAN
OLD AGE SECURITY ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Jerahmiel S. Grafstein, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday April 19, 2007

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

SIXTEENTH REPORT

Your Committee, to which was referred Bill C-36, An Act to amend the Canada Pension Plan and the Old Age Security Act, has, in obedience to the Order of Reference of Tuesday, April 17, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JERAHMIEL S. GRAFSTEIN
Chair

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

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

[*Translation*]

ADJOURNMENT

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

That when the Senate adjourns today, it do stand adjourned until Tuesday, April 24, 2007, at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

• (1400)

QUESTION PERIOD

PUBLIC WORKS AND GOVERNMENT SERVICES

REVIEW OF GOVERNMENT POLLING— APPOINTMENT OF DANIEL PAILLÉ

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, my question is for the Minister of Public Works and Government Services, Senator Fortier. Although he showed a great deal of strong emotions yesterday, he did not answer any questions.

I will therefore ask the same question again today. Why is it that, when the Auditor General said:

[*English*]

> . . . we found that the government managed its public opinion research activities adequately.

[*Translation*]

— the minister saw fit to ask for and to provide Mr. Paillé with a budget from public funds, which he stated may total up to $1 million? He also gave Mr. Paillé access to all documents, including those on the federal strategy for the referendum debate. Is the minister not making all federalists vulnerable to the separatist threat?

Hon. Michael Fortier (Minister of Public Works and Government Services): Honourable senators, I thank Senator Tardif for her question. I would like to remind her that the 2003 Auditor General's report indicated that there were concerns arising from a small sample of polling contracts.

It was a promise our party made during the 2005-06 election. There was nothing secret about it; it was all transparent. If we formed the government, we were going to ask someone to examine a much larger sample. We shared the concerns expressed by the Auditor General.

As for the possibility of Mr. Paillé discovering information that could harm federalism, I will not speculate for the time being. His mandate is limited to the contracts given by governments for polling. Thus, I am inclined to believe that the honourable senator's fears are probably unfounded.

Senator Tardif: I am speaking, Mr. Minister, of the choice of an individual. Will the minister explain to an Albertan such as myself why he chose someone who not only voted in favour of the referendum but also initiated it and who, when a minister in Jacques Parizeau's cabinet, contributed to the ambiguous question of 1995 designed to trick Quebecers into breaking up our wonderful country?

• (1405)

Senator Fortier: Honourable senators, I was explaining this to Senator Dawson yesterday. I am talking to an Albertan, but I know she is well aware of what goes on in Quebec and I am quite pleased about that. The result of the 1995 referendum was especially close and Quebec society has changed. I invite her to consider the results of the provincial election on March 26. I do not want to spend too much time analyzing them, but I think the scene is changing in Quebec.

Yesterday I mentioned that one of my sisters voted yes in the referendum. There are men and women who have moved on to other things. Mr. Paillé came to Ottawa to the Parliament of Canada; he showed up and accepted a mandate. Instead of being afraid of being afraid, I suggest that Senator Tardif wait for his report and, after it is tabled — again, I want to stress that it will be public — I invite her to read it and if she still has apprehensions, we could discuss them then.

[*English*]

Hon. Tommy Banks: My question is to the honourable minister. I did not ask a supplementary question yesterday, because I thought I might have been distracted. However, having checked, Hansard, I see that I was not distracted.

Yesterday, Senator Mitchell put the following question to Senator Fortier — and I quote:

> . . . could the minister confirm today that he has no personal relationship, no business relationship or no other form of conflict of interest . . .

— in respect of Mr. Paillé.

The minister did not answer that question directly, one way or the other. Could the minister answer that part of the question?

Senator Fortier: Is the honourable senator asking me whether I knew Mr. Paillé personally? If that is his question, my answer is that I knew of him. I had met Mr. Paillé previously. There are no conflicts of interest. Mr. Paillé is hired by the Government of Canada for a particular mandate.

I forget the third part of the question.

Senator Banks: The minister has answered all parts, except whether he has a business relationship with Mr. Paillé.

Senator Fortier: I do not, senator.

[*Translation*]

Hon. Dennis Dawson: Honourable senators, I did not have a chance to check with the minister's sisters, but in 1995, one of them was a Liberal member of the National Assembly and certainly should have been on the no side. She must have been surprised when the minister took part in the strategy to divide our country. I do not doubt the minister's allegiance to Canada, nor that of his family, and I think that strategically voting yes in a referendum does not make you an evil separatist. We agree that there is a distinction between someone who actively works on promoting a referendum to divide Canada and someone who, in good faith, thinks this would put pressure on the government.

That being said, I want to come back to Mr. Paillé. He was described as an extraordinary man, but are we talking about the same Mr. Paillé who proposed a business start-up assistance program that resulted in Investissement Québec filing losses of 66 per cent of the guaranteed financing, when the original percentage was supposed to be only 35 per cent? Is this the same Daniel Paillé who proposed a business start-up assistance program that was criticized by Quebec's auditor general, Guy Breton? Some 2,544 projects failed in 28 months, which was a failure rate of 75 per cent. Is that the same Daniel Paillé?

Senator Fortier: The Daniel Paillé selected by the Government of Canada is an emeritus professor of ethics at the Montreal HEC. He is a leader in this field in Quebec and elsewhere. He is highly respected in Quebec society. That is the Daniel Paillé who will be conducting the analysis.

Senator Dawson: Have I understood correctly that this is the same Daniel Paillé who proposed the creation of 54,000 new jobs as part of the investment program, even though Quebec's auditor general estimated that only 1,900 jobs were created? I can understand that he might be a good professor, but a minister is allowed to have some doubts.

Is this really the same Daniel Paillé who proposed a business start-up investment program whose selection criteria were so flimsy that 125 fraudulent business plans were financed, robbing Quebec taxpayers of $6 million? Are we talking about the same Mr. Paillé?

Senator Fortier: Honourable senators, if the senator wants to accuse Mr. Paillé of having participated in a robbery — that is the word he used, and this is turning into a habit, a virus on his side — then I would urge him to have the courage of his convictions. People are very outspoken here in this chamber, but they tone things down when they leave this place. I could go on, but I would rather not.

I can tell you that Mr. Paillé was selected because he has an outstanding academic and professional background that matches up very well with the task we have given him.

Senator Dawson: I was quoting the January 20, 1996, edition of *Le Soleil*. That is the Quebec City paper. Perhaps the minister has forgotten part of his past in that region, which sends a lot of people to Montreal. Mr. Paillé might have made an excellent chair of the Old Port of Montreal Corporation. The minister could have chosen him instead of Bernard Roy from his old office, who was also the Leader of the Government in the Senate's former boss.

It just so happens that Mr. Roy has become the chairperson of the Old Port of Montreal Corporation. Is he not from the same legal firm, Ogilvie Renault, that people said was connected with CGI?

Senator Fortier: I am very surprised at Senator Dawson's ability to smear several people at once. He is like a machine gun out of control. I am not sure that his colleague Senator Francis Fox, whom I was watching while Senator Dawson talked about Mr. Roy, is very proud of him. He should not be very proud of himself.

Mr. Roy has agreed to chair a board of directors and is going to devote time to this extremely important corporation in Montreal. Senator Fox can tell you about it. If you have a couple of minutes, I am sure he will tell you about it outside this chamber.

Senator Dawson: Honourable senators, can the minister explain the selection process to us?

Senator Fortier: Honourable senators, Mr. Roy was appointed by the minister responsible for the Old Port Corporation, Mr. Cannon. The cabinet unanimously approved his appointment, and we were very proud to be able to count on a man like Mr. Roy.

[*English*]

AWARDING OF CONTRACT TO CGI GROUP INC.—POSSIBLE CONFLICT OF INTEREST

Hon. James S. Cowan: Honourable senators, my question today is for the hyper-sensitive and surprisingly thin-skinned Minister of Public Works and Government Services. The minister's disdain for this institution is well known, as is his desire to leave it as soon as he possibly can.

Yesterday, I gave the minister an opportunity to clear up, once and for all, the public controversy concerning a possible conflict of interest with respect to the awarding of a $400 million contract

to CGI. Instead of seizing that opportunity, the minister resorted to cheap personal attacks on the reputations of members of this chamber.

Although the minister makes only brief cameo appearances in the Senate during Question Period and never participates in our debates or committee work, does he appreciate that this is intended to be a chamber of sober second thought and, if so, would he today address the substantive issues I raised yesterday?

Hon. Michael Fortier (Minister of Public Works and Government Services): I would ask the honourable senator to raise those issues again because, frankly, I think they were addressed yesterday.

Senator Cowan: I will be pleased to do that.

On Monday, the minister's parliamentary secretary said in the other place that the contract had not been awarded, and I understand that yesterday he said that it had. Can the minister clarify that for me?

Senator Fortier: When the department is in a position to announce that a contract is awarded, whether it is this contract or any one of the thousands of contracts that it monitors, it will make an announcement.

Senator Cowan: What was the intention of the conflicting comments made by the minister's parliamentary secretary in the other place on two different days this week?

Senator Fortier: I cannot answer for my parliamentary secretary. The honourable senator suggested in his introduction that I only make cameo appearances. I am here, so ask me questions and I will reply. My reply is the same as a moment ago: When the department has something to announce in terms of a contract award, the department will let the public know.

Senator Cowan: If the contract has not been awarded, will the minister assure this house that the ethics rules contained in the Federal Accountability Act will be complied with and that the contract will not be awarded until the Public Service Integrity Officer has had a full opportunity to determine whether or not there is, in the words of the accountability act, "a real, apparent or potential conflict of interest?"

• (1415)

Senator Fortier: As I indicated yesterday, this contract, like the thousands of others that transit through Public Works and Government Services Canada, is managed by civil servants. As the honourable senator should know, the minister is not involved and should not be involved, directly or indirectly, in the selection or awarding of any such contracts.

In response to the senator's question, the rules and regulations have been followed, and there is nothing else to add.

[*Translation*]

PUBLIC SAFETY

FIREARMS CENTRE—HANDGUN REGULATIONS

Hon. Francis Fox: Honourable senators, my question is for the Leader of the Government in the Senate. I would like to go back to a question I asked yesterday about gun registration.

In her answer yesterday, the Leader of the Government in the Senate distinguished between handguns and long guns, arguing that that was why the government would continue the amnesty for people who do not register long guns, despite the legislation in the statutes of this country.

I would like to ask the Leader of the Government in the Senate whether she is aware that the people in the field do not accept this distinction as a rationale for such an amnesty.

Yesterday in Montreal, for instance, at a ceremony to pay tribute to the police officers and constables who participated in the rescue operations following the tragic events at Dawson College, one of the officers being honoured, Lieutenant Martin Day, took the opportunity to give his opinion. I will read the quote as it appeared in the *Montreal Gazette*:

> The control of firearms, in general, should not be weakened but tightened up.

Lieutenant Francoeur, President of the Montreal Police Brotherhood, went even further:

> In Montreal and in Quebec, there is a very strong consensus on the subject of maintaining the firearms registry.

He went on, specifically, about the distinction made yesterday by the Leader of the Government in the Senate, when he added:

> If the government takes long guns out of the gun registry, crooks will simply turn to modified hunting rifles to commit their crimes.

If the government is not moved by the statements made by the Attorney General of Ontario or the Premier of Quebec — who, during the swearing-in of Jacques Dupuis as the new Minister of Public Safety, asked him to draft a new bill to increase control of semi-automatic firearms — perhaps the government would be more inclined to listen to the people who work in the field day after day and who are responsible for maintaining order and safety in our streets?

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Of course, the government takes into account the opinions of people who have strong views on this subject. The honourable senator talks about the Attorney General of Ontario. It was only a few short weeks ago that he was highly critical of the Liberal opposition for their inaction in supporting the government on tough laws against guns and on tough crime laws.

With regard to the amnesty, the government is committed to ensuring that firearms owners comply with the laws of Canada. Effective gun control involves encouraging compliance among firearms owners and encouraging former licence holders to come back into compliance with the existing licensing and registration requirements. That is why we are seeking comments on a proposal to extend the firearms amnesty for one year.

As I said yesterday, there is a lot of misinformation — and it is deliberate in confusing the public with the horrific issues of crimes committed by handguns, both automatics and semi-automatics. This young, deranged man was able to buy not one, but

two handguns in the United States; that just would not have happened in Canada. In this country, purchasing a gun involves background checks and a time delay between the initial application of a permit and the issuance of that permit. If guns are smuggled into Canada and find their way into the hands of such people illegally, that is a different story. The government is making a concerted effort to put a stop to such activities by making our borders more secure against the importation of illegal firearms and by strengthening the penalties applied to those who use firearms in the committing of a criminal offence.

• (1420)

Nothing has changed. Yesterday, people needed to register if they wanted to acquire a firearm. Today, if they want to acquire a firearm, they need to register. Tomorrow and into the future, anybody wanting to acquire any type of firearm needs a licence. That requirement is not changing.

As I mentioned yesterday, we have allocated, in the budget of 2007, $14 million over two years to improve front-end screening of first-time firearm licence applicants. This screening will help prevent firearms from falling into the wrong hands.

[*Translation*]

Senator Fox: Honourable senators, I can relate to many elements of the minister's response, but one thing must remain very clear. There is no point in talking about the Americans. We are talking about the situation in Canada. The quotations I referred to are quotations from people who work to maintain peace and order in the streets of Canada's largest cities. They understand the difference between handguns and long guns. Nevertheless, they are calling for tighter restrictions. No one in that group supports the government's position to have an amnesty on the failure to register long guns.

Given this strength of public opinion in Canada — the opinion of columnists and those who maintain order and peace in the streets of our big cities day after day — would the government not be prepared to reconsider its position? If it is prepared to disregard all these opinions, why would this government, the product of a long Conservative Party tradition of respect for our democratic institutions — and I go back to Mr. Diefenbaker — instead of taking advantage of a loophole in the Firearms Act to allow an amnesty, not propose an amendment to deal with this loophole and ask the opinion of members of Parliament to resolve the issue democratically instead of resolving it in an unusual way, at its own discretion, and against the opinion of most people, including the police officers who face this sort of thing day after day?

I would like to mention one last statement that was heard yesterday in Montreal, where another group was honoured. Members of the RCMP took part in operations to dismantle a group called the West End Gang in Montreal. At the ceremony, Inspector Sylvain Joyal, the officer in charge, said, and again, I quote Ms. Thompson:

[*English*]

> The officer in charge of the RCMP's Montreal drug section, which spearheaded the project, echoed calls for the government not to weaken the gun registry, saying his officers used it several times during their investigation, particularly when planning raids.

[*Translation*]

Instead of using the power of the act to make an exemption, why does the government not trust in the wisdom of the parliamentarians elected by the Canadian people and ask the parliamentarians their opinion on the exemption?

[*English*]

Senator LeBreton: People who acquire firearms in this country must obtain a licence; and when they have a licence, it is registered somewhere. This is the situation we face.

The honourable senator's party, when in government, spent time — and money — I might add, to the tune of over $1 billion — on the long gun registry, which basically targeted farmers and hunters and neglected the licensing system. It is this licensing system that the government is trying to strengthen now. The government and Minister Day are now putting money into the registry to strengthen the system of licensing and acquisition of firearms at the front end. Instead of trying to register long guns that are in the possession of law-abiding hunters and farmers who use shotguns to kill mink and vermin that threaten their livestock, we are concentrating on implementing the strict gun control laws that were brought in by the previous Conservative government.

• (1425)

Everyone understands that, when dealing with people who are so clearly ill as the perpetrator in the horrible situation in Montreal last year, no law, no matter how stringent, can ever totally protect society against those who wish to do us harm.

The government is putting its efforts into our tough law-and-order legislation and into dealing with these issues at the front end by ensuring proper screening so that firearms do not fall into the hands of dangerous criminals or people who are not competent to own a firearm.

These measures in no way alleviate the concern of the government, or any of us, when we hear of terrible incidents, but we are working hard to prevent these incidents from happening.

HEALTH

TASK FORCE ON TRANS FAT— GOVERNMENT RESPONSE

Hon. Mira Spivak: Honourable senators, to change the subject slightly, my question concerns trans fats. The Task Force on Trans Fat delivered its final report to the Minister of Health last June. The task force was formed in early 2005 after an opposition motion in the House of Commons passed some two and a half years ago. The task force points out that by the mid-1990s, researchers estimated that Canadians had one of the highest intakes of trans fats in the world, especially children. The task force strongly recommended that the government regulate the trans fat content in food to reduce the threat of coronary heart disease.

The task force called for draft regulations by this June and final regulations by June 2008. To date, however, there has been no response and, according to news reports, there is not even an estimated date of response.

Senator Segal: Feed everybody intravenously — no food ever again. We will all live forever and be boring.

Senator Spivak: In spite of my honourable colleagues' boisterous interjection, scientists say that trans fat is not something to joke about. Why is the government not responding to the task force recommendations?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank Senator Spivak for that question. I can imagine the cartoons that could be elicited by Senator Segal's comments.

Trans fats is a serious issue. The task force reported to the Minister of Health last June. The minister has been working not only at the federal level but also with provincial ministers of health. Approximately two months ago, he released an extensive new Canada's Food Guide, which was extremely successful. The web page had an incredible number of hits to obtain information.

In an effort to deal with obesity and the effects on our health of substances such as trans fats, the Minister of Health and others in the government are working on programs to increase the level of physical activity of our young people.

• (1430)

I believe it was incorrectly reported in the media that the Minister of Health is not taking action, when in fact he is taking action.

PUBLIC WORKS AND GOVERNMENT SERVICES

AWARDING OF CONTRACT TO CGI GROUP INC.—POSSIBLE CONFLICT OF INTEREST

Hon. Terry M. Mercer: Honourable senators, this question is to the Minister of Public Works and Government Services. I want to go back to Senator Cowan's question. I am a little confused.

The Minister of Public Works and Government Services has confused everyone because he said that the awarding of this contract to CGI Group Inc. is the responsibility of the bureaucrats within the Department of Public Works and Government Services. He says that he is not responsible for his parliamentary secretary in the other place.

I am under the understanding that Senator Fortier is the Minister of Public Works and Government Services. Is he the minister and is he responsible for the Department of Public Works and Government Services and for the contracts signed there? Does he meet with his parliamentary secretary on a regular basis to discuss how questions will be answered in both Houses? Is he responsible for anything, or is this all smoke and mirrors?

This government hangs its hat on accountability and we see none. He is not even willing to accept responsibility for the department of which he is supposed to be the minister.

Hon. Michael Fortier (Minister of Public Works and Government Services): I do not know if there was a question there.

Senator LeBreton: There were several.

Senator Fortier: I will tell the honourable senator, as I told his colleague, that things are operating in the manner they should. We have an open and transparent system. The MERX system has been around for a while. Honourable senators on the other side may make fun of the MERX system, but it is their government that introduced MERX several years ago. It is basically an eBay of procurement, which most suppliers like. The RFPs are there, so people know what is on offer.

Civil servants run, as they should, requests for proposals. That is the way it works. I am shocked that the honourable senator is shocked, unless in his days people were actually in the weeds working on the contracts. That is another issue, part of which was dealt with by Justice Gomery.

With respect to my parliamentary secretary, if the honourable senator wants to speak with him, I suggest he does as I will be doing whenever the election is called. I will be resigning from this place and running for a seat in the other place. If the honourable senator is elected as I will be, he will be able to speak to James Moore any time.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to present an answer to the oral question raised by Senator Chaput on March 22, 2007, concerning minority official language communities.

BUDGET 2007

FUNDING FOR OFFICIAL LANGUAGES ACTION PLAN

(*Response to question raised by Hon. Maria Chaput on March 22, 2007*)

Infrastructure Canada manages a program called the Municipal Rural Infrastructure Program which helps support smaller scale municipal infrastructure such as water and wastewater treatment, or cultural and recreation projects, for smaller and First Nations communities.

Minority official language communities benefit from federal funding provided by the Official Languages Support Programs Branch for education, services and community development. Within this funding, the Government works directly in collaboration with the provinces and territories to ensure that school-community centres continue their important work within the communities. We will continue to support the construction of new centres or development of new community spaces within existing centres in order to maximize the impact on community development.

The Government announced additional support of $30 million over two years in Budget 2007, of which a part will go to school-community centres.

State of Cultural Initiatives Program

The Cultural Initiatives Program was established in 1985, with three components: Assistance to Festivals and Special Arts Events, Capital Assistance and Strategic Development

Assistance. This program ceased activities in 2001-02. It was then replaced by three separate programs: Arts Presentation Canada (to support arts presenters, such as festivals, and the organizations that support them), Cultural Spaces Canada (to support the improvement, renovation and construction of arts and heritage facilities, and the acquisition of specialized equipment) and the Canadian Arts and Heritage Sustainability Program (to strengthen organizational effectiveness and build capacity of arts and heritage organizations).

• (1435)

[*English*]

ORDERS OF THE DAY

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 Di Nino*)

Hon. Consiglio Di Nino: Honourable senators, let me applaud Senator Grafstein for his initiative and other colleagues who have participated in this debate.

The Oxford English dictionary defines philanthropy as — and I quote:

> Love of mankind; the disposition or active effort to promote the happiness and well-being of others; practical benevolence, now especially as expressed by the generous donation of money to good causes.

This is fairly reflected in the preamble of Bill S-204.

I share with the other speakers the recognition of the enormous value and contribution of philanthropists. They are outstanding citizens, both personal and corporate, of our country. As a matter of fact, I believe that life in Canada would be much less secure, much less comfortable and certainly much less fulfilling without them. Their contributions have helped elevate Canada's standing in the world rankings of the best places to live. Their generosity has enhanced our citizens' well-being in health care, education, the environment, recreation, the survival of endangered species and all other areas of human endeavour.

Philanthropy has not been restricted to only national and local causes. Its benefits have been felt in every corner of the globe. The Canadian spirit of giving back, of sharing and caring, is impressive.

Senator Mercer, in his speech on this bill, listed many colleagues who are active in the not-for-profit charitable sector. I agree that all colleagues make a huge contribution in this area, both as champions for many causes and as philanthropists.

Canadians are very generous, although we have a way to go before we come close to the Americans. It is a goal we should strive to reach. I understand that during the last decade, charitable giving in Canada has doubled, so watch out neighbours to the south!

I believe the benefits of sharing, caring and giving are also being globally recognized more and more. In part, I believe this because of the exemplary leadership of people like Bill and Melinda Gates, Warren Buffet, Oprah Winfrey — my favourite, by the way — and Bono, among so many others. The trickle-down effect must be very satisfying and fulfilling for these wonderful role models.

We also have many generous individuals working out of the public limelight without whom the spectacular successes we have witnessed would not have been achieved — and here I include those who set up charitable foundations for this purpose.

I happily join with my colleagues in extending our gratitude and admiration to each and every donor, contributor and volunteer. They make all our lives better. I also agree that recognizing their generosity is important. However, frankly, is the declaration of a national philanthropic day the best way to achieve this? I am not sure.

Charities and not-for-profit organizations such as clubs, schools, hospitals and other recipient organizations hold a variety of events where appropriate recognition is bestowed on their donors. Often the names and/or pictures of donors and contributors appear in a variety of publications.

At times, legislatures and other entities also hold special-recognition ceremonies for those whose contributions are of note, the highest being the Order of Canada. Friends, families and community members are made aware of those who respond to community needs.

Let me digress for a moment. Today, I attended a wonderful ceremony in Ottawa, the awarding of the 2007 Thérèse Casgrain Volunteer Award, where two incredibly great Canadians were recognized.

• (1440)

Mr. Daniel Highway from Winnipeg and Ms. Donna Jeffrey from St. John's were recognized for their outstanding and incredible contribution to society and to these causes.

What is the role of government in all of this? Let me talk a bit about what we do.

On behalf of all Canadians, governments provide financial incentives for those who contribute to qualified organizations. For example, changes allowing donations of publicly listed stocks to charities without tax consequences to the donors have been widely, if not universally, applauded and have resulted in significant increases in donations.

Governments also frequently match donations from private sources. They also audit the affairs of charitable and not-for-profit organizations to ensure that they follow the rules set down for them.

I understand the principle of declaring a national philanthropy day. Colleagues have articulated a variety of reasons. It is difficult to argue against this idea, but frankly, I do not see where it will result in major changes to Canadians' willingness to contribute more, or to encourage more Canadians to give, which is the goal I believe we should strive for.

My concern with the declaration of a national philanthropy day is that after an initial short period of time its impact will be neutralized. Surely there are better ways to achieve the stated objectives that would have a more lasting effect on the philanthropic habits of Canadians.

Some examples may include further improving tax incentives for donors. Should small donors receive the same tax benefits as those afforded to political contributors? Should we, through our tax system, better recognize the enormous value of volunteers? Should the Senate of Canada create its own system for recognizing exceptional philanthropists?

These ideas are but a few that are floating around that may result in more philanthropists and more contributions.

Honourable senators, I invite all of you during these debates to look at these and other ways to encourage and recognize the outstanding contributions of Canadians and to achieve the objectives that Bill S-204 is attempting to achieve.

Hon. Terry M. Mercer: Will the honourable senator take a question?

Senator Di Nino: Absolutely.

Senator Mercer: Is Senator Di Nino aware of the fact that currently 14 different national philanthropy day celebrations take place from St. John's to Victoria on November 15 every year, including a large one in the honourable senator's own city of Toronto?

Senator Di Nino: With some apology, I have to say, that probably makes my point. No, I was not aware that a philanthropy day was in effect, whatever day that may be. I, as one who is involved in this area — I have been called a professional beggar many times by many people, so much so that some of my friends will not return my calls any more — was not aware that those celebrations existed.

Senator Mercer: The point of the bill is that these celebrations are going on. For example, in the city of Calgary last year, over 500 people were at a luncheon from all different charities and groups: churches, schools, social organizations, universities and hospitals.

Does the senator not see how this day would help enhance the celebration of philanthropy and of everyone's participation: volunteers, philanthropists, the donors and also the people who work in the industry? Does he not see the benefit of a national philanthropy day to highlight that participation so we can all celebrate together?

Senator Di Nino: Honourable senators, as I said in my speech, over a short period of time it would have some benefit, but over the long term I would like to see us find ways to achieve the objectives of Bill S-204 in a more permanent way and in a manner that would achieve the objectives of encouraging more contributions by more philanthropists. I do not suggest there is no value to it. I question whether the value is that great, whether we should do that as opposed to some of the other things I have suggested.

On motion of Senator Comeau, debate adjourned.

MEDICAL DEVICES REGISTRY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harb, seconded by the Honourable Senator Keon, for the second reading of Bill S-221, to establish and maintain a national registry of medical devices. —(*Honourable Senator Keon*)

Hon. Wilbert J. Keon: Honourable senators, I am pleased to rise today to speak to Bill S-221, introduced by our colleague Senator Harb.

As you are aware, the goal of this bill is to establish and maintain a national registry of medical devices. This registry would contain the names and addresses of people who use implantable or prescribed home-use medical devices. The information would be put forth voluntarily by the users of the devices.

This bill would also require manufacturers and distributors of these medical devices to notify the registrar if a medical device could pose a risk to the health or safety of someone using them, presumably someone on the list. Under the terms of this bill, the registrar would then be required to notify registered users.

This bill seems to be a simple way to protect any of us who might have, or use, some sort of medical device. All they do is put their name on a list and they will be contacted should something be found wrong.

However, when we dig a little deeper, some serious concerns arise. This bill calls for a broad-based voluntary registration system. This system will require careful thought and discussion at committee.

I have been familiar with the existing system for some time. We currently have regulations in place that cover certain medical devices and contain specific protocols for patients and physicians to follow. These regulations include mandatory problem reporting and require all high-risk implantable devices to be registered.

They also support a system that enables the risks regarding a device to be communicated to all hospitals and physicians in Canada as well as to the general public, where it is appropriate.

We must examine carefully how voluntary registration would improve our existing system of mandatory registration for high-risk implantable devices.

On November 7, 2006, Senator Harb told the chamber:

> For medical devices other than implants, the manufacturer, the importer and the distributor must keep a distribution registry containing information to authorize a complete and rapid removal of a medical device from the market. Unfortunately, it has been proven that this system is not without flaws.

He is correct.

He then went on to describe the sad example of a woman in 1985 who received a Vitek jaw implement. She later developed serious problems and now suffers intense pain, among other difficult complications. Senator Harb said that her surgeon,

> . . . who, under the Medical Devices Regulations was required to notify her about the defective implant when the recall came out in 1990, failed to follow up on the safety alert. He is reported to have said that he did not contact her because, he said, he "didn't think it was urgent." In fact, she learned about the recall in a routine check-up at the dentist.

• (1450)

This unfortunate example of a surgeon who failed to comply with the regulations does not criticize in any way the regulations themselves. While I do not know the particulars in this case, the fault appears to have been with the individual surgeon and not with the system.

Honourable senators, I hear also that there could be a potentially substantial price tag associated with this bill, hitting a health care system that is already feeling a financial crunch. Remember, honourable senators, that Bill S-221 proposes a whole new national registry that covers every medical device. We must consider carefully the logistics of such an undertaking.

As Senator Harb pointed out, a device within the meaning of the Food and Drugs Act is, as stated in section 2:

> . . . any article, instrument, apparatus or contrivance, including any component, part or accessory thereof, manufactured, sold or represented for use in
>
> (a) the diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal physical state, or its symptoms, in human beings or animals,
>
> (b) restoring, correcting or modifying a body function or the body structure of human beings or animals,
>
> (c) a diagnosis of pregnancy in human beings or animals, or
>
> (d) the care of human beings or animals during pregnancy and at and after birth of the offspring, including care of the offspring,
>
> and includes a contraceptive device but does not include a drug. . . .

This definition could include the entire spectrum of medical devices, from pacemakers to dental crowns. The cost of setting up and maintaining such an exhaustive list could be enormous.

An additional danger from trying to focus on everything at the same time is that simply maintaining information regarding the overwhelming number of benign devices means that crucial data about the higher risk ones could become swamped and lost in the process.

Senator Harb quoted the Auditor General who, in 2004, stated:

> While Health Canada has made progress in important aspects of managing risks related to medical devices before they are made available for sale, it needs to better manage risk after they are available for sale.

She also said:

> . . . Health Canada does not have a comprehensive program to protect the health and safety of Canadians from risks related to medical devices, even though it committed to such a program over a decade ago. Its failure to deliver such a program compromises Health Canada's ability to protect health and safety, which could translate into a growing risk — risk of both injury and liability.

Honourable senators, we must remember that Health Canada responded positively to Ms. Fraser's criticism. The report stated:

> The Department has responded positively to our recommendations and has agreed to take corrective action. In some instances, the action is already under way.

Health Canada has already moved on this front in a positive way. It has developed a third-party registration system to ensure manufacturers meet quality standards. The department has also completed the process of assessing the regulatory requirements for conducting testing of medical devices. It also recently completed current performance targets, processes and corresponding financial resources to help it better ensure that Canadians have timely access to medical devices that have also been properly evaluated for their safety and effectiveness. The department is also in the process of developing an action plan to address gaps in the post-market issues to ensure that there is compliance with regulations; unlicensed devices are actively dealt with; and people are informed quickly when there are safety concerns. The department is assessing the medical devices program to determine the appropriate program design needed to do its job, as well as the resources required.

Honourable senators, these examples are only a few of how Health Canada is already working to ensure that medical devices are safe and that Canadians are protected. This action is being taken within the existing regulatory structure because the processes needed to regulate this bill are already in place. As I said, I dealt with this process myself, sometimes to my great frustration, when obtaining approval to proceed with implantation devices in the past, but it is a good system. What is required is careful examination of the processes and ensuring that everything is working.

Honourable senators, while I commend Senator Harb for raising our awareness about this entire subject, it requires careful study before we offer adjustments to an already good system. Hopefully, the Senate committee can find a way to deal with this complex problem.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have a question for Senator Keon. Listening to Senator Keon's presentation led me to think about the concept of a registry and our experience with the most recent registry. That registry was for a certain number of millions of guns that was originally estimated to cost $2 million and wound up costing $1 billion-plus. At that point in time, it should have registered on parliamentarians that we are probably lousy accountants and that we should be careful when we propose any kind of a registry.

Does the honourable senator know whether Senator Harb or anyone else has given any kind of a professional estimate as to what this registry might cost? In this registry there would be millions more items to be registered than in the gun registry, and yet the gun registry cost us over $1 billion. Has anyone any idea how much this registry would cost and how much it would divert from the existing health care system to register such items?

Senator Keon: I am sure Senator Harb realizes that there is no estimate at the present time what it would cost to implement the whole panacea. If this approach were taken, that is a voluntary, large registry as opposed to a mandatory, narrow registry that Health Canada judges to be the important items, it would require a great deal of study. Senator Harb understands that. It would certainly require a careful look by the committee before proceeding with this change in direction. It will not occur quickly. It will need to be looked at carefully.

Senator Comeau: Health is really a provincial field, with the federal government involved at the safety level, in collaboration with provincial jurisdictions. Would some jurisdictions not take offence to the federal government becoming involved in the registering of items under the jurisdiction of the provinces, or am I wrong?

Senator Keon: To date, registries for implantable devices have been a purely federal matter under Health Canada's Devices Canada directorate. I suspect the provinces are relieved that responsibility is where it is. I have been involved over the years in discussions about how this matter could be dealt with better. The whole problem with data banks is that we do not have a good computerized data bank for health yet in Canada. We are working towards it, and a large amount of money, $400 million, has been poured into it to try to improve things. Programming would be needed to accommodate the numbers we are talking about if we go to a voluntary registration system. I do not think the provinces would want to become involved in that.

• (1500)

Senator Comeau: This is a voluntary registry rather than a registry of high-risk devices, which would make it somewhat mandatory. If we were to pass this bill at second reading that would give it approval in principle. Would that not preclude us from having a more useful bill for a mandatory registry of high-risk devices? Might we not be missing the boat on this and not going the right way?

Senator Keon: We already have mandatory reporting of high-risk devices, and it is working well. We have not had many problems. There have been a few, such as with breast implants and so forth, but not many. The question was raised by Senator Harb of whether we should look at the alternative of a broad-based voluntary registration system. We have to be careful and open-minded and look at other options. That is the reason I seconded this bill.

On motion of Senator Comeau, debate adjourned.

DIVORCE ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Cochrane, for the second reading of Bill C-252, to amend the Divorce Act (access for spouse who is terminally ill or in critical condition).—(*Honourable Senator Trenholme Counsell*)

Hon. Marilyn Trenholme Counsell: Honourable senators, I rise today to speak on Bill C-252, to amend the Divorce Act, access for spouse who is terminally ill or in critical condition.

This bill has touched me deeply. My two children were seven and eight years old when my husband, their father, died of cancer after an illness of six years. During that painful time it was rare that I thought about myself, because I was constantly concerned about the children and their well-being, in what was without a doubt one of the most difficult situations they will ever face in life.

Yet, they were in a loving family unit, albeit one that had faced the strains of terminal illness. Sadly, the hypothetical children to whom we are referring in this bill would not have the comfort and security of the home which I believe my children had.

The brevity of this bill belies its profound significance. Bill C-252 touches upon issues that go to the very heart of life and death, of family relationships and of the nurturing of children. In studying this bill and reviewing all of the speeches and testimony to date, one is struck by the enormous responsibility placed upon society, especially the judicial system, when the family ceases to be the cradle of love for its youngest members.

Honourable senators, I have offered this preamble to my commentary on the substance of the bill because I have found myself ever more deeply involved emotionally and philosophically as I studied the material which has come to us on Bill C-252 from the House of Commons. I know that my fellow senators will experience many of these same feelings later in committee, as they undertake to give this serious subject the sober second thought that it deserves.

To say that Bill C-252 is no simple matter of legislation is perhaps reflected in the fact that the bill underwent two changes in wording before it was passed in the House of Commons. In referring to the wording from the first version I will abbreviate the

text, although if there are questions I could go back to the full wording. The bill introduced for first reading on May 4, 2006 stated:

> . . . the court shall ensure that a spouse who is terminally ill or in critical condition is granted access to a child of the marriage.

Of course, there were problems with that, as I will point out later.

The second version, which was arrived at very quickly, said:

> For the purposes of subsection (5), a former spouse's terminal illness or critical condition shall be considered a change of circumstances of the child of the marriage, and the court shall then ensure that the former spouse is granted access to the child . . .

And this was added:

> . . . as long as it is consistent with the best interests of that child.

When the bill was first introduced it did not have that clause.

The final wording of Bill C-252, as passed by the House of Commons on March 21, 2007 is:

> Section 17 of the Divorce Act is amended by adding the following after subsection (5):
>
> (5.1) For the purposes of subsection (5), a former spouse's terminal illness or critical condition shall be considered a change of circumstances of the child of the marriage —

And these are the new words:

> — and the court shall make a variation order in respect of access that is in the best interests of the child.

We can see here that there was a struggle over wording. This, therefore, is the final wording of Bill C-252, which the Senate is called upon to consider.

In my study of the proceedings, both in the debate in the House of Commons and in the House of Commons Standing Committee on Justice and Human Rights, it became clear that the change of wording from "the court shall then ensure" to "the court shall make a variation order in respect of access" required prolonged and serious consideration, as well as authoritative support from officials of the Department of Justice. It was on the advice of the Department of Justice that the word "ensure" was changed to "shall order" in the final wording.

Honourable senators will realize I am much more comfortable discussing "terminal illness" or "critical condition" than I am in my undertaking today to explain these changes to the Divorce Act. I am sure that Senate committee members, with all their experience in the law, will be eminently capable of studying the very delicate and consequential issues to which I refer.

Bill C-252 does, by virtue of its content, define a former spouse's terminal illness or critical condition as a "material change" that directs the law in a certain direction that leaves it non-discretionary, providing more direction with respect to what is a change in circumstance.

The second part of the provision, about how the court shall make the order once that change has been determined, is again discretionary and consistent with the current law. No constitutional issues are inherent to the changes to be brought about in Bill C-252.

In committee, discussion took place about whether Bill C-252 would actually change family law significantly. The question was raised whether Bill C-252 would create more problems for the system of justice despite its seeming will to be humanitarian. In studying the testimony at committee, I sensed a certain hesitancy on the part of Department of Justice officials to fully support Bill C-252. A senior counsel from the Department of Justice said:

> I just want to clarify the fact that it is not the department that proposed this. We proposed different options to be considered.

I expect that our Senate committee will want to continue this discussion. The possibility of frivolous or vexatious issues entering into the future use of Bill C-252 in the courts was raised even as an excuse to get custody. Several members raised that. This possibility was raised because once an individual has shown that they have a terminal illness or critical condition, there would be a change in circumstances which would get that individual to the second part of the analysis, which is the overriding consideration in the Divorce Act in respect to child custody. That, of course, is "the best interest of the child."

As a physician, I know that the definitions of "terminal illness or critical condition" would have come from a reliable, authoritative source, most likely the applicant's family physician or specialist. Here also the Senate committee may wish to give further consideration to the means whereby such a medical diagnosis can be verified beyond any doubt. I say this with the full realization that any physician could conclude that a person's illness is terminal or critical, yet events can unfold to prove that diagnosis wrong.

Committee members commented on these difficulties:

> . . . the lawyer or one of the parties would only have to prove that the person concerned is in the final stages of a terminal illness or is in what is referred to as a critical condition. This must be proven first . . . . the court must ensure that a spouse is truly in the final stages of a terminal illness.

Throughout all of this debate and the hearings on Bill C-252, one is moved and reassured by the return to "best interests of the child" by each presenter. To quote the mover of the bill:

> I believe it is right that children be ensured a chance to say goodbye to a parent who is terminally ill or in critical condition, unless such contact between parent and child is not in the best interest of the child . . . . it preserves judicial discretion by maintaining that it is the courts who decide what embodies the best interests of the child . . . . I do not believe that terminal illness or critical condition is cause for automatic custody . . . . it cannot trump the biggest factor, which is the best interests of the child.

The issue of "time frame" with respect to an order for variation within the Divorce Act, 17.(1), on the basis of terminal illness or critical condition was raised.

• (1510)

A terminal illness may provide a person with a life expectancy of 10 years after the diagnosis. This is an obviously complicating factor to any possible future variation order under C-252. Additionally, the list of so-called critical illnesses is long. The debate continued as to whether "critical condition" could be used to the non-custodial spouse's advantage.

I wish to say again that the brevity of this bill should not be taken lightly, because the bill does establish a principle of law in that terminal illness or critical condition shall be considered a change of circumstances under the Divorce Act, 17(5). In my mind, this is a substantial legislative change. Yet, in the House of Commons Committee, a rather worrisome discussion arose as to who drafted the amendment and whether it was Department of Justice officials. Some of this uncertainty was spoken of as "some grey areas where there may be some problems." I am confident that fellow senators in committee will pay due attention to all of these procedural and substantive concerns.

I should like to conclude with a more humanitarian approach — which, after all, is easier for me than what I have attempted to accomplish in my analysis of the legal aspects of Bill C-252. I am reminded of the joint House of Commons and Senate committee report entitled *For the Sake of the Children* I am reminded equally of the enormous challenge faced by judges in deciding the best interests of the child. I ask: Which could be more traumatic — not seeing a dying parent who had not been a part of that child's life over a long period of time or coming face to face perhaps with a stranger who is in a condition that could only be described as frightening for a child? There is no easy answer; hence the enormous weight of responsibility borne by judges and lawyers in family law. We share that weight in our deliberations on Bill C-252.

There is so much pain in all of this, especially for the children. Canada's Divorce Act sets out the criteria for granting custody and access orders solely on the basis of the child's best interests. This act continues to reflect the vision of Pierre Elliott Trudeau. I shall quote from one of the members of the House of Commons Standing Committee on Justice and Human Rights who is referring to the Divorce Act.

> This is not only a nationally recognized standard it is an internationally recognized standard and it is reflected as such in the United Nations Convention on the Rights of the Child, to which Canada is a party.

To close my remarks, one word symbolizes the spirit of Bill C-252 — that word is "closure." This very small piece of proposed legislation seeks to move the law forward so a greater number of parents and children may experience meaningful and lasting closure to one of the most important relationships any human being has.

It has been a privilege to study this bill, and I shall follow its journey through the Senate and committee with great interest.

The Hon. the Speaker *pro tempore***:** Are there any other senators who wish to speak to Bill C-252?

Are senators ready for the question?

Hon. Senators: Question!

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Comeau, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

NATIONAL SECURITY AND DEFENCE

BUDGET—STUDY ON NATIONAL SECURITY POLICY—REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Dallaire, for the adoption of the twelfth report of the Standing Senate Committee on National Security and Defence, (budget—study on the need for a National Security Policy), presented in the Senate on March 29, 2007.—(*Honourable Senator Tkachuk*)

Hon. Colin Kenny: If I may, this is the budget for the Standing Senate Committee on National Security and Defence. Obviously, I am in favour of the budget. Senator Banks spoke to this item at some length a week ago. I would be pleased to deal with any questions anyone has.

Hon. Terry Stratton: My question is to the Chairman of the Standing Senate Committee on National Security and Defence. This budget deals with a fact-finding mission to Newark and Washington. Am I correct that that is what the budget is for?

Senator Kenny: That is a portion of it. The budget outlines the committee costs we anticipate for the first two months of the fiscal year.

Senator Stratton: What is the purpose of the committee's trip to Newark and Washington? I should like to get more information with respect to Newark. I can understand Washington, but not Newark.

Senator Kenny: Newark is one of the major ports on the East Coast of the United States. It is a port where we have Canada Border Services Agency targetters. Our principal reason for going there is to examine their security arrangements and the effectiveness of us having CBSA targetters in the port.

With regard to Washington, our committee has an ongoing relationship with a number of committees — the House of Representatives Permanent Select Committee on Intelligence, the

House Armed Services Committee, the U.S. Senate Committee on Armed Services, Homeland Security, the Coast Guard and the Pentagon. We have had ongoing relationships and meetings with them over the past six years, and this trip is a continuation of that.

Senator Stratton: With respect, the committee has submitted a budget that includes, for this trip to Newark and Washington, participation by nine senators, two clerks, one consultant, two researchers and one media relations person, for a total of 15 people.

Other committees can travel with maybe 11 or 12 people; this committee plans to travel with 15 people. I should like an explanation as to why the committee has two clerks travelling with it, along with a consultant. Moreover, there are also two researchers travelling with the committee.

There is a second part of to my question. Should fewer than nine senators travel with the committee, would the chair be prepared to state today that any unused portion of that travel budget — the portion for those who did not travel — will be returned in full to the Senate?

• (1520)

Senator Kenny: Thank you very much for that question.

Dealing with the second question first, yes, all funds for any senators who do not travel would be returned to the Senate. That is consistent with the rules of the Internal Economy Committee. Funds that are not expended on a trip or foreign activity — I believe this is the expression — are clawed back. This is an automatic process that takes place; it is not a discretionary one. I can assure the honourable senator that officials in the Senate finance department meet with the clerk of the committee after a trip like this. They review the expenditures, and any expenditures that were not made for this particular portion of the committee's activities immediately revert to the central fund of the committees branch.

As to the first question, we travel with this number of people because trips to Washington are extraordinarily difficult and complex. The issues that we are dealing with cover the entire range of the committee's work. We would anticipate, as I indicated earlier, dealing with their defence community, with their intelligence community, and with first their responders. The range of issues covers airports, seaports and borders. Frankly, a trip to Washington is the major file that we have as Canadians. If that relationship is not functioning properly, no relationship will function properly. The staff we are taking are to assist us with meetings that we expect to cover the range of issues that come to the fore when there is a one-shot visit for a week by a committee that covers a range of issues.

We bring staff to ensure that we are putting forward the Canadian position as thoroughly and completely as we can, with the various opposite numbers we have in the Senate and in the Congress and with officials whom we encounter. The trip is very demanding and the staff find it to be difficult work.

Senator Stratton: When is this trip? I know it is shown here as April, for seven days and six nights. Obviously, the committee would be travelling during the time the Senate is sitting.

Your overall budget includes a senior military adviser, 12 months at $3,308; a military adviser for enlisted personnel, three months at $500; a full-time national security adviser, which we removed from approval on the budget because we need an explanation from the subcommittee on budgets with respect to that; a senior intelligence national security adviser, 12 months at $3,308; a writer/editor/researcher, 67 days at $100; a communications consultant, 25 hours at $200; and clerical assistance, 12 months at $3,085.

Apart from the full-time clerks, is that an accurate list of assistants of that committee?

Senator Kenny: Yes, sir.

Hon. Hugh Segal: Honourable senators, I want a point of clarification from my colleague, the hard-working and determined chair of the committee.

I heard the honourable senator say that part of what he wants to do in Washington is to impart the Canadian position to our colleagues on the other side. Would he be speaking extemporaneously with the authority of this chamber, or perhaps with some mandate from the government of the day of which we are not aware, or is there some mandate of which we should be aware? I would be interested in any advice the honourable senator could give us in that respect.

Senator Kenny: It is an interesting exercise for us because we feel sometimes a bit schizophrenic. We spend a great deal of time being critical of governments of both stripes here in Canada. Yet, once we cross the border, the tiger actually can change its stripes and we spend a great deal of time defending what we believe to be the government of the day's position on dealing with the United States.

We do not believe there is room for division on foreign affairs, so we go forward with a consensus approach. We endeavour, for example, to move forward subjects such as the border issue. Thus far, all of our reports have been unanimous. We have always supported the government's position. We intend to do that. Canada has only one government and we are in the United States as Canadians supporting that.

Senator Segal: In view of the continuing discussions between our respective leaderships relative to the membership of the committee the honourable senator chairs and the Foreign Affairs Committee, is he at all troubled by the extensiveness of the activity while members of the Conservative minority in this house are not actually sitting on the committee, with no indication of how long that situation may continue?

Senator Kenny: I am extraordinarily troubled by the situation. The members opposite who have been sitting on the committee have made significant contributions throughout the work of the committee. Their work is extraordinarily valuable, and they cannot return to the committee soon enough to please me.

Senator Segal: Further to that, has the steering committee in any way reflected upon the possibility of not being as active until our two leaderships resolve whatever difficulties may continue to exist?

Senator Kenny: No, that is not an option open to us. The rules of the Senate are clear that committees are structured in a way that one side or the other cannot stop the work of a committee by not attending a meeting. We have not contemplated that at all.

[*Translation*]

Hon. Roméo Antonius Dallaire: Honourable senators, I think that the questions raised by Senator Segal are interesting in that the work of this committee perhaps should have been delayed because of the absence of the honourable Conservative senators.

As the sponsor of Bill C-293 in the Senate I hope that it will be referred to the Senate Foreign Affairs Committee as soon as possible.

I also think that the absence of voices from the other side of government is untimely, but I hope that our work on a bill from the other place will not be stalled because their members are absent, which I find absolutely unbelievable.

It is high time that the other side start working responsibly to respect the nature of the institution, which means participating in debates and ensuring due passage of wide-ranging legislation — not just reports.

Does Senator Kenny not think that their presence would be extremely useful and that it would have a much more positive effect on the progress of work?

[*English*]

Senator Kenny: I agree, and I call for the question.

Senator Stratton: I did not get a clear answer on the dates for this trip to Newark and Washington in April. Today is April 19.

Senator Kenny: I apologize to the honourable senator. I believe we are looking at the third week in May.

• (1530)

Senator Segal: To be perfectly clear, I am comfortable with awaiting direction of my own leadership related to attendance at various committees and having leadership from both sides sort this out in an appropriate fashion. My question was not about whether the *Rules of the Senate* in any way prohibited the committee from doing its work in the absence of Conservatives, but rather whether the honourable senator's own steering committee had given thought to the appropriateness of proceeding on these sensitive and important matters. I think I understand the senator's response to be that his committee gave that consideration and decided to proceed notwithstanding. I wanted clarity between us with respect to that.

Senator Kenny: The steering committee is proceeding with the plan that was adopted by the full committee. Its work plan is continuing.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Motion agreed to and report adopted, on division.

THE SENATE

FAILURE OF GOVERNMENT TO APPOINT QUALIFIED PEOPLE TO THE SENATE—INQUIRY— DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Banks calling the attention of the Senate to the failure of the Government of Canada to carry out its constitutional duty to appoint qualified persons to the Senate.—(*Honourable Senator Tkachuk*)

Hon. Wilfred P. Moore: Honourable senators, I join this debate out of concern for the future of this institution, out of concern for the proper functioning of Parliament as a whole and out of concern for the rights of provinces that do not appear to receive much consideration from the current government.

I would like to thank Senator Banks for raising this important issue. He rightly draws our attention to a problem that needs to be addressed soon. We cannot sit by as this institution atrophies as a result of the Prime Minister's policy of refusing to fill vacancies.

In preparing my remarks for today, I was surprised by yesterday's announcement that the Prime Minister intends to depart from the policy he has followed for the last 14 months and appoint a new senator for Alberta. At first I thought my remarks might now be overtaken by a change in the government's stance, but I realize my concern over the lack of appointments is now even more justified. As a senator from Nova Scotia, it is hard to accept that the Prime Minister allows vacancies from smaller provinces to pile up, some seats having gone unfilled literally for years. Yet, when it comes to his own home province, which has no vacancies, the Prime Minister has announced an appointment before a seat even becomes available.

Some Hon. Senators: Shame, shame.

Senator Moore: This apparent double standard is all the more reason for me to participate in Senator Banks' inquiry. Consequently, I join the debate with a view to drawing attention to what I regard as an emerging crisis in Senate vacancies.

What struck me most about Senator Bank's speech introducing this inquiry was his observation that the situation today is not the result of inadvertent omission or negligence. To a certain extent, we are used to the gradual turnover of membership of this place, and that turnover entails a regular occurrence of vacancies when senators retire, resign or depart from this life. The situation we are now in, with 12 vacancies, has, to a certain extent, crept up on us. However, as Senator Banks has noted, this level of vacancies is well beyond the norm. If we have a larger number of vacancies in the Senate today, it is not because the Prime Minister has forgotten us. It is not because he has been busy with other files. No, it is the opposite. We are missing more than 10 per cent of our membership because of the overt and wilful omission of the

Prime Minister. He refuses to carry out his constitutional duty to appoint senators, and he has brazenly said as much on the public record.

Honourable senators, I speak to this inquiry as a senator who represents Nova Scotia. My own province is currently the most aggrieved from the standpoint of both the number of vacancies and the proportion of vacancies. Currently, three empty seats are from my province. That means, the people of Nova Scotia have three fewer people working on their behalf in Ottawa than they are entitled to under the Constitution of Canada.

To ensure that the record is complete, let me outline the current vacancies. Senator John Buchanan retired on April 22, 2006, nearly a full a year ago. Sadly, Senator Michael Forrestall passed away in June of last year. That was ten months ago. Finally, Senator Michael Kirby resigned October 31, 2006, nearly six months ago. None has been replaced. All these vacancies have occurred since Mr. Harper became Prime Minister.

What are the people of Nova Scotia to do? They are entitled to ten senators. Their ten senators are part of the compromise that made Confederation possible. Sorry, but the Prime Minister has decided unilaterally that we are not getting our three replacements. He chooses to ignore the Constitution except when it suits his political purposes.

Senator Banks quoted the Prime Minister, and I think it bears repeating. As I have said, the Prime Minister has not forgotten us. He has openly declared that he has stopped making appointments altogether. When he appeared in a Special Committee on Senate Reform last September, he said, "I do not intend to appoint senators, unless necessary."

There you have it. He simply refuses to fill vacancies, but what is he saying to the people of Nova Scotia about their rights under the Constitution: "You have seven senators, and you are not getting any more"? That is what the Prime Minister is saying to Nova Scotia.

Proportionately, Nova Scotia has a Senate deficit of 30 per cent. Imagine such a state of affairs in another context. Imagine if Ontario or Quebec were deprived of seven Senate seats each. Imagine if Ontario were missing 31 members in the other place, or if Quebec were missing 22 members. That would be intolerable.

Honourable senators, it is equally intolerable for Nova Scotians. Nova Scotia, of course, is not the only province affected by the unilateral decision of the Prime Minister to cease all appointments. The Maritime division is grossly under-represented, with more than 20 per cent of its total delegation vacant.

Honourable senators, the Constitution says that the Maritime division is entitled to be represented equally in the Senate. Section 22 of the *Constitution Act, 1867* says in part, ". . . Four divisions shall . . . be equally represented in the Senate. . . ."

I do not know whether the Prime Minister learned his math, but a 20-per-cent vacancy is not equality.

For the Maritime division to be equally represented, the Prime Minister needs to carry out his duty and advise the Governor General to summon qualified persons to fill those vacancies under section 32 of the *Constitution Act, 1867*.

Honourable senators, I have done some calculations to determine what the state of affairs would be if the current Parliament continues to its maximum term of five years. Under the current policy of the Prime Minister, by February 2011 the total number of vacancies in the Senate would rise to 33. That is nearly one third of the total number of seats in this place. Nova Scotia's vacancies would rise to four, nearly half its seats. The Maritime division would be missing a total of eight seats, exactly one third its delegation of 24 senators.

• (1540)

Ontario and Quebec would have a deficit of eight seats each; exactly one-third of their delegations. Newfoundland would be missing two senators; a full third of its representation. The Western division would be down by 21 per cent, five seats overall, with British Columbia in the worst situation having only three senators, or 50 per cent of the representation to which it is entitled. Finally, two of the three territories would have no representation at all.

Honourable senators, the situation today is deplorable and we must bring pressure to bear to remedy it before it gets worse. I also want to take a moment to assess the wider impact of what is happening. By his wilful omission, the Prime Minister may be creating a precedent of constitutional significance. It is one that I believe cannot be allowed to stand. I would not like to see the current state of affairs interpreted in some future situation as being a constitutional convention. That is why we must actively pursue the issue today and ensure that the record clearly shows that this Prime Minister is not acting in accordance with the Constitution of Canada.

The Prime Minister's refusal to fill vacancies opens a door to future abuses. Let me give honourable senators one scenario that I think is entirely possible if the current situation continues unchallenged.

Imagine a future Prime Minister who has designs on Senate reform. He or she might have a particular interest in the first E of the so-called Triple-E model — equality of seats. In past constitutional negotiations, some provinces have appeared willing to reconsider the seat distribution in the Senate, but in every case those seats were also a bargaining chip. The provinces that were prepared to give up Senate seats in a redistribution were also looking for consideration in return; some concession in another aspect of the overall constitutional settlement.

Continuing with this scenario, along comes a prime minister who decides to act unilaterally. He or she could do what Mr. Harper is doing right now — refuse to fill vacancies until all provinces have an equal number of seats. Nova Scotia, while legally entitled to 10 Senate seats, might, in practice, have only six seats, maybe as few as four. By this method of attrition, all provinces would become more or less equal in Senate representation.

Well, honourable senators, that is not how the Constitution of Canada works. In the current scenario, if the Prime Minister wants to change seating arrangements here, let him propose a constitutional amendment and secure the consent of the provinces.

The Prime Minister cannot be allowed to strategically neglect his duties in an effort to achieve indirectly that which he cannot achieve directly. The Prime Minister cannot refuse to obey the law in a unilateral effort to radically alter the Senate without the consent of the provincial legislatures. I do not know whether that is the objective of Prime Minister Harper, but his position today could well lay the ground for a future prime minister to pursue that course.

Honourable senators, I share Senator Banks' concern about the implications for one of our most basic democratic principles: The rule of law. I find it hard to believe that in the 21st century, almost 800 years after the Magna Carta and 159 years after Nova Scotia was the first colony in North America to establish responsible government, we have to stand here today and argue that the government must obey the law. Sadly, the Prime Minister has brought the debate to this level.

I urge honourable senators to take up this issue. It is too late to persuade the Prime Minister that his policy is ill-advised. Representation in the Senate is one of the rights that my province enjoys under the Constitution of Canada. It is not for this or any other prime minister to unilaterally undertake an executive, republican-style action to deny this foundational right of Nova Scotia. It is part of my province's shared commitment to the Canadian federation.

I call upon my colleagues from Nova Scotia to bring their considerable influence to bear. I hope that two Nova Scotians in particular will help persuade the government to change its mind. I am thinking particularly of Senator Comeau, the Deputy Leader of the Government in this place; and Senator Oliver, the chair of our Legal and Constitutional Affairs Committee.

Senator Comeau: Do you want to campaign on it in the next election?

Senator Moore: Yes, I will campaign on you not doing your duty.

Both honourable senators are well placed to advocate for the rights of Nova Scotians within government. We all have a duty to at least try to bring about a change in attitude that will see the Prime Minister fulfill his duties, that will see the Senate and Parliament functioning fully, and that will see the people of Nova Scotia properly represented in their national institutions.

Hon. Jane Cordy: Will the honourable senator accept a question?

The Hon. the Speaker *pro tempore***:** Senator Moore, will you accept questions?

Senator Moore: I will.

Senator Cordy: I thank the honourable senator for his excellent speech. Being from Nova Scotia, I certainly share his concern that we would have only 70 per cent of our representatives in the Senate to voice the concerns of Nova Scotians, particularly concerns such as the Atlantic Accord and other things about which we are not hearing from many of our colleagues on the other side.

As the honourable senator was speaking, I heard the Leader of the Government in the Senate saying, when he talked about Nova Scotia having seven senators, that Nova Scotia still has one more. I wonder if the honourable senator could go over with us what is currently in the Constitution and what agreement was reached in 1867 in Prince Edward Island when Canada became a country and how it came about that we would have 10 representatives from Nova Scotia.

Senator Moore: I thank the honourable senator for the question. As we all know, as a result of the discussions by the Fathers of Confederation, the agreement was that Nova Scotia would have 10 senators, that New Brunswick would have 10, and that Prince Edward Island would have four, making up the Maritime delegation. It is not just Nova Scotia, New Brunswick and Prince Edward Island individually; this is the Maritime division. That was the foundation of the country. That is the basis on which Nova Scotia and those other two provinces negotiated with the other then provinces of Canada to enter into Confederation, and the reason they were given those seats was to counterbalance the representation by population in the other place.

Senator Cordy: If the Constitution is not changed and not opened, then Nova Scotia is entitled to 10 Senate seats; would that be correct?

Senator Moore: That is correct; it has not changed. If it is to change, the consent of the provinces must be obtained. The Constitution Act of 1867 is very much in place and in effect. It is a matter of having the Prime Minister discharge his duties and fill the vacancies.

Hon. Tommy Banks: Senator Moore referred to the Constitution. Section 22 of the Constitution is where the number of senators, to which he has just referred, is set out and where it says that the Maritime division has 24 senators. However, section 32 talks about what happens when there is a vacancy among those numbers. Can the honourable senator imagine, if it was not intended that that should operate in the way that it says when a vacancy occurs, why there would be a separate section in the Constitution that describes precisely what happens when a vacancy in the number of Senate seats that is set out elsewhere in the Constitution Act occurs? Is there any other reason that possibly exists in the Constitution?

The Hon. the Speaker *pro tempore***:** Senator Moore, I am sorry to advise you that your time is expired. Are you asking for more time to continue?

• (1550)

Senator Moore: Honourable senators, I would ask for time to answer the question.

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

Hon. Senators: Agreed.

Senator Moore: I am sure that honourable senators are familiar with the principle of section 32 of the Constitution Acts, 1867 to 1982, which states:

> 32. When a Vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall, by Summons to a fit and qualified Person, fill the Vacancy.

It is clear that vacancies were envisaged and that the founding fathers intended that they be filled forthwith.

The Hon. the Speaker *pro tempore*: Do any other senators wish to speak?

Hon. Roméo Antonius Dallaire: Honourable senators, I would put a question to Senator Moore.

The Hon. the Speaker *pro tempore*: Senator Moore's time has expired with his response to the previous question. However, an honourable senator may speak to the inquiry if he or she wishes to do so.

Hon. Joseph A. Day: I did not want to cut off honourable senators on the other side, who seemed to have many questions during the time that Senator Moore was speaking. It seems that they no longer have any questions. I would move adjournment of the debate.

On motion of Senator Day, debate adjourned.

THE HONOURABLE NOËL A. KINSELLA

MOTION EXPRESSING CONGRATULATIONS AND CONFIDENCE IN SPEAKER ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Robichaud, P.C.:
>
> That the Senate congratulates the Honourable Noël Kinsella on his appointment as Speaker and expresses its confidence in him while acknowledging that a Speaker, to be successful and effective in the exercise of the duties of that office, requires the trust and support of a majority of the Senators.—(*Honourable Senator Banks*)

Hon. Tommy Banks: Honourable senators, I took the adjournment of the debate on the motion of Senator Joyal because I agree with him that recent developments in the House of Lords give us a useful model for reflection on the method of selection for the presiding officer in this house.

The motion before honourable senators is something that I wholeheartedly support on its face. I am happy to congratulate the Speaker of the Senate on his appointment. I have no doubt that every member of the Senate has full confidence in him because he has so ably presided over this place since February 2006. I have a particular interest in Senator Joyal's initiative because I believe that the procedure could become a practice that, in future, would ensure that the Senate will always have a Speaker who enjoys the confidence, if not the direct mandate, of his or her peers.

Given the flexible and evolutionary nature of the Westminster-style of institutions after which Canada's Parliament is modelled, this approach could lead us to a convention or a practice whereby the duty to appoint a Speaker, expressed in section 34 of the Constitution Act, 1867, would be exercised on the recommendation of, or at least with the collaboration of, the Senate.

As Senator Joyal has told honourable senators, the House of Lords now elects its Speaker. In fact, the position of the British government was quite emphatic that it wanted to rid itself of the authority to appoint the presiding officer of the House of Lords. That position was expressed by the Leader of the Lords, Baroness Amos, in debate on the Address in Reply to the Speech from the Throne in 2005. She said:

> It remains the Government's view that the Speaker of this House should not be appointed by the Prime Minister. We believe that the House will be stronger if it seizes the opportunity to take the Speakership into its own hands. This House needs a presiding officer of its own, and I will resume discussions with the usual channels to explore the scope for consensus.

The same option is available to this chamber, but it would not be so readily achieved as it was in Britain because it would require a formal amendment to the Constitution Act, 1867. Some honourable senators might recall that in 2003, Senator Oliver made such a proposal when he introduced a bill to provide for the election of the Speaker of the Senate. He did so on the grounds that such an election would reinforce the Speaker's position and better enable our presiding officer to carry out his duties. I agree with Senator Oliver's view that the Speaker could carry out his or her role more effectively if she or he were to enjoy a mandate, or at least an overt expression of confidence as expressed in this motion, from the body over which he or she presides.

I would not be opposed to a formal amendment to the Constitution to address this question and bring about such a solution, but all in this place know well the challenges that lurk when such a path is considered. I note that our esteemed former colleague and noted constitutional expert, Senator Beaudoin, expressed his opinion on Senator Oliver's bill to provide for the election of the Speaker of the Senate by secret ballot. Senator Beaudoin took the considered view that such a bill would be a valid exercise of the authority to amend the Constitution under section 44 of the amending formula and that provincial consent, which applies to other changes, would not be required. Others have cautioned that such a change might engage the 7/50 rule or even the unanimity rule. As I have amply demonstrated in the past, I am not a constitutional expert, but Senator Beaudoin's analysis is persuasive.

However, this place need not go down that difficult path. Senator Joyal's approach saves honourable senators from the problem of sorting out complex legal and constitutional issues. It

is clear that there is wisdom in Senator Joyal's approach because it is a much easier way to move forward than is the legislative route. Senator Joyal has told honourable senators that the House of Lords elected its first Speaker in 2006. This development followed on the adoption of the Constitutional Reform Act, 2005, which dealt primarily with the modernization of the Office of the Lord Chancellor.

My understanding of the traditional view is that the Speaker of the Senate was modelled on the Lord Chancellor, who was a mere mouth of the House with no authority to intervene in the proceedings of the Senate to restore order unless invited by another senator, on a point of order to do so. Even this rule, as an interpreter of procedural rules and practices, has always been tempered by the possibility of an appeal to the Senate of a ruling from the chair. This place has seen a couple of appeals just in the short time that I have been in the Senate. The drafters of Canada's Constitution did not endow the Speaker of the Senate with a mandate from senators. Consequently, in the early years, the Speaker was given no authority over them. Another reason frequently cited for depriving the Speaker of the Senate of a larger role is that the rules expressly reflect the presumption and, I suppose, the fear that the Speaker would function as an active partisan and participate in the deliberations of the Senate by leaving the chair from time to time; and honourable senators have seen that happen.

For many years, Speakers of the Senate, for the most part, have carefully avoided partisanship and have remained above the political fray. In 1906 and in 1991, the Senate made changes to the *Rules of the Senate* to establish and then to expand the authority of the Speaker so that he or she would have authority to intervene and maintain order. The majority of such authority is found in rule 18 of the *Rules of the Senate* and, despite the minor expansion of the Speaker's authority over the years, the Senate remains a largely self-regulating chamber, similar to the House of Lords. The rulings of the Speaker of the Senate are still subject to appeal. Thus, the Senate is the ultimate master of its own proceedings.

I know that some senators would prefer to revert to the old days when the Speaker had no authority to regulate. The senators who share that view might be concerned that the motion before the house might do more than merely legitimize an appointed Speaker — it might embolden him or her to take a more activist role in the Senate. The British example and the example in the other place have shown us that a change in the status or the method of election of the Speaker need not result in a change to his or her function or role in the respective chamber.

• (1600)

The new situation in the House of Lords has not occasioned any explicit change in the role or the authority of the presiding officer there. Far from providing the Speaker with the authority to maintain order, Standing Order 19 of the House of Lords used to prohibit the Lord Chancellor from doing anything as the mouth of the House without the consent of the House of Lords first-hand.

That Standing Order was repealed in its entirety in May 2006 as part of a series of amendments that provided for the election of the Lord Speaker. At first blush, this repeal might be regarded as the first step in gradually giving the Lord Speaker the kind of authority granted to the Speaker of the Senate under rule 18, or even the much more sweeping authority of a Speaker of the House of Commons.

However, when we look more closely into the deliberations of the House of Lords, we find some fairly clear indications that their decision to elect a Speaker did not change their view of his role one iota. Let me quote from the second report of the House of Lords' select committee on the speakership of the house of July 12, 2005, at paragraph 14:

> There is widespread concern that any change in the role currently performed by the Lord Chancellor would be a "slippery slope" ending in a loss of self-regulation. Instead of exercising self-restraint and old-fashioned courtesy, Members might be tempted to stand their ground. This could ultimately lead to a Commons type speakership which nobody wants, and is wholly inconsistent with self-regulation.

They go further, at paragraph 18, in saying:

> If the Lord on the Woolsack were permitted to assist the House in this limited way, it is important that he should observe the same formalities as any other Member of the House. He should always address the House as a whole, and not any individual Member. He should never intervene when a Member is on his feet. His function would be to assist, and not to rule.

I point this out merely to reassure honourable senators that an initiative like the motion of Senator Joyal, which is now before us, may help us achieve the goal expressed by Senator Oliver to reinforce the Speaker's position and to better enable her or him to carry out her or his duties; but it does not have to entail a change in the role, function or practice of our chair.

Honourable senators, Senator Joyal made the point in his remarks about this motion that we need to look into the issue more closely. As I said near the beginning of my remarks, I think that this motion has, on its face, merit and that we ought to pass it. At the same time, the broader issue of the future of the speakership of this place should be examined in a methodical way through the kind of extensive committee study that was undertaken in the House of Lords.

Honourable senators, I want to thank Senator Joyal for putting this important issue before us. I commend his motion to your careful attention, and I believe that it merits our support as an important first step in the modernization of the speakership of our house.

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

Hon. Senators: Question!

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

Motion agreed to.

KYOTO PROTOCOL

GOVERNMENT POSITION—INQUIRY—
DEBATE CONTINUED

Leave having been given to revert to Other Business, Other, Inquiry No. 6:

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Mitchell calling the attention of the Senate to the stated intention of the Canadian government to weaken the Kyoto Protocol, and to dismantle 15 climate change programs, including the One-Tonne Challenge and the EnerGuide program.—(*Honourable Senator Tardif*)

Hon. Tommy Banks: I did not realize that this item was on its fifteenth day, and I know there are other senators who wish to speak on it. Therefore, I am wondering if I could have permission of the house to have the motion stand in my name until the next sitting of the Senate.

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

Hon. Senators: Agreed.

On motion of Senator Banks, debate adjourned.

[*Translation*]

HUMAN RIGHTS

MOTION TO AUTHORIZE COMMITTEE
TO STUDY GENDER EQUITY IN PARLIAMENT—
DEBATE ADJOURNED

Hon. Marie-P. Poulin, pursuant to notice of March 27, 2007, moved:

> That the Standing Senate Committee on Human Rights, in the spirit of reflection and commemoration of International Women's Day and the 25th anniversary of the patriation of the Constitution and its Canadian Charter of Rights and Freedoms, be authorized:
>
> (a) to examine and report on all issues related to female representation in Parliament, including the barriers to the participation of women in federal politics;
>
> (b) to propose positive measures for electoral and other reforms that will
>
> (i) promote gender equity in Parliament, and
>
> (ii) achieve an increase in the number of women in Parliament; and
>
> (c) to consider the status of female representation in other legislative assemblies for comparative purposes in formulating proposed measures; and
>
> That the Committee present its report no later than June 29, 2007.

She said: Honourable senators, the road to gender equality in Canada has been long and sometimes strewn with obstacles, and there is still a long way to go. Although the women's suffrage movement of the early 20th century made it possible for Canadian women to vote and even stand for election — the first time being in the 1917 Alberta election — it was not until the historic *Persons case*, over a decade later, that women achieved equality with men. Let us remember this important little part of our history.

In 1921, women's right to vote was extended to federal elections, yet women were not considered eligible for Senate appointments. A brave group of women from the West, who came to be known as the Famous Five, were not intimidated by a 1928 Supreme Court of Canada ruling that held that women were not persons and therefore were not eligible to enter the upper chamber. In an appeal to the Judicial Committee of England's Privy Council, this decision by the Supreme Court of Canada was overturned in 1929. One year later, the first woman was appointed to the Senate.

It is difficult to understand that at the beginning of the 21st century it took a ruling by the highest court of appeal of the mother of Parliaments to recognize women's basic humanity.

Less than 80 years ago, under the British North America Act, women were considered "persons" when it came to sentences and punishment but not when it came to rights and privileges.

The courage and intelligence of the Famous Five — Nellie McClung, Emily Murphy, Henrietta Muir Edwards, Louise McKinney and Irene Parlby — opened the door to political life for women in Canada, but full equality eluded them. In fact, proportionally speaking, women are still under-represented today in Canada's Parliament.

• (1610)

Honourable senators, in the spirit of these early reformers, I stand before you today to propose measures to correct this imbalance in our country's political institutions.

Over the years, great strides have been made in putting an end to widespread discrimination and improving gender equality. However, equality before the law has not proven sufficient to overcome de facto discrimination. We must do more. We need new thinking and a new approach in order to encourage half the population to give more thought to entering public life.

The time has come to make sweeping reforms and convince women to enter politics in sufficient numbers to propel the best and brightest to influential decision-making positions.

That is why, honourable senators, I would like to propose today that the issue of female representation in Canada's Parliament be referred to the Standing Senate Committee on Human Rights for consideration. The committee could examine our electoral laws, political party financing, and the problems and obstacles facing women when they seek election. It could then make recommendations to correct the imbalance we have in Parliament.

Allow me to illustrate my point with statistics presented by the Expert Panel on Accountability Mechanisms for Gender Equality. Although the figures may have changed slightly since 2005, they provide a general idea of the situation.

First, women make up only 20.9 per cent of the members of the House of Commons and 34.7 per cent of the members of the Senate. Second, in the provinces' legislative assemblies, only 20.2 per cent of the members are women. Third, women make up only 20.7 per cent of the federal deputy ministers and 25.8 per cent of the judges appointed by the federal government.

Recently, it was reported women accounted for only 14.4 per cent of corporate officers positions and 11.2 per cent of board directors. Moreover, 7.1 per cent hold the highest titles, and only 0.04 per cent of these corporations are headed by a woman. In other words, less than 1 per cent of the companies in question are led by women.

Canada prides itself on its equity and inclusiveness. However, Canada ranked fiftieth out of 177 countries evaluated by the Inter-Parliamentary Union at the end of last year, with respect to female representation in Parliament.

[*English*]

My proposal for a fresh look at female political representation in Canada comes at a propitious time. This week we celebrated the twenty-fifth anniversary of a profound and historic milestone in Canadian history, patriation of our Constitution and its inclusion of the Charter of Rights and Freedoms. The significance of this occasion is not lost upon us, as I entreat you to give my remarks your most careful consideration and, with your concurrence, to refer the issue of women in politics to our Committee on Human Rights.

Throughout history women have struggled to be recognized as equals. Heaven be praised that we live in a more enlightened era, one that is, however, darkened by the continued subjugation of women in many parts of the world. This sharpens the point that bold action is needed, even in our country, to shake off the shackles that culturally, attitudinally and sometimes inadvertently put women in a lesser role than men.

It was in 1946, 61 years ago, that the United Nations established the Commission on the Status of Women. In 1995, the Beijing Platform for Action identified inequality between men and women in positions of power and decision-making. In 1997, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women was established with Canada as a signatory. Moreover, it was through such dedicated groups as Canada's National Action Committee on the Status of Women, the National Association of Women and the Law, the Canadian Advisory Council on the Status of Women and the Canadian Council of Canadians with Disabilities that the original wording of section 15 in the draft of the Charter was expanded to provide a wider field of equality for all.

Yet, despite long-standing and persistent efforts, the rate of women in parliaments around the globe appears stuck — stuck at 16 per cent — in Canada, at 20 per cent in the House of Commons and at 34 per cent in the Senate. A 30 per cent rate is considered necessary for critical mass, that is, the sufficient number of women needed to begin seriously impacting the political scene. By the end of 2005, only 18 countries had met the 30 per cent target.

Honourable colleagues, the Liberal Party of Canada, of which I am president, is proud of it efforts to encourage more women to seek public office. The party is actively engaged in seeking women to be candidates in at least 33 per cent of the 308 seats in the House of Commons. My hope is that by implementing a voluntary system, the Liberal Party of Canada will encourage other political organizations across the board to adopt their own objectives.

Yes, honourable senators, the time has come for the Senate of Canada to raise the issue of women in politics to a new level; to explore options, whatever they may be, to increase female representation in Parliament, whether it be through a system of proportional representation or two-member constituencies — one male, one female — or attaching gender balance to the public funds available to political parties.

There are so many options. What method of reform would be most effective to ensure a balance in the Parliament of Canada is unclear at this time. The Charter of Rights and Freedoms gave each individual the same protection before and under the law. However, it is well argued by those knowledgeable about constitutional law and by organizations that strive for female equality that those very laws create a "sameness" between men and women. This sameness perpetuates the status quo. Rather than "formal rights," it is by now recognized by equality groups that in order to achieve gender parity, substantive rights are necessary if women are to achieve their potential as full partners in Canadian society.

Much has been written on gender discrimination, and I will not dwell upon the countless reports and studies that, at the end of the day, amount to the same thing: Women are not equal partners in the affairs of our country.

Section 15 of the Charter is a significant vehicle for the promotion of social, political and economic change through the legal system, yet the Charter does not give authority to political parties or the government to impose something beyond "formal rights" — that is, substantive rights that have transformative potential.

Honourable senators, I refer to an excellent paper by lawyer Melina Buckley, who pointed out in her paper on substantive equality and Charter adjudication in November 2005:

> It is not enough to accept existing legal and social institutions as they are and only work toward ensuring that opportunities within society are equally available to all; the institutions themselves have to be transformed. Substantive equality entails changes at all levels of society: individual behaviour, perceptions and attitudes; ideas and ideology; community and culture; institutions and institutional practices; and, deeper structures of social and economic power.

• (1620)

In a similar vein, the expert panel on accountability mechanisms for gender equality contended:

> Today, the concept of equality acknowledges that different treatment of men and women may sometimes be required to achieve comparable results given their similarities and differences, and their varying histories, roles and life conditions.

Finally, I bring to you the words of former Justice Claire L'Heureux-Dubé who said in 1999:

> Unless the government implements positive programs to remove barriers to equality, it will be signalling tolerance of discrimination and indifference to the expectations of women. . . .

Now is an opportune moment to examine the prospects of women in politics by referring this matter to our Human Rights Committee.

Honourable senators, I call upon your support. I thank you for your attention and interest in a matter that affects not only half the Canadian population, but also all future generations of our men and women.

Some Hon. Senators: Hear, hear!

Hon. Gerald J. Comeau (Deputy Leader of the Government): I wonder whether the honourable senator would entertain a few questions.

This is a request for an order of reference to the Human Rights Committee. Generally speaking, these requests are discussed at committees. There are a number of advantages in doing this, obviously.

For example, if such requests for orders of reference are discussed at committee, members tend to buy into the value of the study being proposed. It establishes a list of priorities and provides every member of the committee a chance to postpone their areas of interest in order to study this one.

In other words, the members themselves buy into what the committee should currently be studying. Has this been discussed at the committee? Is the honourable senator proposing this on behalf of the committee?

[*Translation*]

The Hon. the Speaker *pro tempore***:** I regret to inform Senator Poulin that her 15 minutes have expired. Does she seek leave to continue?

Senator Poulin: Yes, honourable senators, I would ask for five more minutes.

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

Hon. Senators: Agreed.

Senator Poulin: I would like to thank Senator Comeau for his question. I am not a member of the Committee on Human Rights. I have had very informal discussions with members of the committee. Many honourable senators would like to know if we can improve the balance between men and women. I do not think that this issue has been formally discussed at committee.

Senator Comeau: As a rule, out of courtesy, one should submit a request for a study to the members of the committee. It is up to them to decide if they are interested in studying the issue. Following discussions in committee, the chair or deputy chair can state either that the members are interested in conducting a study, or that they are not prepared to set aside other studies they wish to undertake in favour of addressing the subject of such a motion. This procedure avoids encroaching on the committee's authority to decide which issues to study.

[*English*]

In other words, I am not talking about informally seeing if a couple of friends will support this; but rather, a true proposal to the members of the committee so they can discuss it. If they suggest that they will put away their studies in order to take this on, that would be much better than bringing it directly onto the floor where we must ask these kinds of questions immediately and the members of the committee are put in an uncomfortable position.

I sit on a couple of committees, and when somebody brings an order of reference to the floor of the Senate which has not yet been discussed at the committee, I take offence to that, because the committee must now tackle an order of reference when it had other work of higher priority.

As a courtesy, would it not be proper for the Human Rights Committee to look at this and determine whether they will take the honourable senator's order of reference on as well or give it a higher priority?

Senator Poulin: First, no offence was intended, as the honourable senator can well imagine. It is the tradition of our chamber that when a motion is tabled in the house, we take a bit of time to discuss it. People would like to speak to the motion. That provides ample time for the committee to review.

In no way would it be the intention for this motion to circumvent any other agenda item of the Human Rights Committee, which is doing excellent work for this country.

Discussions of the motion in this chamber would provide time for the committee to review, and I would respect the opinion of the committee.

Senator Comeau: Are we not putting the cart before the horse? Could we not have had the committee look at this? In that way, the committee could tell the chamber that this is a study it wants to undertake and that it considers it to be of primary importance, rather than an honourable senator bringing forth an order of reference that has been discussed with a few people. The honourable senator does not even sit on the committee.

My suggestion would have been as a courtesy to the members of that committee. I am not suggesting that any member does not have a right to bring an order of reference; anybody can do that, but it is a common courtesy.

Our committees work very well. I have often heard that our committees are seen as the crown jewel of the Senate. The reason they work well is because collegiality, consensus and compromise exist. Sometimes members of those committees must put away their areas of interest.

The Hon. the Speaker *pro tempore***:** The five minutes are up. Is there a final answer?

Senator Poulin: I thank Senator Comeau for his comments. Many of us have been here for many years. Both approaches have been used to table a motion, and I am very respectful of both.

As I said to honourable senators, no discourtesy was intended in any way towards my colleagues who sit on the committee, which I authentically respect.

The Hon. the Speaker *pro tempore***:** Senator Poulin's time has elapsed.

Would you like to speak, Senator Dallaire?

Hon. Roméo Antonius Dallaire: I rise on a point of order. The Deputy Leader of the Government is speaking to more than just the honourable senator's motion. I am wondering whether it is appropriate to discuss that at this time. There is provision for a senator to put forth a motion in this way.

• (1630)

The motion could be adopted and the order of reference given to the committee. We could impose a time frame of one or two years, perhaps.

That would still be due process, unless I do not understand it. I understand that the honourable senator does not want his budgets and plans to be thrown completely off balance.

The Hon. the Speaker *pro tempore***:** Does Senator Comeau wish to speak on Senator Dallaire's point of order?

[*Translation*]

Senator Comeau: Honourable senators, this is not a point of order; rather this is Senator Dallaire's opinion, which could well raise some discussion. I never suggested that Senator Poulin could not talk about an order of reference in the chamber, but I would like to clarify that Senator Dallaire's opinion is not a point of order.

The Hon. the Speaker *pro tempore***:** Honourable senators, I agree with Senator Comeau that this really is an opinion, and I hope that both leaders will take that into consideration.

On motion of Senator Tardif, debate adjourned.

The Senate adjourned until Tuesday, April 24, 2007, at 2 p.m.

THE SENATE OF CANADA

PROGRESS OF LEGISLATION

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

(1st Session, 39th Parliament)

Thursday, April 19, 2007

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

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to amend the Hazardous Materials Information Review Act	06/04/25	06/05/04	Social Affairs, Science and Technology	06/05/18	0	06/05/30	07/03/29	7/07
S-3	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act	06/04/25	06/06/22	Legal and Constitutional Affairs	06/12/06	0 observations + 2 at 3rd	07/02/15	07/03/29	5/07
S-4	An Act to amend the Constitution Act, 1867 (Senate tenure)	06/05/30	07/02/20	(subject-matter 06/06/28 Special Committee on Senate Reform) (bill 07/02/20 Legal and Constitutional Affairs)	(report on subject-matter 06/10/26)				
S-5	An Act to implement conventions and protocols concluded between Canada and Finland, Mexico and Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	06/10/03	06/10/31	Banking, Trade and Commerce	06/11/09	0	06/11/23	06/12/12	8/06

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability	06/06/22	06/06/27	Legal and Constitutional Affairs	06/10/26	156 Observations + 3 at 3rd (including 1 amend. to report) 06/11/09 Total 158	06/11/09 Message from Commons- agree with 52 amendments, disagree with 102, agree and disagree with 1, and amend 3 06/11/21 Referred to committee 06/11/23 Report adopted 06/12/07 Message from Commons- agree with Senate amendments 06/12/11	06/12/12	9/06
C-3	An Act respecting international bridges and tunnels and making a consequential amendment to another Act	06/06/22	06/10/24	Transport and Communications	06/12/12	3 observations	06/12/13	07/02/01*	1/07
C-4	An Act to amend An Act to amend the Canada Elections Act and the Income Tax Act	06/05/02	06/05/03	Legal and Constitutional Affairs	06/05/04	0	06/05/09	06/05/11	1/06
C-5	An Act respecting the establishment of the Public Health Agency of Canada and amending certain Acts	06/06/20	06/09/28	Social Affairs, Science and Technology	06/11/02	0 observations	06/11/03	06/12/12	5/06
C-8	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2007 (*Appropriation Act No. 1, 2006-2007*)	06/05/04	06/05/09	—	—	—	06/05/10	06/05/11	2/06
C-9	An Act to amend the Criminal Code (conditional sentence of imprisonment)	06/11/06	07/02/27	Legal and Constitutional Affairs					
C-11	An Act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts	07/03/01	07/03/28	Transport and Communications					
C-12	An Act to provide for emergency management and to amend and repeal certain Acts	06/12/11	07/03/28	Special Committee on the Anti-terrorism Act					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-13	An Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/06/06	06/06/13	National Finance	06/06/20	0	06/06/22	06/06/22*	4/06
C-15	An Act to amend the Agricultural Marketing Programs Act	06/06/06	06/06/13	Agriculture and Forestry	06/06/15	0	06/06/20	06/06/22*	3/06
C-16	An Act to amend the Canada Elections Act	06/11/06	06/11/23	Legal and Constitutional Affairs	07/02/15	0 + 1 at 3rd	07/03/28		
C-17	An Act to amend the Judges Act and certain other Acts in relation to courts	06/11/21	06/12/11	National Finance	06/12/12	0 observations	06/12/13	06/12/14*	11/06
C-18	An Act to amend certain Acts in relation to DNA identification	07/03/29							
C-19	An Act to amend the Criminal Code (street racing) and to make a consequential amendment to the Corrections and Conditional Release Act	06/11/02	06/11/21	Legal and Constitutional Affairs	06/12/14	0 observations	06/12/14	06/12/14*	14/06
C-24	An Act to impose a charge on the export of certain softwood lumber products to the United States and a charge on refunds of certain duty deposits paid to the United States, to authorize certain payments, to amend the Export and Import Permits Act and to amend other Acts as a consequence	06/12/06	06/12/12	National Finance (withdrawn) 06/12/13 Foreign Affairs and International Trade	06/12/14	0 observations	06/12/14	06/12/14*	13/06
C-25	An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act	06/11/21	06/11/28	Banking, Trade and Commerce	06/12/14	0 observations	06/12/14	06/12/14*	12/06
C-26	An Act to amend the Criminal Code (criminal interest rate)	07/02/07	07/02/28	Banking, Trade and Commerce	07/04/19	0 observations			
C-28	A second Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/12/11	07/01/31	National Finance	07/02/13	0	07/02/14	07/02/21*	2/07
C-31	An Act to amend the Canada Elections Act and the Public Service Employment Act	07/02/21	07/03/21	Legal and Constitutional Affairs					
C-34	An Act to provide for jurisdiction over education on First Nation lands in British Columbia	06/12/06	06/12/11	Aboriginal Peoples	06/12/12	0	06/12/12	06/12/12	10/06
C-36	An Act to amend the Canada Pension Plan and the Old Age Security Act	07/03/20	07/04/17	Banking, Trade and Commerce	07/04/19	0			
C-37	An Act to amend the law governing financial institutions and to provide for related and consequential matters	07/02/28	07/03/21	Banking, Trade and Commerce	07/03/29	0	07/03/29	07/03/29	6/07
C-38	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 (*Appropriation Act No.2, 2006-2007*)	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	6/06

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-39	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 (*Appropriation Act No.3, 2006-2007*)	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	7/06
C-46	An Act to provide for the resumption and continuation of railway operations	07/04/18	07/04/18	Committee of the Whole	07/04/18	0	07/04/18	07/04/18*	8/07
C-49	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 (*Appropriation Act No.4, 2006-2007*)	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	3/07
C-50	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008 (*Appropriation Act No.1, 2007-2008*)	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	4/07

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-252	An Act to amend the Divorce Act (access for spouse who is terminally ill or in critical condition)	07/03/22	07/04/19	Social Affairs, Science and Technology					
C-277	An Act to amend the Criminal Code (luring a child)	07/03/29							
C-288	An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol	07/02/15	07/03/29	Energy, the Environment and Natural Resources					
C-292	An Act to implement the Kelowna Accord	07/03/22							
C-293	An Act respecting the provision of official development assistance abroad	07/03/29							
C-294	An Act to amend the Income Tax Act (sports and recreation programs)	07/04/17							

SENATE PUBLIC BILLS

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

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-203	An Act to amend the Public Service Employment Act (priority for appointment for veterans) (Sen. Downe)	06/04/05	Dropped from the Order Paper pursuant to Rule 27(3) 06/06/08						
S-204	An Act respecting a National Philanthropy Day (Sen. Grafstein)	06/04/05							
S-205	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	06/04/05	06/10/31	Energy, the Environment and Natural Resources	07/02/14	0			
S-206	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	06/04/05	06/10/31	Legal and Constitutional Affairs					
S-207	An Act to amend the Criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	06/04/05	06/12/14	Human Rights					
S-208	An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein)	06/04/06							
S-209	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	06/04/25	06/12/14	Energy, the Environment and Natural Resources					
S-210	An Act to amend the National Capital Act (establishment and protection of Gatineau Park) (Sen. Spivak)	06/04/25	06/12/13	Energy, the Environment and Natural Resources					
S-211	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	06/04/25	06/05/10	Social Affairs, Science and Technology	06/06/13	0	06/10/17		
S-212	An Act to amend the Income Tax Act (tax relief) (Sen. Austin, P.C.)	06/04/26	Bill withdrawn pursuant to Speaker's Ruling 06/05/11						
S-213	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	06/04/26	06/09/26	Legal and Constitutional Affairs	06/12/06	1	06/12/07		
S-214	An Act respecting a National Blood Donor Week (Sen. Mercer)	06/05/17	06/10/03	Social Affairs, Science and Technology	06/12/14	0	06/12/14		
S-215	An Act to amend the Income Tax Act in order to provide tax relief (Sen. Austin, P.C.)	06/05/17	07/02/20	National Finance					
S-216	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	06/05/30	06/12/13	Aboriginal Peoples					
S-217	An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal)	06/05/30	06/10/18	National Finance					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-218	An Act to amend the State Immunity Act and the Criminal Code (civil remedies for victims of terrorism) (Sen. Tkachuk)	06/06/15	06/11/02	Legal and Constitutional Affairs					
S-219	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	06/06/27							
S-220	An Act to protect heritage lighthouses (Sen. Carney, P.C.)	06/10/03	06/11/28	Fisheries and Oceans	06/12/11	16	06/12/14		
S-221	An Act to establish and maintain a national registry of medical devices (Sen. Harb)	06/11/01							
S-222	An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures, in order to provide assistance and protection to victims of human trafficking (Sen. Phalen)	07/02/01							
S-223	An Act to amend the Access to Information Act (Sen. Milne)	07/02/15							
S-224	An Act to amend the Access to Information Act and the Canadian Wheat Board Act (Sen. Mitchell)	07/04/17							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-1001	An Act respecting Scouts Canada (Sen. Di Nino)	06/06/27	06/10/26	Legal and Constitutional Affairs	06/12/06	0	06/12/07	07/02/21*	

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