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Thursday, April 26, 2007



THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Thursday, April 26, 2007

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

Prayers.

SENATORS' STATEMENTS

WORLD INTELLECTUAL PROPERTY DAY

Hon. Joseph A. Day: Honourable senators, it is my pleasure to inform you that today is World Intellectual Property Day, an event that is being celebrated in 184 countries around the world. World Intellectual Property Day, an annual event, was established by the World Intellectual Property Organization, a United Nations agency.

The theme of the 2007 celebration, "Encouraging Creativity," was organized by the Intellectual Property Institute of Canada. The institute, which was founded in 1926, is the professional association of patent agents, trademark agents and lawyers practising in the area of intellectual property law. Its membership in Canada totals 1,700.

Intellectual property is a profession that is not well known by the public, but it plays a vital role in the innovation and commercialization process by helping Canadian businesses obtain and protect valuable property rights for their inventiveness in Canada and around the world.

In 2005-06, 40,000 patent applications and 43,000 trademark applications were filed in Canada. In support of encouraging the creativity theme, it is my hope that honourable senators will join me today between 4:30 and 6:30 in room 256-S, just next door, where we will have the opportunity to meet and encourage the young winners of regional science fairs as well as Canada's leaders in the intellectual property law and practice field.

• (1335)

GLOBAL POLIO ERADICATION INITIATIVE

Hon. Mobina S.B. Jaffer: Honourable senators, in 1988, the Global Polio Eradication Initiative undertook the largest public health project on earth ever. Their ambitious goal was to eliminate the worldwide scourge of polio. Since then, 2 billion children have been immunized in over 200 countries by 20 million volunteers.

These efforts reduced the global incidence of polio by 99 per cent. Canada played a large role in helping to get this close to the finish line of total eradication. In total, Canada has contributed nearly \$200 million to this initiative.

There are currently four countries that remain polio endemic — India, Pakistan, Nigeria and Afghanistan. The challenges in these countries are high, as their populations are among the poorest, and in some cases, the hardest to reach.

In 2006, the number of cases reported increased in every single one of these countries. The evidence indicates that, despite the remarkable progress that the Global Polio Eradication Initiative achieved, we are now sliding backwards.

Polio is a highly infectious disease and its effects are devastating and lifelong. It can cause paralysis within hours, and it mainly affects the most vulnerable part of society — children. We cannot allow children to suffer unnecessarily and become paralyzed when prevention is available.

Polio causes mothers to lose their children and children to lose their future. Let me share with you the story of Gulai, a mother from a small village in the Uruzgan province of Afghanistan. Like any mother, her top priority is the health of her children and she wants them immunized; but no vaccinators have visited her village in two years.

There is currently a funding gap of \$60 million for the first half of 2007. This money will allow the GPEI to purchase the vaccines and foster a safe environment for immunizing children.

Honourable senators, polio is a serious global problem, but it can be solved. Now that we are so close, it does not make sense to put on the brakes. A historic opportunity is at our fingertips. This is the time to see this initiative completed.

Canada has humanitarian, economic and global security interests in this issue. Canada should show leadership and commitment by contributing a significant amount to the Global Polio Eradication Initiative.

It is estimated that the savings from eradicating polio worldwide would top \$1 billion annually. Honourable senators, the time to act is now.

[*Translation*]

CHIEF OF THE DEFENCE STAFF MILITARY FAMILIES FUND

Hon. Lucie Pépin: Honourable senators, General Hillier recently announced the creation of the Chief of the Defence Staff Military Families Fund. This major initiative was put in place by military personnel to help the people who support them through thick and thin: their spouses and partners.

The Canadian Forces do a lot to support spouses and children. However, existing services do not meet all of their needs, especially in emergency situations. This new fund is flexible. It will enable base commanders in partnership with Military Family Resource Centres to respond quickly to families that need help, especially the families of military personnel who have been deployed. This fund will help deal with emergencies quickly. For example, a wife who has to care for her injured husband can get help with the cost of daycare, or with the cost of bringing in a family member to look after the children while she helps her husband recover. In the long term, donations will help the children of soldiers killed in combat attend university and improve their chances of success.

As General Hillier said, this emergency fund was created at the urging of the many military families across the country that have offered financial help.

As proof of their support for military personnel deployed in Afghanistan, Canadians have spontaneously offered cash donations to our forces. So far, over \$100,000 has been collected.

This emergency fund is administered by the Canadian Forces Personnel Support Agency. It will grow through the contributions of private citizens and corporations. Fundraising events have been planned, including a gala next November to be hosted by comedian Rick Mercer, and a golf tournament this summer. I have no doubt that my colleagues here in the Senate will be among the major contributors. This is a very good idea, and I urge you to support it.

[English]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of His Excellency Ambassador Gabriele Sardo, Italy's ambassador to Canada. He is accompanying visitors from Italy in the persons of Dr. Massimo Egidi, Rector of *Libera Università Internazionale degli Studi Sociali Guido Carli* — often referred to as LUISS — university in Rome, Ms. Mariasilvia Ciola, Director, International Relations, LUISS, and Ms. Raffaella Angelucci, Director, International Relations, *Libera Università di Lingue e Comunicazioni* — IULM — of Milan.

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

Hon. Senators: Hear, hear!

• (1340)

THE LATE HONOURABLE JACK WIEBE

Hon. Robert W. Peterson: Honourable senators, I rise to pay tribute to a favourite son and statesman from my home province of Saskatchewan, the Honourable Jack Wiebe, who passed away suddenly last week. Jack had a long and valued history of public service to the province of Saskatchewan and to Canada.

I had the honour to attend his funeral earlier this week and to present the flag that flew at half-mast on the Peace Tower to his wife, Ann, and their family. It was a perfect prairie day with blue skies, soft billow clouds and a gentle breeze.

It truly was a celebration of life, and what a life it was. Jack Wiebe could walk with royalty and the common person with equal ease. His contribution to public life was extensive. He entered the Saskatchewan Legislative Assembly in 1971 after winning a by-election that resulted from the untimely passing of then Premier Ross Thatcher. He remained in this position until 1978. He then returned to his farm near Herbert at the wish of his constituents. In 1994, he was called upon by then Prime Minister Chrétien to be Lieutenant-Governor of Saskatchewan. This position suited Jack Wiebe to a tee. He loved meeting people and cared deeply about his province. He moved easily among the population and, with his personal touch, he made people feel better about themselves and their province.

[Senator Pépin]

Jack certainly was not a pretentious person. His aide-de-camp told me how, at the beginning of his term, Jack would continually open the back door of his official car. They eventually broke him of this habit. However, this had its drawback as when he left office in 2000, he jumped into the back seat of his car only to realize that there was no driver. Later that year, he was called to the Senate, where he served until 2004.

My memories of Jack are ones of respect and admiration. He cared very much about people and working with and for them in a constructive and positive manner. Jack was always upbeat and so enthusiastic. Whether it was rain or shine, his trademark expression when asked "How are you doing?" was "Couldn't be better."

He will be missed very much by all of us. To his wife, Ann, and family we offer our profound sympathy at this very difficult time.

Hon. Tommy Banks: Honourable senators, in adding to Senator Peterson's tribute, I want senators to know that the Senate was well represented at Senator Wiebe's funeral. In attendance were Senator Gustafson, Senator Peterson, Senator Fairbairn, former Senator Sparrow and I. More importantly, I want all to know that the very high regard in which Senator Wiebe was held while he was here is more than shared by the people of Saskatchewan. The esteem in which he is held there could not possibly have been exceeded by anyone. Every living former premier of the province, today's Premier Lorne Calvert, every living former lieutenant-governor, Manitoba's Lieutenant-Governor John Harvard, a wide representation from the military and nearly 1,000 people filled that church in Swift Current, Saskatchewan, for the service. It was followed by a 15-gun salute and a full-blown military fly-past. The regard and esteem with which we held Jack Wiebe is more than shared by the people of Saskatchewan and that was in great evidence on that day.

• (1345)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw to your attention the presence in the gallery of Donna Butt, Member of the Order of Canada, Artistic Director and Executive Producer of Rising Tide Theatre of Newfoundland and Labrador. With Ms. Butt is Kevin Major, award-winning novelist and playwright from Newfoundland and Labrador. They are guests of the Honourable Senator Rompkey.

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

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I would also like to draw your attention the presence in the gallery of Jim Palmer, Vice-President of the Intellectual Property Institute, and other members of the institute.

We extend a welcome to you from the Senate of Canada.

Hon. Senators: Hear, hear!

[Translation]

ROUTINE PROCEEDINGS**MINISTERIAL REPRESENTATIVE ON
ON-RESERVE REAL PROPERTY RIGHTS**

REPORT TABLED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the report of the ministerial representative on matrimonial real property issues on reserves.

[English]

BANKING, TRADE AND COMMERCE**NOTICE OF MOTION TO EXTEND DATE OF FINAL
REPORT ON STUDY ON ISSUES DEALING WITH
INTERPROVINCIAL BARRIERS TO TRADE**

Hon. Jeremiah S. Grafstein: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the order of the Senate adopted on Tuesday, October 24, 2006, the Standing Senate Committee on Banking, Trade and Commerce, which was authorized to examine and report on issues dealing with interprovincial trade barriers, be empowered to extend the date of presenting its final report from June 29, 2007, to December 31, 2007, and:

That the committee retain until February 15, 2008, all powers necessary to publicize its findings.

STUDY ON FUNDING FOR TREATMENT OF AUTISM**NOTICE OF MOTION TO ADOPT REPORT OF SOCIAL
AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE
AND REQUEST FOR GOVERNMENT RESPONSE**

Hon. Art Eggleton: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the twelfth report of the Standing Senate Committee on Social Affairs, Science and Technology, entitled *Pay Now or Pay Later, Autism Families in Crisis*, tabled in the Senate on March 29, 2007, be adopted, and:

That, pursuant to rule 131(2) the Senate request a complete and detailed response from the government, with the ministers of National Revenue, Intergovernmental Affairs, Health and Finance being identified as ministers responsible for responding to the report.

[Translation]

QUESTION PERIOD**JUSTICE****CRIMINAL CODE—CORPORAL PUNISHMENT
OF CHILDREN—REPEAL OF SECTION 43**

Hon. Céline Hervieux-Payette (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday, the Standing Senate Committee on Human Rights released a report entitled *Children: The Silenced Citizens*, on which it also held a press conference.

I want to congratulate the committee members on both sides of this chamber on their outstanding work and their commitment to defending our children.

• (1350)

In 1991, Canada ratified the United Nations Convention on the Rights of the Child. Since then, the United Nations has twice asked Canada to comply with the convention and eliminate section 43 of the Criminal Code. Unfortunately, this still has not been done.

Prohibited in 18 countries around the world, corporal punishment of children is still allowed in Canada. Denounced by 254 Canadian organizations and two thirds of respondents to a Canada-wide poll, corporal punishment of children must be prohibited and eliminated in Canada.

On page 66 of its report, the committee unanimously calls for the “repeal of section 43 of the Criminal Code.”

Will the Leader of the Government in the Senate pressure the cabinet to repeal section 43 of the Criminal Code and finally restore children’s full rights to physical integrity?

[English]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, the Senate report is to be lauded. I congratulate all senators on the report, in particular the chair of the committee, Senator Andreychuk.

The rights of the child is an issue I have followed for quite some time. At the UN conference in 1989, former Prime Minister Mulroney enlisted the assistance of Senator Landon Pearson. Canada should be very proud of its role in terms of the rights of the child.

Given the wide-ranging recommendations of the committee and since the report was just released today, the honourable senator will understand that my cabinet colleagues and the Prime Minister will want an opportunity to study all of the recommendations of the committee. I am certain that the chair of the committee, Senator Andreychuk, will be pursuing this matter from her position on the government side of the Senate.

[Translation]

Senator Hervieux-Payette: Honourable senators, as a former Minister of State for Youth and the first woman to hold that portfolio in Canada, I have always been dedicated to the cause of children. That is why I introduced Bill S-207, to repeal section 43 of the Criminal Code, for a second time. This measure simply repeals the section of the Criminal Code that exempts parents from prosecution for using corporal punishment against their children.

Even if the government does not take action immediately, we have to know whether it will carry out the will of Parliament. Will the minister support Bill S-207, which is already before the Standing Senate Committee on Human Rights, and will she encourage her colleagues to do the same?

[English]

Senator LeBreton: Honourable senators, I have not had an opportunity to study the bill in its entirety. I certainly support efforts by everyone to put the protection and safety of children at the forefront of the agenda of the government.

In the recent budget, money was set aside to give the RCMP the resources it needs to investigate trafficking and pornography crimes against children. I would take as notice the honourable senator's request for me to support her bill. I have not had an opportunity to study the implications of it and what it would mean vis-à-vis the other laws of this country.

• (1355)

[Translation]

Senator Hervieux-Payette: Honourable senators, in light of the recent events in Virginia and other attacks against children across Canada — and recently in Quebec in one of the school boards — we have to realize that violence against children will not end until parents stop using violence. A study by Statistics Canada shows that 83 per cent of children who receive corporal punishment are more violent than children who are not punished that way.

Will the minister take into account all these aspects, in addition to the committee report, to ensure that Canada, like the 18 countries that have already legislated on this issue, complies with the Convention on the Rights of the Child?

[English]

Senator LeBreton: Honourable senators, of course, I would do everything possible, not only as a member of the government but also as a member of society, to ensure that the rights of the child are predominant in anything the government does.

FOREIGN AFFAIRS

PASSPORT CANADA—BACKLOG OF APPLICATIONS

Hon. Mobina S. B. Jaffer: My question is to the Leader of the Government in the Senate. In British Columbia, the anger at Passport Canada is growing. The minister is aware that Canadians have been forced to cancel their travel plans and have even lost money spent on family vacations because of the long wait times for passport applications. People are forced to line

up as early as 2 a.m. at the Sinclair Centre passport office if they hope to have a chance of getting their documentation. Line-ups are spiralling out of the building and spilling onto the street.

The new Government of Canada was aware that demand for passports would increase when they took office in January of last year. Since last November, demand for passports has grown by 33 per cent and there is no evidence that anything has been done to ensure the demand would be met.

How long will Canadians have to wait before this matter is resolved?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for her question. There is no doubt that this is a very difficult issue. The government, insofar as Foreign Affairs is concerned, has increased the number of people processing passport applications. There was a huge demand for passports as of January 23, a busy time for air travel. Many people did not believe that the date would be enforced. Unfortunately, the date of enforcement was not in the hands of this government but in the hands of another government.

All I can do is assure honourable senators that every possible measure is being taken. The Minister of Public Safety is trying to resolve some issues with regard to the Canada-U.S. border. This is a difficult situation. Service Canada is also working on this. It is a new agency, as honourable senators know. This is not to excuse the issue, but to simply acknowledge that it is a serious problem, causing great inconvenience and, in some cases, hardship for our citizens, and it is something that the government is working hard to resolve on many fronts.

Senator Jaffer: I realize the Leader of the Government in the Senate has not had notice of this question, so I ask that she let us know exactly what plans the government is putting in place to deal with this issue. My office is inundated with calls, especially from flight crews who are unable to renew their passports. Would the government consider setting up a system to accommodate Canadians who need passports in order to work? Is there a system so that people such as airline crew members might renew their passports in a fast-track manner?

Senator LeBreton: I thank the honourable senator for that excellent question. That is another unfortunate consequence of the backlogs; people requesting simple renewals are also caught in the system. I am sure the office of Senator Jaffer is exactly like all of our offices. We are all in the same situation. I would be happy to ask the Minister of Public Safety, the Minister of Foreign Affairs and the Minister of Human Resources and Social Development, who is in charge of Service Canada, to prepare a definitive and significant explanation as to what measures have been put in place.

• (1400)

BUDGET 2007

INCENTIVE TO PURCHASE ENVIRONMENT FRIENDLY AUTOMOBILES

Hon. Jeremiah S. Grafstein: I have a follow-up question to the Leader of the Government in the Senate arising out of the budget. Earlier I asked the Leader of the Government about whether or

not the Minister of Finance would reconsider the provision in the budget that would provide a greater incentive to consumers to increase the share of a particular automobile sold in North America. She will recall, based on the analysis that had been made, the incentive was only available for one car, and that car was not a model from a company of North American ownership.

Would the Minister of Finance, while he is reconsidering a provision with respect to deductibility which we talked about yesterday, also reconsider expanding and making a more level playing field for both foreign automobile firms and North American automobile firms in order to provide an equality of opportunity for consumers to purchase these energy-efficient automobiles?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for his question. I took his earlier question on automobiles as notice, as he knows. I did notice in the newspapers over the weekend that they were grading six cars that were considered hybrids and environmentally friendly.

Of course, the vehicle make the honourable senator mentioned was number one. The second most efficient one that was mentioned in the article was a product built by Ford Motor Company, which was number two. There is still clarification required on the issue in terms of environment friendly vehicles. I would expect some of that provision will become clearer after the announcements today.

As I said to the honourable senator earlier, I will obtain a response in writing for him from the Department of Finance.

Senator Grafstein: I welcome the minister revisiting a position he staunchly put forward in the budget. I welcome the change because it affects jobs throughout Canada.

I should also bring to the Leader of the Government's attention the fallout of what I consider to be an error of factual judgment. That is, for the first time in the history of North America, General Motors is no longer the world leader in the manufacture of automobiles this quarter. It has been exceeded by the same company that was given what I consider to be undue preference in the budget.

The bad news is, in the last quarter that company sold more cars into the North American marketplace than General Motors. Not only was General Motors suffering worldwide, but it was suffering a greater detrimental effect probably because of this budget measure.

I would ask the Leader of the Government in the Senate to carefully look at this question because the mainstay of the industrial strength of my province of Ontario and, to a large extent other provinces, is the automobile industry. We have heard unions and their representatives, Mr. Buzz Hargrove and others, raise similar concerns. Not just the manufacturers are concerned, but also the unions and the people they represent.

I would ask the Leader of the Government to give this provision careful consideration and have ministry officials

carefully review it and provide a better factual base than they did in support of this ill-considered decision in the budget.

Senator LeBreton: The honourable senator continues to put words in my mouth. I did not say the minister would revisit this; I said I would take the honourable senator's concerns to his attention.

With regard to the news about Toyota overtaking General Motors, I happen to follow the automotive industry quite closely. I have always had an interest in it. This particular incident has been predicted for well over a year and had absolutely nothing to do with the budget. Senator Grafstein, of all people, should know that in view of his experience in banking.

• (1405)

In fact, when the honourable senator talks about North American-owned automotive companies in Canada, while the Big Three are going through some difficulty, tell that to people who live in Cambridge or Allison, Ontario, where there are many jobs in the automotive industry.

Just today, Ford Motor Company released their first quarter results, which have shown a marked improvement. They are hoping to get out of their debt in two years. Their automobile sales increased in the first quarter, largely due to automobiles they sold in Europe. We are living in a global economy. If this helps Ford Motor Company and they sell vehicles in Europe, then that is the reality of the global economy, especially in the automotive industry.

Senator Grafstein: I believe, as the Honourable Leader of the Government believes and all members of the Standing Senate Committee on Banking, Trade and Commerce believe, that we look at facts as opposed to political rhetoric. I would hope that the Leader of the Government in the Senate would have the ministry officials look at the facts. If I have misstated the facts, I stand to be corrected.

However, based on the anecdotal evidence and other information that we have received, I believe that this trend of allowing foreign-owned international corporations to exceed market share as opposed to North American companies to a large measure will be due, if it is not presently, to this unfair playing field.

I ask the minister to ask the ministry officials, as they did with income deductions, to revisit this question and base decisions on facts, as opposed to political rhetoric.

Senator LeBreton: Honourable senators, it is not political rhetoric. As a matter of fact, it is political rhetoric to blame auto sales in the first quarter of 2007 on a budget that was not delivered until March.

The auto sales of the Big Three North American car manufacturers actually increased in the first three months of the year. They still have huge production and restructuring problems. I think it would be a stretch to link the sales of vehicles in Canada in the first quarter to the budget. I am not an economist, but I do not believe there is a link.

Having said that, as I did before, I will be happy to make the honourable senator's views known to my colleague, the Minister of Finance, and ask his officials to respond in greater detail to his question.

Senator Grafstein: I welcome the minister's review. Again, we are trying to do this in the interest of the automobile workers in North America, particularly in Canada.

INTERNATIONAL TRADE

FRANCE—BOYCOTT ON SEAL PRODUCTS

Hon. James S. Cowan: Honourable senators, my question is to the Leader of the Government in the Senate. Under pressure from the International Fund for Animal Welfare, the World Society for the Protection of Animals and the Brigitte Bardot Foundation, French President Jacques Chirac recently asked his environment minister to impose a boycott on seal products from Canada. In reply, Canada's International Trade Minister said he might lodge a complaint with the World Trade Organization.

Will the government leader urge her colleague, the International Trade Minister, to do more than "think" about lodging a complaint and do so with the resolve and energy of a government dedicated to protecting the rights of all of its citizens and minorities?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for his question.

There was a very strong response from the Minister of Fisheries and Oceans concerning this issue. As a matter of fact, I am almost tempted to enlist the help of the honourable senator's leader on this particular issue. She has been a great defender of the sealing industry.

• (1410)

I shall ask the Minister of International Trade if he intends to lodge complaints, as the honourable senator suggests.

Senator Cowan: Following Belgium, the first country to impose an embargo, France has joined the Netherlands, Germany, Italy, Croatia and, as we learned today, Austria on the list of countries poised to enforce boycotts against our products. In January of last year, the European Commission voiced its opposition to any and all boycotts.

What concrete and immediate actions will this government take to put a stop to the unilateral decisions made by our European neighbours and end the misinformation peddled by organizations that defend the rights of animals against the rights of Canadians?

Senator LeBreton: The honourable senator asks a very good question — and, of course, we deal with such organizations as those referred to in the honourable senator's question. The misinformation is concerning and prevalent.

I shall take the question as notice. I know the Minister of Fisheries and Oceans, who is from Newfoundland and Labrador has very strong views on this matter. For some Canadian citizen's,

[Senator LeBreton]

seals are their livelihood. As such, it is frustrating for those Canadians to be subjected to so much misinformation and to have their livelihood targeted in such a way year after year.

I am quite certain there will be a strong position conveyed to the honourable senator from the Canadian government.

THE ENVIRONMENT

ANNOUNCEMENT BY PRIME MINISTER

Hon. Grant Mitchell: Honourable senators, after yesterday's announcement by Minister Lunn, Canadians are left to wonder: How many Conservatives does it take to change a light bulb? Of course, it takes one, along with 101 Liberal MPs and 62 Liberal senators and thousands upon thousands of Canadians who had to drag that minister kicking and screaming right up to the socket so he had no choice but to screw that new light bulb in.

Given that it took him 16 months to come up with this idea that has now addressed all of 1.5 per cent of the environment problem, Canadians are left to wonder: While the lights may be on, is anybody at home when it comes to Conservative government policy?

Can the Leader of the Government in the Senate assure us that the big announcement to be made today by the Prime Minister in Toronto will not be filled with weasel words, intensity targets and weak caps, or should I say "light caps," that will mean Canada will not be able to meet the remaining 98.5 per cent of its Kyoto obligations?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for his question. All I can say is just watch. Light will be shone upon the matter this afternoon.

Senator Mitchell: I will be interested to see whether that light has a dimmer on it, and I am pretty sure it will.

PUBLIC WORKS AND GOVERNMENT SERVICES

REPLACEMENT OF INCANDESCENT LIGHT BULBS IN FEDERAL GOVERNMENT BUILDINGS— TENDERING PROCESS

Hon. Grant Mitchell: Can the Leader of the Government in the Senate please ensure us that she will speak to the Minister of Public Works so that when it comes to replacing the millions upon millions of light bulbs in government facilities he will ensure an open, fair and transparent contract tendering process and will not somehow find another separatist or former client to take that contract?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I do not know about the honourable senator's office, but maintenance staff came into my Senate office today and replaced all the light bulbs, which is something I did in my own home quite some time ago.

• (1415)

While watching television today, I found the reports of waste with the old light bulbs quite incredible. I do not know whether the honourable senator shops at Canadian Tire — but I do. There

is a display with a hydrometer, an old 60-watt light bulb and a new bulb. It is quite remarkable to see the difference in the meter readings between the two light bulbs.

As Senator Nolin has said, the lights have been completely out for the last 13 years.

PRIVY COUNCIL OFFICE

POLITICAL REWARDS TO QUEBEC SEPARATISTS

Hon. Yoine Goldstein: Honourable senators, my question is addressed to the Leader of the Government in the Senate. The Bloc Québécois has consistently supported the Conservative government in recent days on the budget, Bill C-16 and many other issues. This de facto Bloc-Conservative coalition government is now being called by many the “Bloc-Con.”

Many people in Canada are eminently qualified to conduct an inquiry — judges, former judges, former politicians, wise people, non-political people and others. Yet, Mr. Daniel Paillé was picked to head the inquiry. It is clear to Canadians that the choice of an unrepentant separatist to head the inquiry, at a cost to Canadian taxpayers of \$1 million, is recompense to the Bloc for its support of the government. How many more political rewards to Bloquists and separatists can Canadians expect from this government?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, that question was fully answered by my colleague the Minister of Public Works. I could throw back a question about what role Jean Lapierre had in the Martin government, if these are the silly games the honourable senator wants to play.

The fact is that the Minister of Public Works responded to that question. If the honourable senator checks the parliamentary record in the other place, the elected place, he will find that over the last number of years the Bloc Québécois have supported the Liberals on more occasions than they have supported the Conservatives.

Senator Goldstein: Honourable senators, in politics, as in so many other areas, perception is reality. The Leader of the Government in the Senate has read the same editorials and op eds as I have. It is clear that Canadians perceive this appointment as a political reward.

What other ways will be used by the leader's government to continue to buy Bloc support?

Senator LeBreton: The honourable senator is obviously talking about a practice that took place under the previous government, which made such deals and bought support. We are doing no such thing.

Senator Goldstein: Honourable senators, with respect, every time the leader is unable to answer a question, she talks about the former government. Let us understand that it was the former government that gave this country the Charter, medicare and a host of other things that have made Canada probably the most civilized country in the world.

That having been said, let us accept for Question Period, from now on, that the Liberal government has been by far the worst thing that ever happened to Canada. I hope that from here on in, when the leader is asked a question, she will answer it instead of attacking the previous government.

Senator LeBreton: I have not attacked without having been attacked. We have heard a lot of revisionist Liberal history, including the honourable senator's reference to health care.

The fact is that the five principles of the Canada Health Act came out of the Royal Commission on Health Services, also known as the Hall commission, set up by the Right Honourable John G. Diefenbaker, a Conservative Prime Minister of Canada. The Hall commission reported just around the time of the defeat of that government. The Pearson government, rightly and appropriately — and thank goodness they did — picked up the fruit of the labour of Mr. Diefenbaker's government and implemented health care.

Senator Goldstein: Honourable senators, the leader has done exactly the thing that I suggested she should not do. Every time she does this from now on, I will stand to remind her that we want answers to questions and not revisionist history.

Senator LeBreton: I hate to tell the honourable senator this, but I guess he will be on his feet a lot.

• (1420)

ORDERS OF THE DAY

CANADA ELECTIONS ACT

BILL TO AMEND—MESSAGE FROM COMMONS— DISAGREEMENT WITH SENATE AMENDMENT— MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENT

The Senate proceeded to consideration of the Message from the House of Commons concerning Bill C-16, to amend the Canada Elections Act.

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, I move that the Senate do not insist on its amendment to Bill C-16, to amend the Canada Elections Act, and that a message be sent to the House of Commons to acquaint that House accordingly.

Hon. Anne C. Cools: Honourable senators, I have a minor point of order. Perhaps before the debate begins, we should ensure that all honourable senators have a copy of the motion before them.

The Hon. the Speaker: Copies will be circulated. The oral tradition is a fine tradition. The motion was read very carefully, quietly and accurately. It is in order to call upon Senator LeBreton to commence the debate.

However, a written copy of the motion will be circulated, as the Honourable Senator Cools has requested.

Senator LeBreton: Honourable senators, in its wisdom, this chamber adopted an amendment to Bill C-16 when it was last before us. That amendment, in essence, provided specific guidance to the Chief Electoral Officer that a conflict between the fixed date of a federal election, proposed under Bill C-16, and the date of a provincial or municipal referendum should be considered as a factor in deciding whether to change the date of the federal election by a day or a week.

Honourable senators, the other place has seen fit to reject this chamber's amendment to Bill C-16. The view of the government was, and is, that the amendment is unnecessary and weakens the original intent of the bill.

Before providing the government's rationale for opposing this amendment, I should like to note that all parties represented in the other place supported the underlying principle of the bill. All parties share the view that elections belong first and foremost to our citizens. All parties agree with the principle that the timing of elections should not be left to the Prime Minister but should be set in advance so that all Canadians will know when the next election will occur.

Honourable senators should also note that the other place passed Bill C-16 in the first instance without amendment. There was a thorough debate both in their chamber and in their Standing Committee on Procedure and House Affairs. Bill C-16 was also considered carefully at second reading on this side by our chamber and subsequently by our Standing Committee on Legal and Constitutional Affairs.

Honourable senators, not a single amendment was proposed by the members of the Standing Senate Committee on Legal and Constitutional Affairs while the bill was before that committee. After detailed study, the committee reported the bill without amendment. Because the amendment before us today was put forward during third reading in the Senate, it has not been subject to the kind of detailed scrutiny that might be expected in our committees generally and by the Standing Senate Committee on Legal and Constitutional Affairs in this instance.

A range of expert witnesses appeared before the House of Commons Standing Committee on Procedure and House Affairs as well as before our own Standing Senate Committee on Legal and Constitutional Affairs. Both committees had an opportunity to give this bill careful and thorough consideration. Neither committee found it necessary to amend Bill C-16.

Despite all of this, the amendment proposed at third reading found favour within this chamber. I cannot say what the conclusion might have been had the amendment been subject to detailed scrutiny in committee.

Before turning back to the amendment itself, I would remind honourable senators that fixed dates for general elections was a platform commitment made during the course of the last election by those of us who now form the government. The other place has, by message, made it clear that they — the members of the elected chamber — are satisfied with this bill without the amendment adopted by this place. Therefore, I shall be asking honourable senators to join with me in supporting the motion that this chamber not insist upon its amendment to Bill C-16.

Touching briefly upon the substance of the amendment itself, I would remind honourable senators that it affects the provision in this bill that allows the Chief Electoral Officer to recommend a change to the polling day in the event of a conflict, such as a provincial election. The provision allows the Chief Electoral Officer to recommend to the Governor-in-Council that the polling date be moved either one day or one week into the future. The provision was designed to provide the Chief Electoral Officer with flexibility to recommend a change on the polling day in the event the date set for the polling day turned out to be unsuitable. The bill was designed to allow the Chief Electoral Officer to exercise his or her judgment, and considerable latitude was given to move the polling day either one or seven days into the future.

The amendment that the other place has rejected would alter the bill to specifically allow the Chief Electoral Officer to recommend a change in the polling day in the event of a federal, provincial or municipal referendum. While the other place did not enunciate reasons for its rejection of the amendment, it seems to me that there are two reasons for doing so.

First, the amendment is unnecessary. The bill already provides the Chief Electoral Officer with the discretion to recommend an alternate date if the date set for polling is not suitable. Specifically, the bill states that if the date — and I quote:

... is not suitable for that purpose, including by reason of its being in conflict with a day of cultural or religious significance or a provincial or municipal election, the Chief Electoral Officer may choose another day . . .

Honourable senators, the bill in its original form provides ample and sufficient flexibility to allow the Chief Electoral Officer to recommend another, later day in the event of a legitimate conflict.

A secondary reason might be that it is inappropriate to explicitly reference municipal referendums as a reason to change the date set for a national general election. The amendment from this chamber could be seen as one that weakens the original proposed legislation, by making the dates of elections more vulnerable to manipulation.

Under the original drafting of the bill, neither the prime minister of the day nor the mayor of a small town could change the fixed date of a general election. Although the change envisaged in the election date is small, this could nevertheless be seen as an opportunity to manipulate the electoral process for partisan purposes. There may be those who will want to interpret the Senate amendment, if we insist upon it, and may well look at what parliamentarians said and did with respect to it. They may conclude that, if something already provided for was made explicit late in the process, it may be because special attention was given to municipal referendums. That is a weight for municipal referendums that would be excessive. What municipal referendum would be so important that it should be used as the rationale for a fixed date of a national federal election being moved?

I will not pursue this further but will simply conclude that it is my view that Bill C-16 can stand on its own and operate fully without the amendment and that we accordingly should not impose further delays in the implementation of Bill C-16 by insisting upon this amendment.

The Hon. the Speaker: Senator Joyal.

Senator Cools: I think I had the floor.

The Hon. the Speaker: I recognized Senator Joyal first.

Senator Cools: If Senator Joyal speaks, I cannot ask Senator LeBreton a question.

The Hon. the Speaker: You have a question for Senator LeBreton?

Senator Cools: You should ask me why I was on my feet first. You made an assumption.

The Hon. the Speaker: Senator Cools, questions and comments.

• (1430)

Senator Cools: In the minister's remarks, she said that elections belong to the people. I wonder how Bill C-16 asserts that fact. Could the honourable senator tell us please?

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

One of the concerns that we encountered as we developed a series of policies on the issue of democratic reform, was the frustration of the Canadian public at the ability of a prime minister, when it was politically advantageous to do so, to call an election at any time for very little reason. We saw an example of that in the 1990s and the early 2000s, when the country was called to three general elections within nine years.

Our government felt it would be more democratic if the Canadian public were not subjected to these elections at the whim of a prime minister who happened to be leading significantly in the public opinion polls. Conversely, we felt it to be much fairer to have set election dates to stop a prime minister from calling an election when the opposition is obviously weak or unprepared to go to the polls. We felt that fixed election dates would take this power away from the prime minister and hand it to the people.

Senator Cools: I think the Leader of the Government misunderstood my question. I was looking for the legal and constitutional basis on which she was making her statement. What I have heard is support but no argument — a great deal of support for the initiative but no arguments whatsoever.

Perhaps I can try to put the question another way.

If elections belong to the people, as they do, the notion is that the people have an entitlement to an election at any time as the political circumstances so determine. That is the nature, honourable senators, of the writs that are issued by Her Majesty's representative. They are those proclamations, those orders inviting — even ordering — the population to exercise their franchise to tell Her Majesty what their wishes are about representation.

I will try the question another way. If the notion of responsible government, which is a foundational principle, is that the Queen's subject has an entitlement to be able to remove a despotic or bad government any day of the week, how does a fixed election accomplish that purpose?

Senator LeBreton: The fixed election date in no way takes away that ability in a minority Parliament for the opposition parties; in fact, it does not take it away with a fixed election date. If a majority of the members of the House of Commons determine that the government of the day is deserving of defeat, they have the capacity to defeat the government.

I would be happy to obtain and provide the honourable senator with a copy of the legal background behind this bill. Fixed election dates every four years would solve the problems this country has experienced in the last three decades —

Senator Cools: We all know that.

Senator LeBreton: If the honourable senator would like me to answer her question, I will be happy to try.

Senator Cools: I would love for the Leader of the Government to answer the question.

Senator LeBreton: I am trying to do that. We have had elections; some of the terms have gone on to the full five years. Some governments have been defeated, of course, and some governments have called elections when they have been in a minority position themselves — such as the election in 1965 when the government was in a minority position and they called an election, trying to get a majority. We have had many different scenarios whereby elections have been held in this country.

This is an effort by the government, in keeping with the commitments we made in the campaign under the democratic reform heading, of providing an opportunity whereby people are not sent to the polls at the whim of the Prime Minister in a majority situation simply because the polls or the political circumstances are enticing. Therefore, it is a power that the Prime Minister will relinquish; and there has been broad support for these efforts.

As I have said, if the honourable senator is looking for a very strict legal and constitutional explanation, I will be happy to try to provide it for her.

Senator Cools: I must say, colleagues, these answers are quite often extremely frustrating. Let me try one more time.

Honourable senators, the honourable leader has said it many times — is that the Prime Minister calls the election. My understanding has always been that prime ministers do not call elections and that one of the major problems of the era has been that prime ministers in practice, and now in legal terms, have been moving themselves to be centre of the Constitution.

Perhaps the honourable leader could tell me whether it is true that in our system prime ministers do not call elections. In fact, the Prime Minister surrenders nothing in determining a fixed election because all he creates is certainty for the government and for members of Parliament.

The uncertainty is what is the public's right and that uncertainty is the foundational principle of responsible government. It was thought that never again in the British system should human beings who felt oppressed have to take to arms. Could the honourable senator try again to explain to me how on earth a fixed election upholds the rights of the citizens of this country?

Some Hon. Senators: Hear, hear!

Senator LeBreton: Of course, the Prime Minister is the person who determines when his party would like to have an election. Once they have made that decision they go to the Governor General.

Senator Cools: No, he does not. It is the Governor General.

Senator LeBreton: They go to the Governor General and request dissolution of the House. We have examples when the Governor General has overridden the wish of the Prime Minister.

I take what the honourable senator says very seriously. I happen to be of a different opinion. I believe this bill is in the interests of the Canadian public and I think it is supported by Canadians. Both Ontario and British Columbia have initiated this practice.

The honourable senator has a view about it. I understand some similar views were very succinctly expressed in committee.

Senator Cools: Not by me, I do not go to those committees. Do not talk to me about the committees. The honourable senator has made sure that I do not serve on committees, so it is a bad joke. What she is saying is a very bad joke.

Senator LeBreton: Actually, I did not make any reference to the honourable senator in the committee.

Senator Cools: The Leader of the Government said everything was raised in the committee. It is a bad joke with me.

Senator LeBreton: I said that I understand these issues were raised in committee. I made no reference to the honourable senator specifically. I understand from the people that attended these committees that this particular constitutional element of this bill was fully debated.

Today, I am simply speaking to the amendment that was submitted by this chamber and returned over to the House of Commons, and which the House of Commons now has returned to us with the specific request that this amendment not be accepted.

• (1440)

Senator Cools: Perhaps His Honour could provide some clarification on this minor point. I was under the impression that bills are not returned to the Senate and that only messages moved back and forth between the houses. I notice that the word "return" was used in the April 25, 2007, *Journals of the Senate* at page 1378. It says: "A message was received from the House of Commons to return Bill C-16, An Act to amend the Canada Elections Act." There is something very wrong with that because the bill is not back in this place.

Excuse me, Mr. Robert is being distracting. In his duties as a clerk at the table he distracts the proceedings all the time. I am sure His Honour, the Speaker, can handle this without Mr. Robert distracting us by prompting His Honour so publicly. Mr. Robert does it all the time. It is very distracting, Your Honour, when senators are trying to speak with you or to

raise important issues and the table officers are running to tell you how to respond or what to do. It is very distracting.

In any event, honourable senators, there is something very wrong with this procedure. It is my understanding that what should be before the Senate for its consideration is the message, not the bill.

I would like clarification on the consideration that is before the Senate. What are we considering, anyway, honourable senators? Perhaps His Honour could tell us. It should not be up to His Honour to tell us, come to think of it; it should be the Leader of the Government because she is responsible for government business here.

The Hon. the Speaker: Honourable senators, I understand that a point of order is being raised. Prior to the last intervention of Senator Cools, who raises an important question, we were on questions and comments on the address of Senator LeBreton. A number of honourable senators would like to comment and ask questions. The time for the Leader of the Government in the Senate is unlimited, but it often happens that after senators speak, they can decide to receive questions and comments and how many and for how long.

Senator Cools: I was hoping that the matter could be clarified without my raising a point of order.

The Hon. the Speaker: The rubric of that clarification and the ruling of the Chair is that the wording "... message has been received from the House of Commons . . ." in yesterday's *Debates of the Senate* and on the order today is proper and correct. The message is properly before the Senate; the motion that has been moved is properly before the Senate; and the current debate on the item is properly before the Senate. That is my ruling on the matter.

Resuming the debate, questions and comments.

Hon. Wilfred P. Moore: I was interested in the remarks of the Leader of the Government in the Senate in respect of her party's campaign platform in the last election. They received 36 per cent of the support of Canadians so 64 per cent of Canadians did not support this. This is a fundamental change in our Westminster parliamentary system. How does she justify what she is trying to do?

Senator LeBreton: I thank the honourable senator for his question. This subject was part of our election platform. I simply put that in as a commitment made by our party. When the bill was before committee in the other place, it received much debate. However, the message received from the other place in regard to the bill, as amended in the Senate, has received the support of the majority of the members, no matter what their political stripe in the House of Commons. Thus, it is no longer an issue. I simply said that it was an election promise made by the Conservative Party that were we to form the government, we would put that before Parliament, and the government has done so.

Many things were brought in by the previous government when they won the election with 37 per cent of the vote. This is an argument that could continue without successful conclusion. Honourable senators are currently dealing with Bill C-16, which was fully debated in the other place; it went to committee in the

other place; it came to the Senate; received second reading; was referred to committee where it passed without amendment; came to the Senate for third reading debate; there was an amendment; the motion in amendment was debated; there was a vote on the motion in amendment, which this side voted against; the other side voted in favour of the amendment; and that caused the bill to go back to the House of Commons.

The issue before honourable senators is the message from the House of Commons returning the bill to the Senate, rejecting the amendment of Senator Joyal that was supported by a vote in this place at third reading. This is no longer an issue of percentages in the vote; it is a piece of proposed legislation that has been tabled before Parliament.

[*Translation*]

Hon. Jean Lapointe: Honourable senators, I want to thank His Honour. Senator Moore has said more or less what I wanted to say, but much more eloquently than I.

[*English*]

Hon. Jeremiah S. Grafstein: Honourable senators, my brief comment is for the Leader of the Government in the Senate. The arguments evinced by some spokesmen on behalf of the government that the Senate is blocking the popular view of Parliament are neither factual nor correct. If the leader will recall, I and others on this side, and some of her colleagues, are concerned with the question of the Constitution. The issue is the Constitution. The Constitution is not complicated. I will put it to her again: Section 50 of the Constitution Act, 1867 to 1982, which has been with us for a long time, states:

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

Senator Joyal pointed out to me, and I recall, that section 3 at page 59 of the Charter, which is a schedule to the Constitution Act, states:

Every citizen has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

Section 4.(1) states:

No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs of a general election of its members.

Section 4.(2) allows an extension for extraordinary circumstances of two-thirds of the members of the House of Commons, which could occur during times of war or emergencies. Section 5 states:

There shall be a sitting of Parliament and of each legislature at least once every twelve months.

The historic basis of those provisions would be useful to study should this item be referred again to committee. I commend Senator Cools for bringing this to the attention of honourable

senators. Essentially, this was to prevent power in the hands of the Crown from being exerted for a lengthy period of time. It left the change in the makeup to the will of Parliament at a time on questions of confidence without any other restrictions and in order to keep Parliament more sensitive to the will of the public.

• (1450)

It is interesting to me — and this brings me to my question — that the Reform Party has stood for recall of members between elections if they fail to their mandate. How is this position consistent with the Reform tradition of even earlier recall of individual members and Parliament if it fails to meet the view and the opinions of the public?

There are two questions: First, the constitutionality, and second, the inconsistency between Reform rhetoric and Reform action.

Senator Segal: Is that a question for Premier McGuinty as well?

Senator LeBreton: I appreciate the honourable senator's constitutional lesson, and I take note of it. Senator Grafstein's comment about a policy of the former Reform Party is not even relevant to this debate. The Conservative Party, in a large policy convention held in Montreal in March 2005, rejected recall. It has nothing to do with Bill C-16.

In terms of constitutionality, I wish to remind the honourable senator that the principle of this bill was supported by all parties in the other place.

Senator Grafstein: This chamber knows, and I can draw at least half a dozen examples, that the house passes bills that are unconstitutional. The extradition bill was declared by the Supreme Court of Canada to be unconstitutional.

An Hon. Senator: The Pearson airport bill.

Senator Grafstein: I am not sure about the Pearson airport bill, but that might be the question, too.

The fact is that the mandate of this house, this chamber, amongst other mandates, is to ensure that the Constitution of Canada is upheld on behalf of the regions and the minorities of this country. Therefore, I think we are a chamber of not only second sober thought but also constitutional protection. I would urge the government leader, as a member of this chamber, to give us the benefit of constitutional views about this, because there is a serious question of constitutionality of this bill.

Senator LeBreton: I hasten to add that this bill was before this chamber. It went to the Standing Senate Committee on Legal and Constitutional Affairs and was studied there. The bill came back from that committee unamended. Bill C-16 was amended here on third reading. Following discussion in this place, the bill as amended was voted on. Our side voted against the amendment, and the other side voted for it. The bill as amended went back to the House of Commons. They have now rejected the amendment.

The honourable senator talks about the Senate having to deal with legislation from the House of Commons. I wish to give the honourable senator a bit of a history lesson. When the Senate was first constituted back in 1867, Sir John A. Macdonald, a Conservative Prime Minister, envisaged that the minorities he was wishing to protect were the rich.

An Hon. Senator: That is not true.

Senator LeBreton: It is absolutely true. The place was a chamber of aristocrats, so to speak. I have a direct quote by Sir John A. Macdonald where he actually said that. I would be happy to bring it in. When Sir John A. Macdonald talked about protecting minorities, terms like “mob rule” were used in terms of the House of Commons. We do not want to get into one of those debates. I do not qualify as one of the ones being protected under Sir John A. Macdonald’s minorities.

In any event, this bill has been before the House of Commons twice, where it has been supported in principle by all parties. Bill C-16 has now returned here. It is the duty of this place to make a decision on the basis of what the House of Commons has asked.

Senator Grafstein: I never thought, honourable senators, that I would rise in this place to defend Sir John A. Macdonald, but here I am.

To be accurate, and I say that with the greatest of respect, he, amongst other great parliamentarians, was a Father of Confederation and helped to establish our chamber. Therefore, as Senator Goldstein says, we give credit where credit is due. His desk is in my office, so I am respectful of it.

Having said that, the Leader of the Government in the Senate will recall as well that one of the minorities the Senate was set up to protect, in terms of voice and strength, was the Quebec voice, the French voice of this country. Therefore, the government leader’s comment about this place being for the rich is not accurate. It is true that Sir John A. Macdonald said that the Senate was to be a chamber of second sober thought, in effect, to cool off the wild, tumultuous public will that might be wrong. This is not a history lesson, but if the honourable senator wants a history lesson I am prepared to give it.

Hon. Tommy Banks: I was trying to figure out how to get at this, but the honourable senator crystallized my question just a moment ago when she said that it is the duty of this place, in light of the fact that this bill was passed by the House of Commons, to approve it.

Senator LeBreton: I did not say that.

Senator Banks: The government leader did say that. In any event, one of the principle arguments that is put forward as to why we ought not to support the present amendment is because it is not supported in the other place. I did not come here, and no one suggested that I should come here, with a duty or obligation of any kind not to vote against the wishes of whatever party happened to be in power in the other place, and members on the other side will know that I have not infrequently voted against the party of which I am a member in the other place and will again.

Does the government leader believe it is the duty of honourable senators in this place to follow sheep-like the votes of their colleagues in the other place? I will not.

Senator LeBreton: I shall have to check the record. I do not know whether I said “duty.” I have made a case — the honourable senator can argue and dispute it if he wishes — that the bill as presently worded gives

the Chief Electoral Officer the opportunity to move the date from one to seven days from the fixed date if there is a compelling reason, religious or cultural, or by reason of a provincial or municipal election. I believe that Senator Joyal’s motion moves it down to the municipal level, and I also believe that that provides an opportunity for the Prime Minister of the day to manipulate the date based on municipal referendums. There could be any number of reasons given.

The bill as constructed is adequate. It gives the Chief Electoral Officer adequate opportunity to slightly move the fixed date of the election. That is my opinion. Other honourable senators may have other opinions. I have simply put on the record and on the floor of the Senate my reasons for thinking that the wishes of the House of Commons and its message to the Senate are warranted and warrant support. That is all I can say.

Hon. Gerry St. Germain: My question is to Leader of the Government in the Senate as well. My understanding is that the Province of British Columbia, my province, as well as the Province of Ontario now have fixed dates. They are guided by the same Constitution. Constitutionally, were there any questions brought up during the debate? My understanding is one amendment came forward from one of our more learned senators on constitutional affairs. He proposed the amendment based on the fact that mischievous behaviour by certain segments of our society could conceivably call a referendum or do certain things on a certain date, and that is why this amendment came forward.

• (1500)

As far as the constitutional aspect that is being debated now, it all of a sudden comes out of the woodwork. I am not part of this committee, but I think Canadians should know whether this issue was really brought up and why, if it was unconstitutional, the other side that controls the majority allowed it to proceed with one amendment.

More important, from my understanding, the Chief Electoral Officer has the flexibility of setting a date to make the proper adjustment if mischievous behaviour or whatever else takes place in the country. However, the constitutional aspect seems to be arising at this stage when the bill was passed with perhaps not a minor amendment but a thoughtful one that our side believes is being handled by way of the Chief Electoral Officer.

Could the leader respond to those concerns?

Senator LeBreton: Yes, the honourable senator is right; in British Columbia and Ontario there are fixed election dates that are deemed to be constitutional. I was not at the committee meetings. I am told that at the committee in the other place and the committee here these constitutional aspects of the bill were debated.

I believe this bill was first brought before Parliament in the other place in October. Between the two chambers it has been in Parliament for over six months now. In the bill there was a provision that there be a fixed election date, but the Chief Electoral Officer could move the election date from one to seven days if there was a specific event, such as a provincial election perhaps or a religious holiday upon which the Chief Electoral Officer deemed inappropriate to hold a federal election.

In terms of the amendment of Senator Joyal on third reading — and I read the comments this morning about the separatist explanation — the fact is that nothing should get in the way of a fixed federal election date unless it is a provincial election or a religious holiday. This is a federal general election fixed date we are talking about here.

In the preparation for the bill, as I indicated to other senators, I would be happy to go back to the Minister of Justice and provide some of the arguments that were provided to him and to the government as to why this is constitutional, and why giving the Chief Electoral Officer the flexibility of one to seven days more than sufficiently addressed the concerns that the date may have to be moved for a particular reason.

With regard to Senator Joyal's amendment, the bill went through our committee. The amendment was before the Senate. It passed and went over to the other place. They received it on the Wednesday before the Easter break and then they addressed the matter as soon as they returned. All parties support the bill in principle. The House of Commons sent us a message saying that they do not support the amendment and this is the situation we are in now.

The honourable senator is quite right with respect to the advice we received. There will be an election in Ontario and one in B.C. on those fixed dates. I have not seen people out in the streets waving placards declaring that the process is unconstitutional. I simply put forward a position on behalf of the government and I believe it is now back on the floor of the Senate and it will be up to senators to decide whether to send yet another message back. However, it is important to point out that the Senate has a certain tradition of respecting the wishes and the will of the elected Parliament.

Hon. Consiglio Di Nino: Honourable senators, I too would like to ask a question of the Leader of the Government in the Senate with regard to the questions raised.

The committee heard convincing evidence in regard to the constitutionality of this bill by a number of experts in the field. It also dealt with the issue of the opportunity for the Chief Electoral Officer to recommend to the government a change in date. In my opinion, the bill was crafted in a way to provide maximum discretion to the Chief Electoral Officer to recommend if the date is not suitable. The word "including" is where the amendment was added.

As to the two issues that have been raised, at least as I recollect the discussions, they were both dealt with extensively, particularly as to the constitutionality of this particular issue.

In posing my question to the Leader of the Government in the Senate I will first make her aware, if she is not already, of a comment made by the Honourable Ralph Goodale in the other place when asking a question there. He talks about Bill C-16, and part of his question is to the government House leader in the other place:

I wonder if the government House leader would give us the assurance that the unelected Conservative senators in the other place will not delay this bill.

My question to the Leader of the Government in the Senate is: We are talking about a bill of electing the House of Commons. This is not a bill about electing the Senate. This bill speaks to electing members of the House of Commons. The House of Commons, on the first occasion, conducted a full, detailed analysis of the bill, including all the questions that had been raised in this chamber. The second time around they had the opportunity to reflect not only on their work, but also on the work done by this chamber which, in effect, agreed to the constitutionality and the principle of the bill. That means that other than an amendment made by one of our members, the bill was accepted by this chamber.

Would the leader not agree with me that this bill relates to the election of members of the other place? Having had the opportunity to be seen by the other place, ourselves, and again by the other place, should that not now give us some comfort that we should be speedily moving to try to resolve this issue?

Senator LeBreton: Honourable senators, Senator Di Nino has described the strange events as they took place. As he knows, this bill was before the House of Commons in the fall. It came over here, I believe, in November. It went to committee in December and then came back some time in February. It sat on the Order Paper here because Senator Joyal indicated he wanted to move an amendment.

• (1510)

It finally got through here. Senator Joyal moved an amendment. You take one day to study the amendment. We have a vote on it. This side is defeated because we did not support the amendment.

We sent it back over to the House of Commons on Wednesday night and it arrived back there on Thursday. That happened to be the last day we sat before the Easter break. That Thursday we had Royal Assent, and then Ralph Goodale put out a press release accusing us of trying to defeat this bill in order to give the Prime Minister a chance to call an election.

Mr. Goodale was accusing us, the Conservative senators, of stalling the bill when, in fact, it was senators on the other side who were stalling it. It was a rather confusing position of Ralph Goodale but also a very amusing press release accusing us of not putting Bill C-16 through, and accusing us of not wanting it to go through because we wanted to have the opportunity to call an election at any time.

In any event, just to assure the honourable senator, we are very intent and interested in getting this piece of legislation passed. He is quite right, it is in connection with fixed election dates for electing members to the House of Commons.

I put on the record today my arguments to support the message from the House and not to support the amendment as proposed by Senator Joyal before it went over to the House. That is all I can say at the moment.

Honourable senators, I have made my position very clear in not only my answers to the questions but also in my remarks. If it pleases Your Honour, I think that will be the last question I will take.

Hon. Serge Joyal: Honourable senators, I would like to thank the Leader of the Government in the Senate for presentation of the message and comments on the government side in this chamber on the message of the House of Commons. It intends to address the criticism or analysis of the amendment, and it was derived from Senate-bashing.

While in the other place, when the Leader of the Government in the House of Commons commented on the bill amended by the Senate, there was, of course, a little bit of Senate bashing. Why? It was because, of course, we are unelected. It is easy. We have heard that repeated a hundred times.

I refer the honourable senators on the other side to the debates of the other place on April 23, 2007, pages 8521, 8522 and 8523 of the answer. They will be, as we say in French, édifié. They will be certainly impressed by the level of criticism this chamber receives when we exercise our constitutional duty on a bill pertaining to the Canada Elections Act.

This bill, as you will notice, is entitled “An Act to amend the Canada Elections Act.” There is a presumption on the other side, and sometimes in some senators minds, that if the Senate dares to do anything with the Canada Elections Act that comes from the other place, we are accused of a crime of *lèse-majesté* or *lèse-démocratie*.

Honourable senators, there are ample examples wherein this chamber has intervened in debates on amendments to the Canada Elections Act that have improved the act in two areas. The first is on regional interests. Three years ago, we dealt with amendments with regard to the criteria followed by those commissions that revised the boundaries, to ensure that in French-speaking minority communities the geographical reality and the community be taken into account. This chamber revised those criteria and made recommendations to the Chief Electoral Officer.

There are other instances. I recall Senator Nolin participating in the Standing Senate Committee on Legal and Constitutional Affairs when we debated the status of minority parties. We warned the other place that the sections of the Canada Elections Act that did not properly recognize minority party status would be struck down by the Supreme Court of Canada. Of course, that is what happened in the famous *Figuroa* case. The house gave the signal to the other place that the Canada Elections Act did not properly respect the Charter of Rights and Freedoms. Our friend Senator Segal invites us to look into that when we approach legislation or when we are charged to review legislation.

There is, of course, another aspect of our duty in relation to the Canada Elections Act, which is its constitutional implication. There is no doubt it is part of our duty. They may not like it when we try to apply our experience, because many of us have been elected or have been involved in the electoral process. There is no doubt that when we apply our experience it is very helpful in improving legislation. I resist those arguments that each time a bill comes from the other place we cannot apply our best judgment in our review and bring sober second thought to it.

Honourable senators, as a preamble to my approach to this bill, I want to mention to you that there is absolutely no basis for refusing an amendment because it has been introduced at third

reading. It has been repeated in the other place and in this place today that of course the amendment was not considered at the committee stage; therefore, the amendment is not proper, it has not been debated and it has not been given proper consideration.

Let me remind you, honourable senators, that the standing order of the Senate, rule 77, is clear: “At any time before a bill is passed a Senator may move for the reconsideration of any clause thereof already carried.”

It is not uncommon for a bill that has not been amended in committee to be amended at third reading. We always have the choice to amend at either committee stage or third reading.

I contend the suggestion that an amendment is less receivable because it is amended at third reading. That argument does not fly with me.

The second argument was put forward by the Leader of the Government in the other place. At page 8524 of the Hansard of April 23, 2007 he said:

It was not a suggestion from witnesses at one of the committees or a decision of one of the committees that led to this change. It was from one senator who thought he would raise it at third reading, at the eleventh hour, as another way to stall this bill and to stall any form of democratic reform. This is the real Liberal Party agenda.

I turn from the partisan comment and stick to the arguments. It was not a suggestion from witnesses. That is the key element. In other words, the issue came new at the eleventh hour; when I made the amendment in this chamber, nobody had heard of it. That is untrue. I repeat: This is false. This is misleading the other place and this place.

The proof, honourable senators, is in the minutes of the Standing Senate Committee on Legal and Constitutional Affairs, January 31, 2007, where the Chief Electoral Officer of Canada testified. I quote at page 14 of 25 of his testimony. Let me quote Mr. Kingsley in answer to a question from me, as a permanent member of that committee for 10 years.

• (1520)

Mr. Kingsley, in answer to my question of whether the referendum issue was covered in the bill, said:

You are correct when you say the bill will not allow the Chief Electoral Officer to recommend postponing a general election because of a scheduled provincial referendum. There is no question about that.

Do I need to repeat, honourable senators? The Chief Electoral Officer responded clearly to the suggestion that this bill, as drafted, does not cover a provincial referendum. It could not be clearer, printed in black and white, than his answer on January 31, 2007.

I asked a similar question of Mr. John Hollins, the Chief Electoral Officer of Ontario, who appeared two weeks later, February 14, 2007, at the following meeting of the Standing Senate Committee on Legal and Constitutional Affairs. Essentially, the argument put forward was exactly the one put

forward by the government leader, respectfully, that the drafting of the bill included the referendum on the basis of the following words of the text. Proposed new section 56.2(1) of the Canada Elections Act, which Bill C-16 amends, reads:

If the Chief Electoral Officer is of the opinion that a particular date is not suitable for the purpose of holding an election under subsection 56.1(2) is not suitable for that purpose . . .

I repeat: “If the Chief Electoral Officer is of the opinion” that a particular date is not suitable for the purpose of holding an election — and what are those reasons? Those reasons include:

. . . by reason of its being in conflict with a day of cultural or religious significance or a provincial or municipal election . . .

The contention is that it is included in that list of religious, cultural, municipal or provincial elections.

Therefore, I asked Mr. Hollins from Ontario his interpretation of that proposed section, because Ontario has the same section. I put the question to him: “Does that include referendums?” His answer was to me was the following:

I am always wary of “suitable purpose.” Any time I am given legislation and the people giving it to me have not defined what the terms mean, I am not sure exactly what their thought processes are. In this case, who is going to make that determination? We dealt with that in our discussions.

In other words, honourable senators, Mr. Hollins’ own interpretation of his own legislation does not include the referendum under “suitable purpose.”

Honourable senators, it is essentially on those two testimonies that I thought it advisable to come forward with an amendment. I did not invent the amendment at the eleventh hour when we reported the bill at third reading here. It was already stated by the expert witnesses we heard concerning the matter of managing elections in Canada. To say that we have improvised that argument does not hold water.

In addition to that, when I posed the question to the Chief Electoral Officer, I said that I thought it was an important issue to clear up because we in Quebec — and this is stated in the proceedings of the Standing Senate Committee on Legal and Constitutional Affairs. My honourable colleague and friend, Senator Di Nino, was in attendance at that time. I said that we in Quebec have had the experience of provincial referenda more often than others. We know that sometimes one might want an election and a referendum to overlap, for all kinds of political reasons. I do not need to provide examples of previous decisions of that nature. Therefore, I thought it advisable that we amend the bill to include the context of a referendum.

The other argument put forward in the other place — and I quote the wording used — is this: “This amendment creates more opportunities for fixed election dates to be cancelled.”

In my opinion, those in the other place do not understand the mechanics of the bill. The bill functions in the following way: If the Chief Electoral Officer is of the opinion that an election date is

in conflict with a provincial election or a day of cultural or religious significance, or a municipal election — it is in the bill — what options does he have? He does not postpone or cancel the election. Rather — and I quote from the bill:

. . . the Chief Electoral Officer . . . shall recommend to the Governor in Council that polling date be that other day.

Therefore, the Chief Electoral Officer does not decide himself. To whom does he recommend? He recommends to the Governor-in-Council. Proposed new section 56.2(3):

If the Governor in Council accepts the recommendation, the Chief Electoral Officer shall make an order to that effect.

How long will the election be postponed? The answer is found in 56.2(4):

. . . either the Tuesday immediately following the Monday that would otherwise be polling day —

Honourable senators, 24 hours.

— or the Monday of the following week.

In other words, honourable senators, in a week’s time.

Honourable senators, we are not talking about cancelling an election. We are giving the Chief Electoral Officer the capacity to reassess the situation if there is a provincial or municipal referendum.

It has been said in the other place that a municipality of 400 citizens could call a referendum and that that would trigger the cancellation of a national election. I think, honourable senators, as Talleyrand has said, everything that is exaggerated becomes meaningless. It is as true for a municipal election of 1,100 citizens because municipal elections are already covered in this bill.

Honourable senators, I would ask leave for another five minutes.

The Hon. the Speaker: Is leave granted for an extra five minutes?

Hon. Senators: Agreed.

Senator Joyal: In other words, what is good for a municipal election of 400 citizens is not good for 400 citizens asking for a referendum. Why? Because the Chief Electoral Officer is the one to make the decision and the recommendation.

In conclusion, if you do not trust the judgment of the Chief Electoral Officer on a municipal referendum, why would you trust the judgment of the Chief Electoral Officer on a municipal election of the same size? It is ludicrous. This argument does not hold water either.

Honourable senators, what exactly is the purpose of this bill? I come back to my conclusion on this.

In the other place, the amendment was supported by the NDP. I want to quote two members from the NDP party, Mr. Dewar being one of them. I shall provide the other NDP member’s name,

so I do not mispronounce it. The amendment was supported by Paul Dewar, from Ottawa Centre, and the other NDP member. They essentially said: What are we doing here? We are in fact trying to understand the unintended consequences of a bill that might be well-intentioned but might not be sufficient to address a difficult political situation. They provide the examples of the referendum in Quebec. I will quote, honourable senators, what Paul Dewar said on this very amendment. He said, on April 23 — and I quote:

• (1530)

It is reasonable for the chief electoral officer to look at the election date and, if he or she sees a conflict, he or she may decide that we should not have a federal election on the same date as, for example, a referendum in Quebec on something as potent as whether Quebec remains in the federation. That is an example of why we should look at this.

This amendment would not change the spirit of the bill. It is simply a what-if scenario. As I have already mentioned and underlined, it would give the chief electoral officer an option.

That is what we are talking about with this amendment, honourable senators. We are not gutting the bill. We are trying to make sure that the scope of the bill is maintained, that the process follows the way it is stated in the bill and that we come to a conclusion where the bill covers the most difficult political situation when the Chief Electoral Officer may have to exercise his or her judgment.

The same Chief Electoral Officer will have to decide if a cultural date is of enough significance to recommend the postponement of a national election. A cultural date is not defined in the bill, but a provincial referendum is not included in the bill, according to the Chief Electoral Officer. It seems to me that we must be sure that we keep in the right balance the scope of the exercise of the judgment by the Chief Electoral Officer. If we trust the Chief Electoral Officer to be able to evaluate if a religious day or a cultural day in Canada is of such importance that the national election should be postponed for 24 hours or a week, I think we can trust the same Chief Electoral Officer to decide if a referendum at the provincial or municipal level is of such importance that it should trigger a similar postponement. That is essentially what we are talking about here.

Honourable senators, this bill seems to be well-intentioned, and I do not dispute that. I have strong reservations on its constitutional impact. I stated those reservations when I addressed this chamber at second reading; I stand by those comments. I thought that addressing the very specific amendments we have under consideration today, what I have given you as an argument, is sufficient to give pause and let you think over the weekend what it is about and what we should do with the message received from the House of Commons.

[Translation]

The Hon. the Speaker *pro tempore*: Honourable senators, I am sorry, but Senator Joyal's time has expired, unless the honourable senators grant him leave to answer one or two questions. Is leave granted?

[Senator Joyal]

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

[English]

Senator Cools: My understanding of the ruling of a couple of days ago by the Speaker was to encourage members of the Senate, when seeking an extension of time, to articulate the amount of time they want, or anticipating questions that the Senate may require.

I am trying to say, honourable senators, that some time ago when Senator Joyal wanted an extension, I do not believe he requested five minutes. I believe someone else said five minutes.

My understanding is that the way and direction we wish this house to move in, is for each and every member to be involved in the administration and forward movement of the business of the house.

It seems to me, honourable senators, that perhaps Senator Joyal should have been allowed to ask for time. I believe Senator Pierre Claude Nolin wanted to ask a question, and so did I. That request should not be amended by somebody else.

The Hon. the Speaker *pro tempore*: The honourable senator is right. The main point is that, in the Senate, honourable senators are the masters of the debate. To have extra time, one must request permission from the chamber, and permission was not given for more time to Senator Joyal.

Senator Cools: Had permission been asked for originally, it would have been a different matter. What I understood the ruling of a few days ago to be doing was to discourage one person from signalling to the chair to take a certain action and to encourage responsibility of the individual senator to make a request for an appropriate amount of time which would allow that senator to complete his or her remarks, and a few questions to be put. That is the point I am making, Your Honour.

The Hon. the Speaker *pro tempore*: Continuing debate, because no permission for more time is granted to Senator Joyal.

There is a motion on the floor.

Senator Cools: What motion is on the floor?

Hon. Norman K. Atkins: Honourable senators, I have listened to all the discussion at second reading and what has occurred today. I support Senator Grafstein's comments with regard to the Constitution. I also support Senator Joyal's presentation to this house.

First, the Leader of the Government says that the amendment is unnecessary. Quite frankly, I think the bill is unnecessary.

Some Hon. Senators: Hear, hear!

Senator Cools: An extreme waste of time and money.

Senator Atkins: The fact that Ontario has fixed dates and British Columbia has fixed dates, I say, “so what?” We are talking about the federal government. It is another example of the Americanization of our Canadian parliamentary system. When one talks about democratic reform, this is another way of putting forward a redundant piece of legislation. It is republican reform, not democratic reform.

Some Hon. Senators: Hear, hear!

Senator Atkins: I have been involved in politics for 55 years. I have been involved with Premiers and Prime Ministers, and I have watched them agonize over the timing of elections. Many of the things in this bill that were presented by the Leader of the Government would be irrelevant if the government had that option.

They would not have to worry about whether there is a religious date, because the government would make those considerations. One would not have to worry about the Chief Electoral Officer. Why are we giving them more authority than they really deserve? It is ridiculous, and we are moving in a direction that does not seem to make any sense.

The Constitution provides for a period of five years between elections. How many examples do we have of a government that has gone for five years? I can only think of one, but there may be more.

It seems that governments, if there is a vote of confidence in the House and the government is defeated, then the government goes to the Governor General and a writ is issued. Why are we getting ourselves into a situation of fixed dates and then worrying about whether the date will conflict with an event such as a provincial referendum or a provincial election? If a government and a leader of a government have those options, they can make those decisions; they do not need legislation. I think it is absolutely ridiculous that we are getting into a situation where we have to pass a bill like Bill C-16.

• (1540)

Frankly, I have a significant amount of respect for members of the House of Commons who are elected, but they are not always right. As senators, I think we do have a responsibility to be a chamber of sober second thought.

Some Hon. Senators: Hear, hear!

Hon. Hugh Segal: Honourable senators, I wanted to speak in favour of the motion advanced by the government leader. I wanted to do so, despite the fact that most of what I learned about politics I learned from Senator Atkins, for whom I have the greatest and most profound respect and affection; and despite the fact that I have a very high regard for both the substance and the sincerity of Senator Joyal’s concerns as expressed with respect to the amendment.

I want to remind colleagues that the rationale behind the bill before us *ab initio* was the notion of electoral fairness. It may be that, for those who are used to being on the government side for long periods of time, the notion of a prime ministerial prerogative to wander down to see the Governor General and dissolve Parliament whenever the polls seem to be working appropriately

for that particular prime minister is normative. Let me share as respectfully as I can with colleagues that outside this place, outside this building and outside the constraints of how the system has operated in perpetuity, some people think that fixed election dates are actually more democratic.

As we sit here today, the official opposition, led by Stéphane Dion, has the right to know if we are in a majority circumstance — which we are not — and when the next likely date of the election is so as not to have that date sprung on him with 37 days’ notice because the prime minister of the day happens to think that is a good thing for his party. That would apply absolutely equally if the present government was sitting in opposition, as it was less than a year and a half ago.

While I do not question the concern, which I think is a legitimate debate as to what we might give as authority to the Chief Electoral Officer, I point out as a matter of record that there was a time when Senator Atkins and I would have said that all kinds of wisdom came from the Ontario legislature — though often ignored and neither embraced nor accepted. In the Ontario legislature, the distinguished premier of that province, who happens to be a member of another party — I do not hold that against him; at least not until October 10 — and his cabinet and his law officers of the Crown rendered a proposition with respect to a fixed election date, building on the experience of, dare I say, another Liberal administration, in the province of British Columbia, that thought they would facilitate a greater sense of democratic fairness by also going to a fixed date.

While I absolutely embrace the notion that sober second thought allows this upper chamber to discharge its constitutional duty to refine, repair, correct and defend, as necessary, surely we have some modest obligation to respect when the other place has, not on a single-party basis but on a multi-party basis, not once, but twice, asked us to pass this legislation and set aside the amendment that was offered by the other side of this place in good faith, on division.

The larger question, which, as a member of the class of 2005, I might be permitted the temerity of asking, is this: Is there any point, even when honourable senators opposite may genuinely believe, as I am sure they do, that they are right and are defending the public interest, that they are prepared to defer to the democratic legitimacy of our colleagues in the other place?

We do not have, as Senator Joyal has referenced in many of his learned presentations to this chamber in the past, a powers of Parliament act as exists in the British system. Despite the fact that the Lords have the ability to utilize the back of its hand, as it just did, to recommendations of democratization of the Lords. They did so in a relatively short debate. That powers of Parliament act defines that, in the end, the elected House of Commons actually has the capacity to make the final decision because it is elected. The question before us, independent of the substance of the amendment and independent of the substance of the bill, is whether there is any will on our part to acquiesce as an upper chamber to the will legitimately expressed on a multi-party basis in the minority House of Commons for our consideration on two separate occasions, namely that the bill now be passed.

Senator Banks: Will the honourable senator accept a question?

Senator Segal: I would be honoured to do so.

Senator Banks: I think the main question before us concerns the matter of the amendment because this house agreed with the bill, as amended. The issue at question here is the amendment of Senator Joyal. I invite the honourable senator's views and comments on that.

Before I do that, I think the answer to his question about a resolution of a conflict is that it depends on the nature of the question. There would be a law against abortion in this country if, in fact, the determination of the House of Commons was the end of discrimination. There would be a bill, which most of us know to have been unwise, on the question of animal cruelty in this place. There would not have been an opportunity for Canadians to go to the polls to vote in an election in which free trade was a question had it not been for the fact that this place — not often, but sometimes — on matters to which it attaches greater importance than others, does not permit always of the determination of the other place to be “the end of the matter.”

There are others here who know far more about that than I and I invite the honourable senator to comment directly on Senator Joyal's amendment to the bill, which is a question because no other part is.

Senator Segal: I think the amendment, while in good faith and well-intentioned, is somewhat overwrought. I do not think we have a convention in this country of chief electoral officers and others when given certain powers under the act of acting in any way irresponsibly; it is quite the contrary.

I happen to think there should be some limit to the ability of a referendum in some particular narrow jurisdiction to upset a fixed electoral date decided upon under statute of this place, so I would not be comforted or feel any better about our democratic process should the amendment put forward by my good friend Senator Joyal become a dominant part of the process.

[Translation]

Hon. Pierrette Ringuette: Honourable senators, if I may, I have one question for my honourable colleague.

Senator Cools raised a question concerning democracy and our citizens' right to vote.

• (1550)

I believe Senator Segal was very involved, a few years ago, in a government's decision to hold a popular referendum on a very important question.

I think it is important to understand that here we are talking about depriving all Canadians of a part of democracy and the right to speak out on certain issues. If next week we were told that there were plans to send our military to Iraq, I sincerely believe that Canadians would want to have their say.

I understand that we are discussing Senator Joyal's amendment, but there are substantive issues that are also very important. It has been assumed that fixed date elections would be more democratic, but I am not really convinced.

Senator Segal: The honourable senator is quite right. I was very proud to be part of a government that proposed a national referendum on the Charlottetown Agreement. This established

the rather important constitutional principle in Canada, that the Constitution can never be amended without the consent of Canadian voters. This principle was established by Mr. Mulroney and will remain an important principle for Canada.

However, should a bill be passed to set fixed dates for an election campaign and something very important were to come up, for instance, in the event of a war, a constitutional question, or if a government were to propose an essential referendum to Parliament, I have no doubt that in such circumstances, we could do away with the normal election schedule, if it were a matter of national importance. We always have the ability to do so. What is being proposed is a statute, not a constitutional change! It is a statute, a law. Parliament and the Senate will always have the ability to make changes to legislation. At least this underscores the commitment of the Parliament of Canada to set an established time frame for all parties, large and small, majority and minority, and all special interest groups, so that everyone is familiar with the rules so as to advance the cause of democracy. The rules must be maintained in a balanced manner. I believe this electoral balance sought by the government will be achieved.

[English]

Hon. Lorna Milne: Honourable senators, I did not intend to speak in this debate, but I do feel that the record should be set straight for the benefit of Conservative senators on the other side who were not members of the committee at the time and particularly for the benefit of our colleagues at the far end of the hall, the other place. It was quite clear in committee that Senator Joyal intended to introduce an amendment. He needed more time to prepare it. In order to accommodate the Conservative senators on the committee who were concerned that we proceed to clause-by-clause consideration to get this bill back into the Senate chamber, Senator Joyal very kindly agreed to introduce his amendments in the chamber at third reading, not to bring them in at committee. I think that should be very clearly on the record.

Senator Cools: I wonder whether the honourable senator would take a question. The honourable senator knows the deep respect and affection in which I hold him. I would like to preface —

An Hon. Senator: Order!

The Hon. the Speaker: Honourable senators, I believe we are continuing debate.

Senator Cools: I am asking a question as well.

The Hon. the Speaker: Honourable Senator Segal is done.

Senator Cools: This is a joke.

The Hon. the Speaker: Senator Milne has spoken. Senator Cools on debate.

Senator Cools: Who is speaking next? Did you speak? So I can ask you the question?

Okay. Let us rephrase that for a moment.

Honourable senators I would like to put a question to Senator Milne, if she would accept. Wonderful.

Honourable senators, what is before us is not the message from the House of Commons. Before us is a motion from the government that the Senate not insist on the Senate's amendments.

That is a request not from the House of Commons, but from the government. Let us not confuse the two. In this debate, the views of the House of Commons have not yet been entertained or heard. It is often a difficult matter to ascertain the difference between the views of the House of Commons and the views of the government, and I repeat that they are not the same. Senator Milne and I were members of a committee where we dealt with these issues once before.

Honourable senators, the arguments about the democratic and elected nature of the House of Commons are irrelevant to this particular debate. The fact of the matter is that this Senate took a decision by vote of this place. That vote binds all including those senators who are supporters of the government. Let us understand this clearly.

When this Senate took that vote and took that decision, the House of Commons was just as elected as it is now. Nothing has changed with the state of the House of Commons.

What has changed, honourable senators, is the fact that government members are now saying to this Senate: Do reverse your decision; do change your decision. Therefore, honourable senators, let us understand that when a house, any assembly, any court is asked to reverse its own decision, that is a serious matter. Those who ask this house to reverse itself have an onerous burden to show and to prove that the original decision was so insufficient and so inadequate that it should be reversed. All those arguments about the democratic nature, the elected nature of the House of Commons are totally irrelevant. We must consider the substance, depth and nature of the argument being put before us as to why each and every one of us here in the Senate should partake in reversing a Senate decision. That, honourable senators, is what is really before this chamber.

In other words, when a reversal of an opinion is being asked, the onus is a very steep hill to climb, and the onus is on the government to prove by argument, not by sentiment, intimidation or embarrassment, but by reasoned argument as to why the Senate's decision should be reversed.

Therefore, my question to Senator Milne is as follows: Is she satisfied that the mover of the motion has placed sufficient argument before her to cause her to change her mind and to cause her to encourage all senators to reverse a Senate decision?

• (1600)

Senator Milne: Honourable senators, as is quite often the case, Senator Cools is absolutely correct in her arguments. However, I will take under advisement how I will vote on this issue.

Senator Cools: Precisely. That, honourable senators, satisfies the question. We do not need to debate the matter further.

On motion of Senator Tardif, debate adjourned, on division.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Eyton, seconded by the Honourable Senator Keon, for the third reading of Bill C-26, An Act to amend the Criminal Code (criminal interest rate).

An Hon. Senator: Question!

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

NATIONAL FINANCE

BUDGET—STUDY ON ISSUES RELATING TO FISCAL BALANCES AMONG ORDERS OF GOVERNMENT—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourteenth report of the Standing Senate Committee on National Finance (budget—study on fiscal balance), presented in the Senate on April 17, 2007.—(*Honourable Senator Day*)

Hon. Joseph A. Day moved the adoption of the report.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[*Translation*]

STUDY ON MATTERS RELATING TO AFRICA

MOTION TO ADOPT REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE AND REQUEST GOVERNMENT RESPONSE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Keon, that the seventh report of the Standing Senate Committee on Foreign Affairs and International Trade entitled *Overcoming 40 Years Of Failure: A New Road Map For Sub-Saharan Africa*, tabled in the Senate on February 15, 2007, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Foreign Affairs, the Minister of International Trade, the Minister of International Cooperation and the Minister of National Defence being identified as Ministers responsible for responding to the report.—(*Honourable Senator Corbin*)

Hon. Eymard G. Corbin: Honourable senators, it is true that I took adjournment of the debate. However, I never intended to speak about this matter. The report contains just about everything that I would like to say and I do not wish to needlessly repeat what is in this excellent report.

Therefore, I move that debate be adjourned in the name of the present chair of the Standing Senate Committee on Foreign Affairs and International Trade, the Honourable Senator Peter Stollery.

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

Hon. Senators: Agreed.

On motion of Senator Corbin, for Senator Stollery, debate adjourned.

WORLD WAR I

CONTRIBUTION OF ARAB PEOPLES TO ALLIED VICTORY—DEBATE CONTINUED

On the order:

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

- (a) Remembrance Day, November 11, 2006, the 88th Anniversary of the end of the First World War, the Day to honour and to remember those noble and brave souls who fought, and those who fell, in the service of the cause of our freedom and in the cause of the British and Allied victory over Germany, Austria-Hungary, and the vast and powerful Ottoman Empire, known as the Ottoman Turks; and
- (b) the Arabian theatre of the First World War fought in the Arab regions of the Ottoman Empire, particularly Arabia and Syria, and to the brave and valiant Arab peoples, the children of Ishmael, who fought and fell on the side of Great Britain and the Allies in a war operation known to history as the Great Arab Revolt, June 1916 to October 1918, in which the Arab peoples from the Hijaz, the Najd, the Yemen, Mesopotamia and Syria, and their leaders, engaged and defeated the mighty Ottoman Turks, the rulers and sovereign power over the Arab peoples, expelling them from the Arab regions, which these Ottoman Turks had occupied and dominated for several centuries; and
- (c) the great Arab Leaders in the Arabian theatre of war, particularly the revered Hashemite, a direct descendant of the Prophet Mohammed, the Sharif Hussein bin Ali, the Emir of Mecca, the Holy City, and his four sons the Emirs, Ali, Abdullah, Feisal, and Zeid, who though high office holders under the Ottoman Turks, repudiated their allegiance to the Ottoman Sultan, and led their peoples in the Arab Revolt, both in support of and supported by Great Britain, whose high representatives had promised them independence for the Arabs; and

(d) the endurance and valour of the Arab fighters, adept with their camels, to the desert and Bedouin warriors, from the desert tribes, the tribesmen and tribal chiefs such as Auda abu Tayi of the Howeitat tribe, and also to the Arab soldiers and officers of the Ottoman Turkish Army who joined the Arab Revolt to oust the Turks and to support the British, and to the harsh and inhospitable conditions of the deserts, the scorching heat of the days and the frigid cold of the nights, and to the Arab campaigns and victories including their capture of Akaba, Wejh, Dara and Damascus from the Ottoman Turks; and

(e) other Arab leaders, including the Emir Abd-al-Aziz of Najd, known as the Ibn Saud, and the Idrisi Emir of Asir, who had offered resistance to Ottoman domination even before the war, and to General Edmund Allenby, the Commander-in-Chief of the British forces with headquarters in Cairo, Egypt, who noted the indispensable contribution of the Arab peoples to British and Allied victory; and

(f) the Remembrance of the Arab peoples, the descendants of Ishmael, the son of Abraham and Hagar, the bond servant of Abraham's wife Sarah, and to the Remembrance of all the Arab peoples who sacrificed and suffered tremendously, often afflicted by hunger and thirst, yet who contributed to making Allied victory, our Canadian victory, our freedom from domination, possible. Lest we forget, we shall remember them.—(*Honourable Senator Comeau*)

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, after having closely studied this inquiry, I note that I need to do a great deal more research in order to prepare my comments on this matter. I ask to have this matter stand in my name.

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

Some Hon. Senators: Agreed.

On motion of Senator Comeau, debate adjourned.

ADJOURNMENT

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

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

That when the Senate adjourns today, it do stand adjourned until Tuesday, May 1, 2007, at 2 p.m.

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

Some Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, May 1, 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 26, 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	1 st	2 nd	Committee	Report	Amend	3 rd	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
S-6	An Act to amend the First Nations Land Management Act	07/04/25							

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	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 3 rd (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 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 (<i>Appropriation Act No. 1, 2006-2007</i>)	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	1 st	2 nd	Committee	Report	Amend	3 rd	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 Message from Commons disagreeing with Senate amendment 07/04/27		
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	07/04/26		
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

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
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 (<i>Appropriation Act No.2, 2006-2007</i>)	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	6/06
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 (<i>Appropriation Act No.3, 2006-2007</i>)	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 (<i>Appropriation Act No.4, 2006-2007</i>)	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 (<i>Appropriation Act No.1, 2007-2008</i>)	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	4/07

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	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	1 st	2 nd	Committee	Report	Amend	3 rd	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	1 st	2 nd	Committee	Report	Amend	3 rd	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	07/04/25		
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					

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