



CANADA

Debates of the Senate

3rd SESSION

•

37th PARLIAMENT

•

VOLUME 141

•

NUMBER 13

OFFICIAL REPORT
(HANSARD)

Friday, February 20, 2004



THE HONOURABLE DAN HAYS
SPEAKER

CONTENTS

(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate
Available from Communication Canada – Canadian Government Publishing, Ottawa, Ontario K1A 0S9.
Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Friday, February 20, 2004

The Senate met at 9 a.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

SCOUT-GUIDE WEEK

Hon. Joan Cook: Honourable senators, this week, February 16 to 23, is Scout-Guide Week in Canada. It will culminate on February 22 with Thinking Day. This is a special day for an organization of which I am quite proud to be an honorary member — the Girl Guides of Canada. On that day, members of guiding and scouting will remember their sisters and brothers throughout the world and will celebrate international friendship. It is a time for global education, special ceremonies, parties and activities that foster an appreciation of the uniqueness and similarities of people everywhere.

It is a day to celebrate the joint birthdays of the founders of the movement, Lord and Lady Baden-Powell. Girl Guides was formally founded in 1910 in the United Kingdom and spread rapidly throughout the world. The movement continues to thrive and make an immeasurable contribution to our society. Today in Canada, we have 169,000 members and 10,000 units involved in exciting and challenging programs. Worldwide, there are nearly 10 million girls and women involved within 140 member organizations.

Honourable senators, I believe that guiding provides wonderful opportunities and growth experiences for girls. I believe these experiences help young girls gain self-confidence, become independent decision-makers and understand their responsibilities as citizens of their communities.

In Canada, girl guiding remembers its global obligations through donations to the Canadian World Friendship Fund. The money raised will help the world association achieve its mission to further guiding and will help make a difference to girls and young women worldwide.

Honourable senators, the goal is to change the following facts: 91 million girls worldwide do not go to primary school; 70 per cent of people living with HIV/AIDS are female; 50 million to 60 million children between the ages of five and fourteen years work in dangerous conditions; nine out of ten people killed in today's wars are civilians and most of these are women and children.

Honourable senators, I would like to take a moment to recognize the work and effort of the volunteers of these two great organizations. They are the men and women in our communities who work directly with the Girl Guides and Scouts across Canada

as leaders. They give their time unconditionally to provide rich and meaningful life experiences for our young people. It is a gift. Their work is invaluable, and I offer my congratulations and say "happy birthday" on behalf of the Senate of Canada.

SPECIAL OLYMPICS CANADA WINTER GAMES 2004

Hon. Jim Munson: Honourable senators, this week I had the great honour of attending the opening ceremonies of the 2004 Special Olympics Canada Winter Games in Charlottetown, Prince Edward Island. As a prelude to the Special Olympic World Games that will take place next year in Nagano, Japan, these games are a showcase for some of Canada's greatest athletes. I say "greatest" because these men and women not only compete to win but also to participate because of their love of sport and life.

The games also demonstrate the tireless dedication of hundreds of coaches, managers and organizational staff who volunteer their time to advance the Special Olympics movement. I was deeply touched by everyone involved in the games and I am proud to play a role in spreading their message. I know that all honourable senators will support this exceptional organization and the brave athletes as they strive to attain their goals.

THE SENATE

RULES OF THE SENATE, FEBRUARY 2004

Hon. Lorna Milne: Honourable senators, on Wednesday I tabled a copy of the revised *Rules of the Senate* on behalf of your Rules Committee. I want to take a few moments to explain to honourable senators a couple of things about this particular version of the rules that, according to the *Rules of the Senate*, I could not do when I tabled the report. I noticed yesterday that Senator Kinsella was already using the new index of the rules, which has been greatly expanded and, to a certain extent, cross-referenced. I am hopeful that it will be much more user-friendly than the previous version.

I would like honourable senators to provide some feedback on the new index, which was prepared for the Rules Committee by the Library of Parliament, because it is a work in progress. If any honourable senator has problems using it, please advise a member of the committee or the Deputy Clerk of the Rules Committee, Mr. Gary O'Brien. I look forward to some positive feedback over the next year before we re-publish the *Rules of the Senate*.

I have found it frustrating over the past year or two when searching through the index for an item, only to eventually find it about five minutes after the occasion to use the rule had passed. I am hopeful that this new index will help all honourable senators.

ROUTINE PROCEEDINGS

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I ask leave to revert to Government Notices of Motions later this day, following completion of the Orders of the Day, Inquiries and Motions, for the purpose of dealing with the adjournment motion.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: No?

Senator Kinsella: No.

The Hon. the Speaker: Leave is not granted.

• (0910)

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Your Honour, I would ask that motion No. 6 be called first.

REPRESENTATION ORDER 2003 BILL

ALLOCATION OF TIME FOR DEBATE— MOTION ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of February 19, 2004, moved:

That, pursuant to Rule 39, not more than a further six hours of debate be allocated for the consideration of the second reading stage of Bill C-5, respecting the effective date of the representation order of 2003;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the second reading stage of the said Bill; and

That any recorded vote or votes on the said question be taken in accordance with Rule 39(4).

He said: Honourable senators, last week we received Bill C-5, respecting the effective date of the Representation Order of 2003. Today is the sixth day of debate at second reading. However, this is not the first time we have debated this bill in this chamber. As you know, this bill, under its former number

Bill C-49, was debated in the previous session. It first came to us from the other place in October of last year. At that time, the bill was before us for three weeks, during which time we conducted a substantive debate. Senator Smith and the Leader of the Opposition, Senator Lynch-Staunton, spoke to the bill, as did many other senators on both sides of the chamber. Others among us participated in the proceedings at that time during question and answer sessions.

The bill has, once again, come from the other place and has, once again, progressed through introduction and first reading. We, once again, have it before us at second reading.

As discussed yesterday by members on this side and those opposite, the upcoming committee stage is very important because it will provide for the appearance of witnesses and officials to speak to the character of the bill.

On Wednesday, Senator Lynch-Staunton said:

Honourable senators, Bill C-5, essential as it is to the government's election strategy, must still be given the most careful study in committee. Any attempt to rush it through at that stage will only confirm the apprehensions just listed and many more.

To this effect, and pursuant to my notice of yesterday, I would like to send Bill C-5 into committee so that the kind of examination my honourable colleague opposite says is so important can indeed take place.

Honourable senators, we certainly feel this bill has been given ample consideration. It was considered for three weeks during the last session and we will have up to six more hours of debate this time around before proceeding to committee, for which the Leader of the Opposition expressed support yesterday.

I must say that I would find any disagreement expressed by members opposite to this time allocation motion surprising. It was only last week that Senator Kinsella moved the previous question on his Bill S-7 at the conclusion of his second reading speech, before any other senators were given the opportunity to speak at all. In view of his attempts to expedite committee study of his bill, I would have thought that the expedition of our study would be supported.

Certainly, having moved immediate adoption of second reading on his own bill through the previous question technique, he cannot object to time allocation on a government bill that has already received three weeks of consideration by this chamber during the last session.

Honourable senators, I look forward to the adoption of my motion by the Senate so that we can begin the important work our committee needs to do in a timely fashion. Consequently, I urge all honourable senators present to support my motion so that we can move ahead with a new representation act that will benefit all communities.

Some Hon. Senators: Hear, hear!

Senator Robichaud: Question!

The Hon. the Speaker: If debate is concluded, honourable senators, I will ask: Senators, are you ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Seeing no senator rising, I will put the question:

That, pursuant to Rule 39, not more than a further six hours of debate be allocated for the consideration of the second reading stage of Bill C-5, respecting the effective date of the representation order of 2003;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the second reading stage of the said Bill; and

That any recorded vote or votes on the said question be taken in accordance with Rule 39(4).

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

Some Hon. Senators: Yes.

Some Hon. Senators: No. On division.

The Hon. the Speaker: On division?

Senator Kinsella: No. What was the result of the vote?

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the “yeas” have it. The motion passes.

Senator Kinsella: On division.

Motion agreed to, on division.

SECOND READING—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill C-5, respecting the effective date of the representation order of 2003.

An Hon. Senator: Question!

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

Some Hon. Senators: Yes.

The Hon. the Speaker: I will put the question.

It was moved by the Honourable Senator Smith, seconded by the Honourable Senator Robichaud, that this bill be read a second time.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the “yeas” have it.

An Hon. Senator: On division.

The Hon. the Speaker: The motion passes, on division.

When shall this bill be read the third time?

Hon. Bill Rompkey (Deputy Leader of the Government): I move that the bill be referred to the committee on —

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I move —

The Hon. the Speaker: I am sorry; I hear an intervention.

Senator Kinsella: We are asking for a recorded vote.

The Hon. the Speaker: A recorded vote on?

An Hon. Senator: It is too late.

Senator Austin: You already said “on division.”

The Hon. the Speaker: Are two senators rising to ask for a division?

Senator Kinsella: We are asking for a recorded vote.

An Hon. Senator: It is too late!

• (0920)

POINTS OF ORDER

Hon. Sharon Carstairs: On a point of order, Your Honour, it was very clear that the honourable senator opposite said, “on division.” That means the vote has been completed. It is too late at that point to ask for a recorded vote.

Some Hon. Senators: Hear, hear!

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the Speaker put the question once, twice. The “noes” said, “no”; we asked to have a division — to have a recorded vote.

Some Hon. Senators: No!

Senator Austin: “On division” does not require a recorded vote.

Senator Kinsella: We wish to record our vote. That is pretty straightforward.

Senator Smith: Everyone has 20-20 hindsight.

Hon. Marcel Prud’homme: It is early in the morning; usually, I like to work at seven o’clock in the morning. I think your decision is final, Your Honour. It was clear, from this end, where we do not always hear well, that you put the question. The “yeas” were called; the “nays” were called. The “yeas” were resoundingly louder; the “nays” were more discreet. You then said that the question was therefore disposed of. I then heard very clearly — I am one of those who said — “on division,” loud enough, and nobody argued. That does not mean I would have voted one way or the other. However, I think the question is disposed of.

It would be less embarrassing if we do not take a recorded vote. I see that many preferred to take a discreet exit today, so we will not embarrass those colleagues who are not present by having a standing vote.

Even if it were embarrassing, in my view, from very far, His Honour clearly put the question, as is his duty, as a good servant, and it is very clear in my mind that the matter was dealt with.

The Hon. the Speaker: The question has come to me, not from a senator standing, about what we are doing. In other words, is Senator Prud’homme in order in speaking? We are dealing, honourable senators, with a point of order that arises out of a request from Senator Kinsella that we call a division, which is the only way to indicate a recorded vote. Senator Carstairs rose on a point of order saying that the procedure was not in order because the proceeding was completed.

I will hear honourable senators now. In accordance with our tradition, I will hear senators until I feel I have sufficient information to make a ruling. Senator Prud’homme has intervened on the point of order.

Hon. Bill Rompkey (Deputy Leader of the Government): Not only is Senator Prud’homme at a distance from you, Your Honour, but he is also one of our most experienced parliamentarians.

Senator Smith: Forty years.

Some Hon. Senators: Forty years.

Senator Rompkey: Forty years in Parliament, in the other place and here.

Senator Prud’homme: Do not make me change my mind now.

Senator Rompkey: If Senator Prud’homme does not know how things work, after 40 years, what can the rest of us expect?

I support what Senator Carstairs said. I heard the words “on division” very clearly. Our practice is either that we accept the voice vote on division or have a standing vote — one or the other, but not both. The voice vote was accepted, then that is the conclusion of the vote. A recorded vote should have been requested before the division was called and the voice vote canvassed.

Hon. Terry Stratton: Your Honour, in the past, in asking the “yeas” and “nays,” you have quite often, to get the attention of the chamber, asked more than once, more than twice, sometimes three times, to get the attention of the chamber. Your Honour knows that, and that is how you operate in the normal course of events.

In this case, we asked for a division and a recorded vote, in the same manner that Your Honour has asked for “yeas” and “nays.” We have, I think, on occasion, argued with the way Your Honour has proceeded, but you have insisted on the flexibility in order to get people’s attention. Therefore, I think it behooves Your Honour, at this time, to do the same thing.

Hon. Gerald J. Comeau: Honourable senators, like Senator Prud’homme, I am a bit of a distance from the Speaker. I also heard the words “on division,” but the words “on division” that I heard were from Senator Prud’homme and not —

Some Hon. Senators: Oh, come on!

Senator Comeau: — from the two senators who rose in their places. Otherwise, the only noise one could hear at this end was the pounding of desks in glee that the government had made louder noises on the “yes” vote. I think it is incumbent upon the Speaker to recognize the two individuals who did get up to request a recorded division.

[Translation]

Hon. Pierrette Ringuette: If honourable senators took the time to listen to the tape, they would realize we had even got up to the question “When shall the bill be read the third time?”

So we were far beyond the point of division. Honourable senators, if people were a little more alert this morning, we would not have this dilemma.

[English]

The Hon. the Speaker: Honourable senators, another question has been raised, again not by a standing senator. Senators intervening on a point of order may speak more than once. They are not to debate with one another or make observations about how much they should know or should not know, but rather to help the Chair with respect to a legitimate question of order, which may go one way or the other.

To explain why senators are speaking more than once, I thought I should point that out.

Senator Stratton: I have a point of clarification, Your Honour. Senator Comeau stood and said that indeed Senator Prud'homme had said "on division." At the time, I was standing beyond the bar and I did not say "yea" or "nay," but I clearly heard Senator Prud'homme say "on division."

Hon. Jack Austin (Leader of the Government): Honourable senators, the record is absolutely clear. Second reading was given. The Speaker then asked, "When shall this bill be read a third time?" The process is complete. I do not believe there is anything more to be said about the point of order.

The Hon. the Speaker: Senator Carstairs, do you want to make a final comment?

Senator Carstairs: No.

The Hon. the Speaker: Honourable senators, because it is clear that the record is important here, I shall review the record. It may take me five minutes or so to review the rules applicable. As such, I would ask for your patience while I suspend the sitting to review the record.

The sitting of the Senate was suspended.

• (0930)

The sitting of the Senate was resumed.

The Hon. the Speaker: The sitting is resumed.

Order, please!

Senator Rompkey: Honourable senators, I wonder if I could have leave to revert to Government Notices of Motions later this day for the purpose of putting the adjournment motion.

Some Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted. We now revert to Government Notices of Motions.

Senator Rompkey: No, Your Honour. I want leave to revert later this day to Government Notices of Motions.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted.

I will see Senator Rompkey.

Senator Rompkey: We on this side would agree that, indeed, there were members opposite who indicated that they did want a recorded vote. We would be agreeable to one recorded vote.

The Hon. the Speaker: I am not sure I know what "one" means.

Senator Kinsella: Therefore we are simply at the status quo ante. The question was put. The "yeas" had it. Two senators on this side have risen. It is now in your hands, Your Honour.

Senator Prud'homme: Your Honour —

The Hon. the Speaker: It is not a point of order, Senator Prud'homme. You are an independent, I know, and you like to be heard on these matters. What do you have to say?

Senator Prud'homme: Honourable senators, in the British parliamentary system, precedents are always recorded. The "yeas" were so loud; the "nays" were more discreet. Yes, as Senator Comeau indicated, I said, "On division." That does not mean the matter is finished.

Senator Kinsella may have a point, but he is wrong. The rules are very clear because it happened to me. The "yeas" were louder than the "nays"; and His Honour said, "In my opinion, the 'yeas' have it." Someone yelled, "On division." I did. The rules then say, "And two senators having risen," whereupon the Speaker calls for a vote. However, I did not see any two senators rising. They rose later when Your Honour had moved on.

If the government is willing to take a vote, why do we not, in the spirit of a good Friday morning, do what the honourable senator wants? I do not want this to be a precedent because it will be thrown at us again some day when someone will say, "Remember, that is the way we proceeded that Friday."

The Hon. the Speaker: Senator Prud'homme's statement is on the record and speaks for itself.

I will now return to the point we were at on Bill C-5. I will say now, honourable senators: Call in the senators for a vote.

I will see the opposition whip.

Senator Stratton: Rule 39(4)(b) calls for a recorded vote at 5:30 p.m. that day, and that is how we stand.

Senator Carstairs: Honourable senators, the debate that is taking place now is being done on a specific motion of the Senate for time allocation. The vote has to be held now.

Some Hon. Senators: Hear, hear!

Senator Stratton: Rule 39(4)(b) states:

(b) if debate on such an Order of the Day is concluded or the time provided for the debate expires prior to 5:30 o'clock p.m., the Speaker shall forthwith put the question and any standing vote requested in relation thereto shall not be subject to the provisions of rule 67 and shall be deferred until 5:30 o'clock p.m. of the same afternoon.

The Hon. the Speaker: I thought the whips were rising —

Senator Austin: Honourable senators, I would ask that we have the Speaker's ruling on the point of order that was raised. Did this chamber give second reading and was third reading called?

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, we have to be careful.

I think we would require consent to do that, Senator Austin, because I have heard the deputy leaders indicate — and Senator Prud'homme had a reservation, but in the end said "Proceed anyway" — that this matter be subject to a vote. Having put the question, because I had already said "Call in the senators," to now go back would require the agreement of honourable senators, and there would have to be unanimous agreement.

I will ask that question, Senator Austin. Is there unanimous consent —

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: — that we revert to the situation we had before the Speaker gave a ruling on the point of order that was raised by Senator Carstairs? Again, this is getting a little complicated.

• (0940)

Senator Austin: Honourable senators, could I address the situation?

Honourable senators know that, following a request for a ruling from the Speaker as to what took place on the record here, there was an attempt between the two deputy leaders to come to an arrangement to accommodate both sides. My understanding, as conveyed to me, was clearly that a vote would be taken in no longer than 60 minutes and the matter would be disposed of. Now what I hear is a parliamentary trick coming from the whip on the other side. There is clearly now no basis for such an arrangement. Therefore, the whole process is nugatory, and the Speaker should make his ruling.

Senator Kinsella: Honourable senators, the situation we are in is that two senators have risen, a deferred vote has been called, and the Speaker has called in the senators.

Senator Milne: Second reading was proclaimed.

Senator Kinsella: The whip rose and said that it is a deferred vote, and that then invokes rule 39. The honourable senators opposite have just now read rule 39 and realize that it is automatic, and it is mandatory for the Speaker. The Speaker does not have any discretion in this matter. The vote can be deferred, and it must be deferred pursuant to the rule.

Senator Prud'homme: Honourable senators, I want to be very clear on where I am standing. It has happened to me before, once the division has taken place. The Speaker says, "Two senators having risen, call in the senators." This did not take place. That was the end of the debate, then two senators rose, but it was too late. In the spirit of cooperation I would hope that the two major parties would not say 5:30 p.m. and punish everyone. I do not mind. You know me — I am always here; I need company, so thank you for staying that late; we can vote tomorrow if you want. This way I will not be lonely in my office.

However, in the spirit of cooperation, perhaps there might be a halfway point. In these situations, everyone is a loser, so let us find a middle-of-the-road arrangement, and instead of saying 5:30 p.m., to accommodate Senator Stratton, maybe you can say, "I regret that the deputy leader went back on his offer. I was waiting for your ruling and I will abide by your ruling."

I never, ever challenged a Speaker in the House of Commons. Never would I do it here. That is why I rushed back, to listen to the ruling, and I see that people have changed their minds. We had better run our affairs in an orderly fashion, Your Honour. It is not your fault. You were absolutely right. You did not say, "Two senators having risen." That means you did not see any two senators rising, so you continued. Unless I am blind, and I function very well at seven o'clock in the morning or eleven o'clock at night, inside this chamber that is what I saw, and that is why I want to stand at least for the record, if it is not of interest to anyone else.

Senator Rompkey: Honourable senators, I want to underline what Senator Austin has said, and I was part of the discussions. The agreement between the two sides clearly was that even though two people did not rise, we would agree that the other side did indeed want a standing vote and we would agree to a standing vote. The other part of the agreement was that we would sit at eight o'clock on Monday. That was simply a verbal understanding between the two sides. Clearly, the verbal understanding is null and void because the verbal understanding has been abrogated. The agreement that we had has been abrogated by the other side. Therefore, Your Honour, I think we are back to where we were, awaiting your ruling. Clearly, our argument previously, before the understanding was made, was that there was a division called and you ruled on that, and in fact third reading was called.

Hon. Consiglio Di Nino: Honourable senators, I think this is getting a little out of hand. I clearly heard an agreement expressed on both sides, that there be a vote. The Speaker rose and said, "I heard that there is an agreement on both sides" — and I am paraphrasing — "so therefore there is to be a vote; call in the senators." That is where we are right now. The Speaker said, "Call in the senators," and from there on, as is our right under the rules, my leadership, my whip decided that he would ask for the rules to be respected.

What is the discussion about? The agreement was reached; everyone was happy; the Speaker was informed; the house was informed; and the Speaker called for the senators to be called in.

Some Hon. Senators: No, no.

The Hon. the Speaker: Order. Order.

Honourable senators, I will treat the last intervention led by Senator Austin as another point of order. We have an interesting situation and I will need to ask for another opportunity to consider this matter, check the record, and rule on it once and for all.

We have essentially built three issues on top of one another. I will characterize them when I rule. One is, just briefly: Was there an agreement and was there a proceeding in the Senate under way, namely, a division? The second is with respect to what happened prior to Senator Kinsella rising.

In any event, we have some rules that are applicable to this situation that have not been cited by either side. I think I had better take a few minutes and prepare a final disposition of the issues that have built on one another. My ruling will be in your hands when I give it. I will need about 15 minutes, honourable senators. I would like to suspend the sitting for 15 minutes, and perhaps I may have your permission to leave the Chair for that period of time. We will resume the sitting at 10:05 a.m.

Honourable senators, do I have your permission to leave the Chair?

Hon. Senators: Agreed.

The sitting of the Senate was suspended.

• (1000)

The sitting of the Senate was resumed.

The Hon. the Speaker *pro tempore*: Honourable senators, the Speaker has asked me to tell you that he needs another 15 minutes before he is able to come back and rule. The session is suspended for another 15 minutes.

The sitting of the Senate was suspended.

[Translation]

• (1020)

The sitting of the Senate was resumed.

The Hon. the Speaker *pro tempore*: Honourable senators, the Speaker informs me that he will need another 10 to 15 minutes to reach a decision.

The sitting of the Senate was suspended.

[English]

• (1040)

The sitting of the Senate was resumed.

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

Honourable senators, thank you for your patience. I now have all the material that I require to make a ruling on the question before us. It did take a bit of time to obtain the transcripts that I wanted.

It is the point of order of Senator Austin that as there is no mutual understanding with respect to when the standing vote on the second reading of Bill C-5 is to occur, that is, either now or at 5:30 p.m. this afternoon, there is no agreement. Therefore, we will proceed to the Speaker's ruling on the question of whether two senators had indeed risen in time to request a standing vote on Bill C-5.

In making a determination, honourable senators, the Speaker can only refer to the record of what was said by honourable senators while the Senate was in session. I have requested the relevant parts of the record — which I know honourable senators do not have — from the reporters. There were a number of interventions, but I will quote from the relevant portions.

Following my seeing Senator Rompkey and before I gave a ruling on the first matter on which a ruling was requested, the request was made by Senators Rompkey and Kinsella to have the floor for the purpose of determining what would have been the subject matter of the ruling. Senator Rompkey's words were:

Senator Rompkey: We on this side would agree that, indeed, there were members opposite who indicated that they did want a recorded vote. We would be agreeable to one recorded vote.

Another quotation, for your information, honourable senators, is Senator Kinsella's comment, which followed almost immediately:

Senator Kinsella: Therefore we are simply at the status quo ante. The question was put. The "yeas" had it. Two senators on this side have risen. It is now in your hands, Your Honour.

There was an intervention by Senator Prud'homme, which stood on its own. My words were that the record would show what Senator Prud'homme, an independent senator, wanted to say. I then said:

I now return to the point we were at on Bill C-5. I will say now, honourable senators: Call in the senators for a vote.

At that point, Senator Stratton rose, and that is where we started the interventions made by senators to get us to this point of order.

My ruling therefore, honourable senators, is that there was only an agreement, by the record, to have a standing vote. In the absence of any announced agreement as to when the vote is to take place, I must conclude that the vote will take place in accordance with rule 39(4)(b), which states that the vote will take place at 5:30 this afternoon.

I have decided that I am not in a position to inquire into the minds of the Deputy Leader of the Government and Deputy Leader of the Opposition as to consensus or whether they each understood the same. I have to rely on the record. Accordingly, my ruling is, as I have already said, that the vote will take place at 5:30 this afternoon.

Is the Honourable Senator Cools challenging the ruling?

Hon. Anne C. Cools: Honourable senators, I have a slightly different point.

The Hon. the Speaker: Now that we have reached this point in our proceedings, so that we do not have other intervening things that have tended to mix us up in the past, I shall now say "Call in the senators" again.

Call in the senators.

• (1050)

Senator Austin: Let the bells ring?

The Hon. the Speaker: That is the point at which we had arrived: "Call in the senators," and the vote was deferred to 5:30 p.m. We should now turn to Orders of the Day, but before we proceed, Senator Cools has asked for the floor.

POINT OF ORDER

Hon. Anne C. Cools: Before we call the orders, Your Honour, I wanted to raise a point of order. I think the matter can be settled quickly. I noticed that during the period of time that Your Honour was away from the chamber sorting out these difficult and complex matters, at one point the Chair was vacant for a period of about 10 to 15 minutes. I also observed that the mace was on the Table during that time. I just wanted to call this to the attention of the chamber, because my understanding is that once that mace is on the Table, the Chair should never be empty. Perhaps someone else might want to say something on this matter, or perhaps His Honour might simply rule on the strength of it. My understanding, Your Honour, is that the chamber allows you to take a few minutes to sort these questions out, but someone, another senator, must be in that Chair.

The Hon. the Speaker: You are quite right, Senator Cools, but I would draw to the attention of honourable senators that when I left the Chair — and I anticipated originally that it would only be for a short period of time — I did ask for the permission of honourable senators to leave the Chair, and permission was granted. That is the explanation of why the exception to the general rule is the case here.

Hon. John Lynch-Staunton (Leader of the Opposition): If I may, the rule is even clearer. It says that once the Senate is suspended, the Speaker may leave the Chair, but as long as the mace is on the table, it shows that the meeting is properly constituted. It is quite proper during suspension that the Chair be vacant.

The Hon. the Speaker: Thank you, Senator Lynch-Staunton.

[The Hon. the Speaker]

Hon. Marcel Prud'homme: Your Honour, I said earlier, on a point of order before you called the Orders of the Day, what I had to say. I abide by your ruling, even though I do interpret it totally contrary to what you have just said. Without a shadow of doubt in my mind, I did not see two senators standing up at the time that the vote was over, and I would hate for people who read today's *Debates of the Senate* next Monday to misinterpret what I said. I stand by what I said, but I abide by your ruling.

The Hon. the Speaker: I am sorry, Senator Prud'homme, but there was an opportunity to challenge the ruling.

Senator Prud'homme: I do not challenge it.

The Hon. the Speaker: I do not think, by practice or by our rules, that we debate or discuss rulings other than that they are challenged or not.

PUBLIC SAFETY BILL 2002

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Christensen, for the second reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Stand.

Hon. Fernand Robichaud: Question!

Hon. John Lynch-Staunton (Leader of the Opposition): Stand.

The Hon. the Speaker: Is this order to stand, honourable senators?

Senator Lynch-Staunton: Yes.

The Hon. the Speaker: On the basis of the motion by the Deputy Leader of the Opposition, this order will stand.

Senator Robichaud: That is not their business.

The Hon. the Speaker: I want to be very careful. If I get a mixed message, then I should probably put the question. Is Bill C-7 to stand or is it to be —

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

Senator Kinsella: Stand.

The Hon. the Speaker: Stand.

Order stands.

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY— MOTION IN AMENDMENT—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Trenholme Counsell, seconded by the Honourable Senator Massicotte, for an Address to Her Excellency the Governor General in reply to her Speech from the Throne at the Opening of the Third Session of the Thirty-seventh Parliament.—(10th day of resuming debate)

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

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Stand.

The Hon. the Speaker: I hear some senators saying “question” and some saying “stand.” Are honourable senators ready for the question?

Hon. Fernand Robichaud: Yes.

Senator Kinsella: I would like to move the adjournment of the debate.

The Hon. the Speaker: It was moved by the Honourable Senator Kinsella, seconded by the Honourable Senator LeBreton, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

I did not hear. You must realize that I do not always hear well from this Chair.

Will those in favour of the motion, please say “yea”?

Senator Kinsella: Could we have the motion read so that everyone is clear what order we are on?

The Hon. the Speaker: The motion is that the Honourable Senator Kinsella, seconded by the Honourable Senator LeBreton, moves the adjournment of the debate to the next sitting of the Senate.

Senator Kinsella: On what?

The Hon. the Speaker: On the reply to the Speech from the Throne.

Some Hon. Senators: No, no.

Senator Prud'homme: That was the one.

The Hon. the Speaker: Motion No. 2?

Senator Prud'homme: That was the one.

The Hon. the Speaker: I will put the question, then. Because of the confusion I have created by being on the wrong number, I will put the question.

It was moved by the Honourable Senator Kinsella, seconded by the Honourable Senator LeBreton, that debate on Motion No. 2 be deferred to the next sitting of the Senate.

Senator Rompkey: No, No. 1.

Senator Kinsella: I think we should have the motion read so that we know what the motion is.

The Hon. the Speaker: Honourable senators, I am listening too carefully sometimes to people and I know not who they are. I was right the first time.

Senator Prud'homme: That is right!

The Hon. the Speaker: We are on Motion No. 1. I will ask the Table to confirm that.

Senator Prud'homme: Yes.

The Hon. the Speaker: The Table says that we are on Motion No. 2.

Honourable senators, again, I appreciate your patience, but having conferred with the Table —

Senator Prud'homme: You were on No. 1.

The Hon. the Speaker: — I am happy to say I did understand correctly, and that I, being in the Chair, was on motion No. 1.

Senator Prud'homme: Exactly. Yes.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: I had expressed a little confusion as to whether the matter should be moved, as some senators on this side were saying, in other words to put the question, or whether it should be stood, as some other senators were saying. Because it is important, particularly in these times, not to move too quickly, and it is important to remember that every senator in this place is involved with our proceedings, not just a few, we must proceed in a way that we all understand, in particular the Chair.

An Hon. Senator: Good!

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: We are on Motion No. 1, and I am not clear on whether it should stand or whether it should be put as a question.

Some Hon. Senators: Question!

Senator Kinsella: Honourable senators, I moved, seconded by Senator LeBreton, the adjournment of the debate on Motion No. 1.

The Hon. the Speaker: This would be the proper way for us to dispose of the question of whether it be put or not, or whether the debate be adjourned. I will put the motion of Senator Kinsella:

It is moved by the Honourable Senator Kinsella, seconded by the Honourable Senator LeBreton, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Those in favour of the motion will please say “yea”.

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say “nay”.

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the “nays” have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators. We will have a one-hour bell.

• (1200)

The Hon. the Speaker: Honourable senators, the question is on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator LeBreton, that further debate on the motion for an Address in reply to the Speech from the Throne be adjourned until the next sitting of the Senate.

Motion negatived on the following division:

YEAS THE HONOURABLE SENATORS

Atkins	Johnson
Beaudoin	Kinsella
Cochrane	Murray
Comeau	Nolin
Di Nino	Oliver—11
Forrestall	

NAYS THE HONOURABLE SENATORS

Adams	Joyal
Austin	Kenny
Bacon	LaPierre
Baker	Léger
Banks	Losier-Cool
Callbeck	Maheu
Carstairs	Mercer
Chaput	Milne
Christensen	Moore
Cook	Morin
Corbin	Pearson
Day	Pépin
De Bané	Phalen
Downe	Prud'homme

[The Hon. the Speaker]

Finnerty
Fraser
Furey
Graham
Hubley
Jaffer

Robichaud
Rompkey
Smith
Stollery
Trenholme Counsell—39

ABSTENTIONS THE HONOURABLE SENATORS

Cools

Gauthier—2

The Hon. the Speaker: Resuming debate.

Hon. Marcel Prud'homme: Honourable senators, would it be possible, when there is to be a vote in one hour, to say the time for the benefit of television viewers? At times that is done in the House of Commons. It would be useful for those who listen to the TV because they call the whip's office to find out the time of the vote.

Senator Kinsella: Honourable senators, I appreciate the vote of enthusiasm from the other side to hear what I have to say about the Speech from the Throne. I will begin by quoting former Honourable Senator John B. Stewart, who was a great teacher to all honourable senators. We find in the *Canadian Encyclopedia*, at page 1741, the following passage by Senator Stewart:

The Speech from the Throne reveals to the Senate and the House of Commons the work the ministers propose for the session of Parliament then beginning.

Well, based on what we heard on February 2, the government would need Parliament to sit each day until June 23, the day that the published agenda of the House of Commons provides for the summer break. However, if it is not the intention of the government to bring forward to Parliament the legislation that will require the approval of the two Houses in order to implement the measures outlined in the Speech from the Throne, then an abuse of Parliament and the Canadian people has been attempted by this government.

The Prime Minister should forthwith make it clear that he is serious about this Speech from the Throne and that he will not call an election prior to June 23, the day that the House of Commons is scheduled to rise for the summer break.

[Translation]

Honourable senators, before I continue, I would like to point out a truly remarkable anniversary, the four hundredth anniversary of the Acadian community on the North American continent.

[English]

Honourable senators, John Stuart Mill wrote the following:

Men as well as women do not need political rights in order that they might govern but in order that they might not be misgoverned.

It is the misgovernment and legacy of waste that the people of Canada will speak to when they exercise their political right to vote in the upcoming federal election.

The people of Canada will not be gullible and accepting of this attempt to wallpaper over a decade of Martin-Chrétien waste and much worse. Canadians will neither forget nor forgive Mr. Martin throwing away \$500 million in penalties for cancelling the helicopter contract. Here we are today, still with no helicopters. The navy frigate I served with last summer has not had a helicopter on its flight deck in years — some commitment by the Martin government to the Canadian military.

Canadians will neither forget nor forgive Mr. Martin's involvement as the former finance minister and the cancellation of the agreement to develop Pearson Airport.

Then we have Mr. Martin's involvement in the unemployment insurance account, where he oversaw a shameless raid on the wallets of Canadian workers. Prior to Paul Martin's arrival on the scene, no one would have turned EI premiums into general tax revenue to pay for government programs. It is Paul Martin who has overcharged Canadian workers by some \$50 billion.

Now, the same Paul Martin tells us of his concern for municipalities. However, honourable senators will recall Paul Martin's other infrastructure program where the meaning of "infrastructure" was deemed to include "any physical capital asset in Canada instrumental in the provision of a public service."

It was this Paul Martin program that allowed for a \$200,000 lighted fountain in the former Prime Minister's riding, as well as a \$500,000 Canadian Canoe Hall of Fame.

Let us not forget that Paul Martin and Allan Rock set aside \$2 million for the ill-conceived firearms registration program, which is now costing some \$1 billion. It is no wonder that provincial governments have given wide birth to this boondoggle.

Honourable senators, when Canadians do go to the polls to exercise the political right to vote, that exercise will be the real judgment on the scandals that have been exposed by the Auditor General. Canadians will vote for competent management of public funds, competent control of the machinery of government and governance with integrity.

In respect of cultural and health rights, Canadians will also take note of the poor record of Paul Martin in the areas of health and higher education. Voters hold Paul Martin responsible for cutting the transfer payments to the provinces — a Martin decision that had a direct effect on the current crisis of the Canadian health delivery system and on the shameful and unacceptable burden of indebtedness faced by Canadian university students.

• (1210)

Honourable senators, some would try to see in the Speech from the Throne a new vision for a so-called "new government." There is neither vision nor anything new about the same group of faces supporting this old visionless and incompetent crowd.

In the fiscal year 1994-95, Paul Martin slashed the transfers to the provinces for post-secondary education, and what happened? Tuition and education costs skyrocketed. Students in Canada now have an average student debt load of some \$22,000, making our students among the most indebted in the entire world. Paul Martin is responsible for doubling individual student indebtedness. Ten years ago, student debt upon graduation was around \$11,000, almost half of what it is today.

Honourable senators, I would like to place on the record a letter that appeared in *The Daily Gleaner* in my home city of Fredericton, a letter written by Bertrand Durelle of Baie-Sainte-Anne, New Brunswick.

Dear Editor, I tuned in to listen to the throne speech. The second sentence I heard the Governor General read was as follows, "Low-income persons will be encouraged to begin investing for their children's higher education beginning at birth."

Can anyone explain what that meant and make any sense of it? A low-income person is usually a poor person, aren't they?

So how can a person who has to use food banks to feed his or her children put any money aside for post-secondary education of their children for heaven's sake? I'd like to meet the person who thought up such stupid ideas.

His or her IQ borders on the IQ of a bird and they must apologize to the birds for saying such things.

What's so troubling about these so-called tax cuts to help low-income families is that it doesn't mean anything.

How can a child whose parent or parents have to use food banks every month benefit from tax cuts?

Those who make stupid statements such as these should just come out and tell the poor people that they're not included in the speech and not important enough to be considered.

At least it would not insult their intelligence. Some politicians have a lot in common with diapers; they have to be changed once in awhile and for the same reason.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition: Honourable senators, I move, seconded by the Honourable Senator Stratton:

That the motion be amended by adding:

"And the Senate regrets that the Speech from the Throne is a preview of a tired Liberal election platform, filled with empty rhetoric and vacuous promises that does nothing to address the very real problems facing Canadians who are turning to the Conservative Party to form a government that will manage with competence and govern with integrity."

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the “nays” have it.

And two honourable senators having risen:

The Hon. the Speaker: Please call in the senators. There will be a one-hour bell.

Hon. Terry Stratton: Honourable senators, I would like to refer His Honour to rule 67(1) and rule 67(2). Specifically, 67(2) states:

Except as provided in section (3) or as otherwise provided in these rules, when a vote has been deferred, pursuant to section (1), it shall stand deferred until 5:30 o'clock p.m. on the next day the Senate sits.

The Hon. the Speaker: Senator Stratton, are you deferring the vote?

Senator Stratton: Yes, Your Honour.

The Hon. the Speaker: To be precise, the vote on the motion that was just put will take place, because it has been deferred in accordance with the rules as cited by Senator Stratton, at 5:30 p.m. on the next sitting day of the Senate, the bells to ring 15 minutes before the vote.

Hon. Marcel Prud'homme: Honourable senators, I have a question. We were given every indication that we may or may not sit Monday night at 8 p.m. To run our lives intelligently, I would like to know whether we will be voting on Monday at 5:30 p.m. or Tuesday at 5:30 p.m. Honourable senators would like to know exactly. I know the meaning of “next day,” but we were under the impression that we may not come back on Monday. However, we could come back, and if we do, it will be at 8 p.m. Could we have an explanation?

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, the rules state that we sit at 2 p.m. on Monday unless there is a motion contrary to that time. I do not intend to move such a motion.

THE ESTIMATES, 2003-04

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (B)

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of February 19, 2004, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending March 31, 2004, with the exception of Parliament Vote 10b.

Motion agreed to.

MOTION TO REFER VOTE 10B OF SUPPLEMENTARY ESTIMATES (B) TO STANDING JOINT COMMITTEE ON LIBRARY OF PARLIAMENT ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of February 19, 2004, moved:

That the Standing Joint Committee on the Library of Parliament be authorized to examine the expenditures set out in Parliament Vote 10b of the Supplementary Estimates (B) for the fiscal year ending March 31, 2004; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

Motion agreed to.

THE SENATE

SENATORS APPOINTED TO JOINT COMMITTEES— MESSAGE TO COMMONS

Hon. Bill Rompkey, pursuant to notice of February 19, 2004, moved:

That a Message be sent to the House of Commons to acquaint that House of the names of the Honourable Senators appointed to serve on the Standing Joint Committees as reported in the second report of the Committee of Selection adopted February 3, 2004.

Motion agreed to.

• (1220)

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Kinsella, for the second reading of Bill C-250, to amend the Criminal Code (hate propaganda).—(*Honourable Senator Sparrow*).

An Hon. Senator: Question!

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

POINT OF ORDER

Hon. Anne C. Cools: Honourable senators, I would like to speak to what I consider to be an extremely improper action that His Honour may be proposing.

Two days ago, Senator Sparrow made the motion to adjourn debate in this chamber, and that question was duly voted upon and stands. Yesterday, I rose in the chamber and appealed to the Senate, saying that Senator Sparrow had had to go home. I have the record in front of me. I said:

I appeal to the chamber to allow the dean of the Senate to speak or to let the matter stand.

The question to stand the item was put to the chamber and was agreed to by honourable senators. When the decision of this chamber was taken, I said very clearly:

He is not here at the moment, but I am sure he will be able to speak to the bill in the near future.

Honourable senators agreed, and I do not understand the attempt of certain individuals here today to essentially rescind that decision.

Does Your Honour want to say something to me?

The Hon. the Speaker: I assume you are rising on a point of order and not speaking to the motion?

Senator Cools: I was explaining what I thought was my understanding. I am not speaking to the bill; I am speaking in response to someone calling out to you, "question," and your readiness to respond to him or her. I thought something should be said. I can do it in the form of a point of order, if you wish, if that is how we should proceed, which means I would have to change the structure of what I am saying.

Honourable senators, I am saying that a motion to adjourn is an order of this chamber. On private members' bills, unlike government bills, a motion to adjourn is not a motion to adjourn to the next sitting. On government bills, a motion to adjourn means to adjourn to the next sitting. That has been clarified in our rules. My understanding is that this is not the case on private members' bills.

Honourable senators, I have been deeply bothered by the fact that this bill is propelled, as it was propelled in the House of Commons, by government support. In our system of governance, when the government — in that case, a few months ago, it was Minister of Justice Mr. Cauchon — supports a bill, it is supposed to move forward under the notion of ministerial responsibility, and that is not what happened, which concerns me greatly.

To come back to my essential point and what I am asking His Honour to look at, two days ago — the day before yesterday — Senator Sparrow, the dean of the Senate, rose and took the

adjournment. That means he proposed a motion for adjournment, which was voted on and became an order of the Senate. Yesterday, Senator Sparrow could not be here. He lives very far away in North Battleford. As soon as the order was called, someone called, "question." I was not able to detect if that person was the sponsor of the bill. It is my understanding that before the question is called, the sponsor of the bill should rise to speak, but that is neither here nor there.

The fact of the matter, honourable senators, is that the motion to adjourn was supported by another decision of this chamber yesterday, as recorded at page 309 of Hansard. I said:

...Bill C-250 currently stands in the name of Senator Sparrow, and he wishes to speak to the bill. I appeal to honourable senators to allow Senator Sparrow to speak. He is not here at the moment, but I am sure he will be able to speak to the bill in the near future. I appeal to the chamber to allow the dean of the Senate to speak or to let the matter stand.

The Hon. the Speaker: Is the matter to stand, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Order stands.

That decision was renewed, and the decision that was taken yesterday was to let the matter stand until Senator Sparrow could speak, which he would do in the very near future.

Honourable senators, that decision is not simply overruled by someone calling out, just now, "question" as was done just now. Your Honour should not be so quick on your feet to put the question, because when that person calls out "question," they are asking Your Honour, without a decision of this chamber, to overturn a decision that was made yesterday. The decision that was made yesterday is an order of this place reinforcing a previous order, so we are dealing with two orders, not one.

An Hon. Senator: Order.

Senator Cools: Honourable senators, I am speaking to a point of order. I do not know if it is customary for another senator — an echo — to be saying "order," because "order" means that he is asking His Honour to tell me not to speak. I feel very strongly that the question before us is very important. It concerns the propriety and probity of how this chamber conducts its business and whether individuals have the capacity to exercise their constitutional right to deliberate and consider questions in this very important chamber.

I am not finished, Your Honour.

The Hon. the Speaker: As honourable senators are well aware, to the greatest degree possible we are a self-regulating body, and when honourable senators indicate, through murmurings, that they are anxious to move on, it is difficult not to be responsive.

We are dealing with a point of order, but in respect for the apparent desire of some senators, which I think is generally felt, I would ask that we move on as efficiently as possible and come to a conclusion on the point of order. I have listened carefully. I think I have probably heard the whole point of order. Other honourable senators may intervene, and if they do, I will come back to Senator Cools for a final comment. There are no rules with respect to this matter. It is just a matter of saying that we should try to move on with this as quickly as possible.

Senator Cools: Honourable senators, I was under the impression that I was moving as quickly as possible. I was doing the best that I could under the current circumstances. However, if His Honour feels the sense to nudge me, I appreciate that, too. Honourable senators, my point is that a private member's bill is a different animal from a government bill and that the rules governing adjournments are different from those of a government bill.

• (1230)

Your Honour, the central point I want to discover from you has to do with the decision that was made to allow Senator Sparrow to speak. That decision was repeated, reinforced and reconfirmed yesterday. That is now a decision of this place. Any attempt to overturn that decision must be done in a proper way because to do so is in point of fact rescinding an order.

In addition, Your Honour, there is the whole business of due process. What I did yesterday I did respectfully in the name of Senator Sparrow. He should have an opportunity to respond to any action that would further bar him from speaking. The oldest principle in our system is the right of reply and the right of response.

Honourable senators, to overturn the decision of yesterday without Senator Sparrow's intervention and agreement would involve the invocation of rule 63(2), which states:

An order, resolution, or other decision of the Senate may be rescinded...

The rule then lays out the manner for rescinding a decision.

Honourable senators, decisions of this place are matters that many of us take seriously. Their repeal is a matter that calls into action another process.

Could Your Honour look at the two points? The first point concerns the decision made yesterday granting Senator Sparrow the right to speak in a couple of days. No action should be taken until Senator Sparrow is contacted. It involves the right of response.

The second point involves the question of the need to alter that order. The alteration of that order should follow a process.

I would like to say, honourable senators, that elements of something I find a bit lawless have been developing in this chamber. That means anything can be done by so-called unanimous consent, and so on and so forth. Those are not

proper ways to run a chamber. Frankly, I would expect His Honour to uphold the right and dignity of the chamber and, in addition, to uphold the right of Senator Sparrow to be able to speak to this matter. I can tell honourable senators that Senator Sparrow was not expecting that the Senate would be sitting today. Many of us were not expecting to be sitting today. We only found out in the last many hours.

Honourable senators, I wonder if —

Senator Robichaud: Order!

Senator Cools: — you could look at that.

Your Honour, I really object to Senator Robichaud, every time I am speaking, calling out the word "order." I am quite in order. He is not calling for order. What he is calling for is for me to be silenced.

Senator Robichaud: Order!

Senator Cools: There is a difference. I object very strongly to that kind of thing, Your Honour. If anyone is out of order, it is Senator Robichaud.

Senator Robichaud: Order!

Senator Cools: If anyone were to be called out of order, it should be him, not me. It happens often, Your Honour. As I said yesterday, it is tiresome and tedious.

Hon. Serge Joyal: Honourable senators, I am the sponsor of this bill. After the interventions in this chamber yesterday concerning allowing Senator Sparrow the opportunity to speak, I got in touch with him. I clearly asked him if he had any objection to the bill being sent to committee for further study. Senator Sparrow informed me that he was satisfied with the progress of the debate as registered in this chamber and would have no objections to the bill being sent to the committee.

Some Hon. Senators: Hear, hear!

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, I will rule on Senator Cools' point. It has been raised a number of times. I think our rules, as well as our practices, are well settled. When an item is called on our Order Paper, senators present in the chamber on that day, at that moment, decide what will happen.

Senator Cools has raised an interesting point as to whether there should be a difference between a government-sponsored bill and a private member's bill. Our rules, of course, are different for the two. However, I do not believe there is any difference in terms of respecting the rights and powers of the chamber as a whole to dispose of any matter that is before it at any given moment. That is the reason it comes up each day.

[The Hon. the Speaker]

Accordingly, I cannot rule in favour of the matter continuing to stand in the circumstance in which we find ourselves. I have been informed by honourable senators that there is not unanimous agreement to let the matter stand or, in effect, to remain adjourned for another day. In that event, I have no alternative but to deal with the difference of opinion.

In this particular case, there is no ruling by me on the question raised by Senator Cools. I have sympathy for Senator Sparrow as well, although that has, perhaps, been addressed by Senator Joyal's comment. It is not possible for me to go back in time and apply an earlier decision of the Senate to a matter that has come up for a decision again today.

Accordingly, the ruling is that the matter is now properly before us.

Some Hon. Senators: Question!

Hon. Anne C. Cools: Your Honour, I think there is a misunderstanding. I was not asking you to look solely at the question of all motions to adjourn. I was asking you to look at a particular decision of yesterday about which it was stated that it continue to stand in the name of the Honourable Senator Sparrow.

Senator Joyal has said that he has spoken to Senator Sparrow. I assume that he spoke to him this morning. Obviously, Senator Joyal's information is a bit more current than mine. I only know what happened based on what I saw transpire in the chamber.

Your Honour, the real question before you concerns the vote of yesterday and your very order, as you very clearly said.

The Hon. the Speaker: Is the matter to stand, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Order stands.

Senator Robichaud: He just ruled on that!

Senator Cools: That is the real question that you must wrap your mind around, Your Honour, not the question of adjournments in general.

Senator Robichaud: That is appealing the decision.

The Hon. the Speaker: This is unusual because once the Speaker rules that is the end of the matter and the proper way to disagree is to challenge the ruling.

Once again, I will pause to see whether the ruling is to be challenged.

Some Hon. Senators: No.

The Hon. the Speaker: If not, then we must proceed with our business.

Some Hon. Senators: Question!

The Hon. the Speaker: We are at a point where it has been asked that the question be put. I take it that honourable senators are ready for the question.

Some Hon. Senators: Question!

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Joyal, seconded by the Honourable Senator Kinsella, that this bill be read the second time.

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

Some Hon. Senators: Yes.

Senator Cools: No.

The Hon. the Speaker: On division.

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

REFERRED TO COMMITTEE

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Committee on Internal Economy, Budgets and Administration (budget of Transport and Communications Committee—legislation) presented in the Senate on February 19, 2004.—(*Honourable Senator Bacon*).

Hon. Lise Bacon moved the adoption of the report.

Motion agreed to and report adopted.

• (1240)

SCRUTINY OF REGULATIONS

REPORT OF JOINT COMMITTEE— DEBATE ADJOURNED

Leave having been given to revert to Reports of Committees, No. 3:

The Senate proceeded to consideration of the first report of the Standing Joint Committee for the Scrutiny of Regulations (permanent order of reference and expenses re Rule 104) presented in the Senate on February 19, 2004.—(*Honourable Senator Hervieux-Payette, P.C.*).

Hon. Wilfred P. Moore: Honourable senators, I move the adoption of the report.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, several senators have mentioned to me that they have questions about that report and were looking forward to having Senator Hervieux-Payette move the motion so that she could explain and respond to those questions.

On motion of Senator Kinsella, for Senator Lynch-Staunton, debate adjourned.

TRANSPORT AND COMMUNICATIONS

BUDGET—REPORT OF COMMITTEE ON STUDY OF MEDIA INDUSTRIES ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Transport and Communications (budget—study on the Canadian media) presented in the Senate on February 19, 2004.—(*Honourable Senator Fraser*).

Hon. Joan Fraser moved the adoption of the report.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. Terry Stratton: Honourable senators, I rise on a point of order. Normally, in the course of events when we call a vote, the two whips negotiate. In this particular instance, the second time, there was no attempt to negotiate at all.

For the record, we were quite prepared to offer to have a vote at 8:30 p.m. on Monday evening, with a half-hour bell starting at 8 p.m. No one, that I saw, on that side would take us up on that offer. We tried to get the attention of the honourable senator to that effect and did not succeed, despite looking at him and trying to get his attention.

For the record, we still would like to put that offer on the table.

Senator Ringuette: Cry me a river!

Hon. Rose-Marie Losier-Cool: Honourable senators, there has been no attempt to negotiate, but we will stick to the rule that the vote will be at 5:30 p.m. this afternoon.

Some Hon. Senators: Hear, hear!

Senator Ringuette: Bravo!

Hon. Anne C. Cools: To follow the proceeding that just occurred, I do not understand how negotiations are conducted across the floor like this. Perhaps, Your Honour and honourable senators, at some point in the future we can look at this whole business of private conversations between leaders and their impact on this chamber, and which of those private conversations bind the chamber and which should be voted upon. I find this practice quite disturbing because this is a chamber that moves ahead by way of proposals, motions and so on. It does not move ahead by putting propositions on the table in this way.

The Hon. the Speaker: Honourable Senator Cools, in response to your point of inquiry, perhaps it could be put on the Speaker's Advisory Committee agenda. I will ask the Table to take note of it and that it be referred to the Rules Committee or whichever committee is appropriate.

We are in situations where, from time to time, by our custom and practice, house leadership and the whips, as well as the deputy leaders and leaders, have a role in reverse order, but no specific rules apply to them. I think that is a good suggestion.

Honourable senators, we will now suspend the sitting to await the vote at 5:30 p.m. this afternoon. The bells will ring at 5:15 p.m.

Could I have permission that there be an order to leave the Chair vacant until the bells ring at 5:15 p.m.?

Hon. Senators: Agreed.

The Hon. the Speaker: The practice is that for the period of the suspension, until 5:15 p.m. when the bells ring, we lock the chamber so that senators may leave their papers as they are, and that the chamber is, I assume by definition, empty during that period of time. Is it agreed that we do that, honourable senators?

Hon. Noël Kinsella (Deputy Leader of the Opposition): Just so it is perfectly clear, we are suspending the sitting. The mace will remain on the table. For security reasons, we are locking the doors.

The Hon. the Speaker: Yes, until 5:15 p.m.

Senator Kinsella: As I think was mentioned earlier, it is not necessary for the Chair to be occupied during a suspension of the house when the mace is on the table.

The Hon. the Speaker: Are we agreed, honourable senators?

Hon. Senators: Yes.

The Hon. the Speaker: The sitting, then, is suspended to the call of the bell at 5:15 p.m., when the doors will be unlocked as per our agreement.

The sitting of the Senate was suspended.

• (1730)

The sitting of the Senate was resumed.

REPRESENTATION ORDER 2003 BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill C-5, respecting the effective date of the representation order of 2003.

The Hon. the Speaker: The question is on the motion of the Honourable Senator Smith, seconded by the Honourable Senator Robichaud, that Bill C-5 be read the second time.

Motion agreed to and bill read second time on the following division:

YEAS
THE HONOURABLE SENATORS

Adams	Joyal
Austin	Kenny
Bacon	LaPierre
Baker	Léger
Banks	Losier-Cool
Callbeck	Maheu
Carstairs	Mahovlich
Chaput	Mercer
Christensen	Milne
Cook	Moore
Cools	Munson
Corbin	Pearson
Day	Pépin
Fairbairn	Phalen
Fraser	Poulin
Furey	Prud'homme
Gauthier	Ringuette
Graham	Rompkey
Harb	Stollery
Hubley	Trenholme Counsell—41
Jaffer	

NAYS
THE HONOURABLE SENATORS

Atkins	Johnson
Beaudoin	Kinsella
Cochrane	LeBreton
Comeau	Nolin
Di Nino	Oliver
Forrestall	Stratton—12

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

REFERRED TO COMMITTEE

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

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

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, in accordance with our rules, we now stand adjourned automatically until the next sitting. However, Senator Kenny has requested the floor to request leave. For that to happen, I need your unanimous consent. Is leave granted?

Senator Prud'homme: Leave for what?

The Hon. the Speaker: Several honourable senators are speaking at the same time. The only question I wanted answered is: Is there leave for us to waive the application of the rule I just described to give Senator Kenny the opportunity to request leave on two matters that he would like the Senate to dispose of, or not?

Is leave granted, honourable senators.

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted.

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Colin Kenny: Honorable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on National Security and Defence have power to sit at 2 p.m. on Monday, February 23, 2004, even though the Senate may be sitting, and that Rule 95(4) be suspended in relation thereto.

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

Senator Kinsella: Yes, leave is granted.

The Hon. the Speaker: I will put the motion. It is moved by the Honourable Senator Kenny, seconded by the Honourable Senator Furey, notwithstanding rule 58(1)(a), that the Standing Senate Committee?

Hon. Senators: Dispense.

The Hon. the Speaker: Do you wish to speak, Senator Kenny? Questions?

Hon. Terry Stratton: Honourable senators, I would like again to make the offer I made earlier. We had made the offer to have the vote on Monday at 8:30 p.m., with the bell ringing at 8:00. I make that offer again.

The Hon. the Speaker: Honourable senators, I need to dispose of Senator Kenny's motion. Is the Senate ready for the question?

An Hon. Senator: Question!

The Hon. the Speaker: Your matter is house business, Senator Stratton.

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

Motion agreed to.

NATIONAL SECURITY AND DEFENCE**BUDGET—REPORT OF COMMITTEE
ON STUDY OF NEED FOR NATIONAL
SECURITY POLICY ADOPTED**

Leave having been given to revert to Reports of Committee, No. 6:

The Senate proceeded to consideration of the second report of the Standing Senate Committee on National Security and Defence (budget—study on the need for a national security policy for Canada) presented in the Senate on February 19, 2004. —(*Honourable Senator Kenny*).

Hon. Colin Kenny: Honourable senators, I move adoption of this report.

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

Motion agreed to.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, we are now subject to the rule of automatic adjournment.

Hon. Marcel Prud'homme: Honourable senators, in good spirit, if it were possible to say “yes” to Senator Stratton’s request, I for one, in my corner, think that it would lead to a harmonious week next week. The honourable senator has suggested that we come back at 8 p.m. and vote at 8:30 p.m., instead of coming back at 2 p.m. to vote at 5:30 p.m.

Hon. Bill Rompkey (Deputy Leader of the Government): We would prefer that the rules be followed as the rules permit, honourable senators. We have learned by experience that it is far better to follow the rules than to try and move around the rules. We will follow the rules and, if it is in order, I would now move that the Senate adjourn.

The Senate adjourned until Monday, February 23, 2004, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(3rd Session, 37th Parliament)
Friday, February 20, 2004

GOVERNMENT BILLS
(SENATE)

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

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-4	An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence	04/02/11							
C-5	An Act respecting the effective date of the representation order of 2003	04/02/11	04/02/20	Legal and Constitutional Affairs					
C-6	An Act respecting assisted human reproduction and related research	04/02/11	04/02/13	Social Affairs, Science and Technology					
C-7	An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety	04/02/11							
C-8	An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence	04/02/11	04/02/18	Social Affairs, Science and Technology					
C-13	An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)	04/02/12							
C-14	An Act to amend the Criminal Code and other Acts	04/02/12							
C-16	An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts	04/02/12	04/02/19	Legal and Constitutional Affairs					
C-17	An Act to amend certain Acts	04/02/12							

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-212	An Act respecting user fees	04/02/03	04/02/11	National Finance					
C-249	An Act to amend the Competition Act	04/02/03							
C-250	An Act to amend the Criminal Code (hate propaganda)	04/02/03	04/02/20	Legal and Constitutional Affairs					
C-260	An Act to amend the Hazardous Products Act (fire-safe cigarettes)	04/02/03							
C-300	An Act to change the names of certain electoral districts	04/02/03							

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/02/03							
S-3	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/02/03							
S-4	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/02/03							
S-5	An Act to protect heritage lighthouses (Sen. Forrestall)	04/02/03	04/02/05	—	—	—	04/02/05		
S-6	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/02/04	04/02/11	Legal and Constitutional Affairs					
S-7	An Act respecting the effective date of the representation order of 2003 (Sen. Kinsella)	04/02/04							
S-8	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/02/05	04/02/12	Energy, the Environment and Natural Resources					
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	04/02/05							
S-10	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/02/10							
S-11	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	04/02/11							
S-12	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	04/02/12							
S-13	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/02/19							

PRIVATE BILLS

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

CONTENTS

Friday, February 20, 2004

	PAGE		PAGE
SENATORS' STATEMENTS			
Scout-Guide Week		Hon. Noël A. Kinsella	325
Hon. Joan Cook	315	Hon. Terry Stratton	326
Special Olympics Canada Winter Games 2004		Hon. Marcel Prud'homme	326
Hon. Jim Munson	315	Hon. Bill Rompkey	326
The Senate		The Estimates, 2003-04	
<i>Rules of the Senate</i> , February 2004.		National Finance Committee Authorized	
Hon. Lorna Milne	315	to Study Supplementary Estimates (B).	
		Hon. Bill Rompkey	326
		Motion to Refer Vote 10b of Supplementary Estimates (B)	
		to Standing Joint Committee on Library of Parliament Adopted.	
		Hon. Bill Rompkey	326
<hr/>			
ROUTINE PROCEEDINGS			
Business of the Senate		The Senate	
Hon. Bill Rompkey	316	Senators Appointed to Joint Committees—Message to Commons.	
		Hon. Bill Rompkey	326
<hr/>			
ORDERS OF THE DAY			
Business of the Senate		Criminal Code (Bill C-250)	
Hon. Bill Rompkey	316	Bill to Amend—Second Reading	327
Representation order 2003 Bill (Bill C-5)		Point of Order.	
Allocation of Time for Debate—Motion Adopted.		Hon. Anne C. Cools.	327
Hon. Bill Rompkey	316	The Hon. the Speaker.	327
Second Reading—Vote Deferred.		Hon. Serge Joyal	328
Hon. Bill Rompkey	317	Speaker's Ruling.	
Hon. Noël A. Kinsella	317	The Hon. the Speaker.	328
Points of Order.		Hon. Anne C. Cools.	328
Hon. Sharon Carstairs.	318	Referred to Committee	329
Hon. Noël A. Kinsella.	318	Internal Economy, Budgets and Administration	
Hon. Marcel Prud'homme	318	Third Report of Committee Adopted.	
Hon. Bill Rompkey.	318	Hon. Lise Bacon	329
Hon. Terry Stratton	318	Scrutiny of Regulations	
Hon. Gerald J. Comeau.	318	Report of Joint Committee—Debate Adjourned.	
Hon. Pierrette Ringuette	318	Hon. Wilfred P. Moore.	329
Hon. Jack Austin	320	Hon. Noël A. Kinsella	330
Hon. Consiglio Di Nino	320	Transport and Communications	
Speaker's Ruling.		Budget—Report of Committee on Study	
The Hon. the Speaker.	321	of Media Industries Adopted.	
Hon. Anne C. Cools.	322	Hon. Joan Fraser	330
Point of Order		Business of the Senate	
Hon. Anne C. Cools.	322	Hon. Terry Stratton	330
The Hon. the Speaker.	322	Hon. Rose-Marie Losier-Cool	330
Hon. John Lynch-Staunton	322	Hon. Anne C. Cools.	330
Hon. Marcel Prud'homme.	322	The Hon. the Speaker.	330
Public Safety Bill 2002 (Bill C-7)		Electoral Boundaries Readjustment Act (Bill C-5)	
Second Reading—Order Stands.		Bill to Amend—Second Reading	331
Hon. Noël A. Kinsella	322	Referred to Committee	331
Hon. Fernand Robichaud	322	Business of the Senate	
Hon. John Lynch-Staunton	322	The Hon. the Speaker.	331
Hon. Bill Rompkey	322	National Security and Defence	
Speech from the Throne		Committee Authorized to Meet During Sitting of the Senate.	
Motion for Address in Reply—Motion in Amendment—		Hon. Colin Kenny	331
Vote Deferred.		Hon. Terry Stratton	331
Hon. Bill Rompkey	323	National Security and Defence	
Hon. Noël A. Kinsella	323	Budget—Report of Committee on Study of Need	
Hon. Fernand Robichaud	323	for National Security Policy Adopted.	
Hon. Marcel Prud'homme.	324	Hon. Colin Kenny	332
Hon. Noël A. Kinsella	324	Business of the Senate	
Motion in Amendment.		Hon. Marcel Prud'homme.	332
		Hon. Bill Rompkey	332
		Progress of Legislation	i



If undelivered, return COVER ONLY to:
Communication Canada – Publishing
Ottawa, Ontario K1A 0S9