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**Wednesday, May 12, 2004**



THE HONOURABLE DAN HAYS  
SPEAKER

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## THE SENATE

Wednesday, May 12, 2004

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

Prayers.

### SENATORS' STATEMENTS

#### OTTAWA ANNUAL MILAD CELEBRATION

**Hon. Mobina S. B. Jaffer:** Honourable senators, the Prophet Mohammed, may peace be upon him, said: "Seek knowledge even unto China... Acquire knowledge, for he who acquires it performs an act of piety; he who speaks of knowledge, praises God: he who seeks it, adores God." He also declared: "The ink of the scholar is more precious than the blood of the martyr."

On Wednesday, May 5, the Ismaili Muslim Community of Ottawa held their annual Milad celebration on Parliament Hill. Senators and parliamentarians from all political parties joined with ambassadors and members of the Muslim community to celebrate the life and teachings of the Prophet Mohammed.

This year, Professor Azim Nanji of Stanford University, a leading Islamic scholar and Director of the Institute of Ismaili Studies, provided the keynote address to commemorate the life of the Prophet Mohammed. Professor Nanji has authored, co-authored and edited several books including *The Muslim Almanac*, *Mapping Islamic Studies* and the *Encyclopedia of Islam*.

Professor Nanji is currently a visiting professor at Stanford University and is preparing the Historical Dictionary of Islam to be published by Penguin.

In reflecting and celebrating the teachings of the Prophet, Professor Nanji emphasized three themes. First, in light of the troubling worldwide events of the past few years, he said that we must commit ourselves to the pursuit of knowledge and learning as a catalyst in the search for harmony and understanding among peoples and society. As we celebrate the Prophet's life, his example must serve as a model in times of crisis and conflict, not only to Muslims, but also to all Canadians. The message of peace must outweigh the message of conflict.

Second, the Prophet taught and institutionalized the value of pluralism, insisting on an inclusive framework for building society and reminding us that we build on the best of the experiences and knowledge of each other. Canada, Professor Nanji emphasized, embodies these principles and must serve as a model for the rest of the world.

Third, the Prophet taught the importance of caring for the underprivileged and marginalized, particularly women, and emphasized the value of instituting sustainable patterns of law and support for them.

Professor Nanji emphasized that Canada embodies many of the messages and teachings of the Prophet. We represent a country that embodies the principles of pluralism, diversity, multiculturalism and inclusiveness. Canadians, therefore, have a duty to embrace these values not only within Canada's borders, but also must be ambassadors of these values. Canada must not imprison these values within its own borders; rather, it must pollinate them across our global landscape.

As I leave for Sudan tomorrow, I will be sharing this message of Canadians with the people of Sudan.

#### CANADIAN ENGINEERING MEMORIAL FOUNDATION SCHOLARSHIPS

**Hon. Catherine S. Callbeck:** Honourable senators, on Friday, May 14, the Canadian Engineering Memorial Foundation will be awarding scholarships at a luncheon during the annual general meeting of the Canadian Council of Professional Engineers, being held in Charlottetown, Prince Edward Island, my home province.

The foundation is committed to creating a world where engineering meets the needs and challenges of society by engaging the skills and talents of men and women alike. To that end, the Canadian Engineering Memorial Foundation is working to attract women to the engineering profession so that they may contribute in a truly inclusive manner. In so doing, the foundation also honours the memory of the 14 women from Montreal's École Polytechnique whose lives were so tragically cut short on December 6, 1989.

I wish to recognize the foundation for investing in the education of young Canadian women and instilling in them the value of pursuing a career in engineering. For 13 years, the foundation has been awarding scholarships to talented and well-rounded students, and this year is no exception. This year's recipients of undergraduate and post-graduate scholarships are truly outstanding young women and future leaders in engineering.

Honourable senators, please join with me in recognizing the efforts of the Canadian Memorial Engineering Foundation and in congratulating this year's scholarship recipients.

#### UNIVERSITY OF ALBERTA NURSING FACULTY

**Hon. Tommy Banks:** Honourable senators, I wish to call to your attention the fact, which is little known outside my province, that the University of Alberta is one of the leading bilingual universities in the country and that it is particularly proud of its nursing faculty, which is one of the largest in the country. There are 2,600 undergraduate nursing students at this moment in Alberta. The University of Alberta has the largest graduate program in the country and the first Ph.D. program in nursing in the country.

I mention these facts to draw to the attention of honourable senators the first grant that was made by Minister Pettigrew's department last week, and which I had the pleasure of announcing, of \$2.7 million to assist Faculté Saint-Jean of the University of Alberta in establishing the first bilingual nursing program in that province and the first west of Manitoba.

[Translation]

## OFFICIAL LANGUAGES

### ACCOMPLISHMENTS OF COMMITTEE

**Hon. Maria Chaput:** Honourable senators, I would like to report on the accomplishments of the Standing Senate Committee on Official Languages since the beginning of the new parliamentary session.

Despite a limited meeting schedule, the committee was very active during the past four months. A dozen or so witnesses appeared before the committee on seven different subjects.

The committee first examined the report on the activities of the Office of the Commissioner of Official Languages and its budget for the 2004-05 fiscal year. The commissioner identified four main priorities on which the current government should focus. The committee was particularly interested in the first priority, which is to clarify Part VII of the Official Languages Act by adopting Bill S-4 introduced by Senator Gauthier on enforceability and the duties of federal institutions.

The committee then invited the Fédération des communautés francophones et acadienne du Canada to share its concerns about the role of the federal government with respect to official languages. It is the committee's view that the federal government should immediately implement a long-term plan to enhance the vitality and support the development of official language minority communities.

The federal government should also commit to promoting both official languages throughout Canadian society.

• (1340)

The author of a recent study on this subject told the committee that the government should make certain that the underlying goals of the Official Languages Act and its related policies are better understood by the general public and the private sector.

The committee also considered the absence or poor quality of bilingual services offered in businesses located in federal buildings in the national capital region. The three institutions identified in a recent study by the Commissioner of Official Languages appeared before the committee and promised to implement measures to ensure that tenants in federal buildings in Ottawa and Gatineau improve their compliance with the Official Languages Act.

Then, three of the key ministers responsible for official languages issues appeared before the committee in order to clarify their responsibilities and express their commitment to the

implementation of the Action Plan for Official Languages. The committee encouraged the Minister responsible for Official Languages, the President of the Privy Council and the Minister of Canadian Heritage to maintain their commitment to linguistic duality and show leadership for the rest of the federal institutions covered by the act.

Finally, the committee examined the impact of the moratorium on new advertising activities announced by Minister Stephen Owen on March 15, 2004. The committee is concerned about the impact that moratorium might have on the long-term survival of small minority language newspapers and hopes that the federal government will soon take steps to remedy this situation.

## ARRIVAL OF FRENCH COLONISTS IN NORTH AMERICA

### FOUR HUNDREDTH ANNIVERSARY

**Hon. Aurélien Gill:** Honourable senators, I would like to add a few words to what I said yesterday about the relationship between the Acadians and the American Indians.

I stress the lesson to be learned. There is too strong a tendency to focus on certain parts of Canada's history. Too much is being forgotten, perhaps out of guilt. Too much has been omitted. We, as Aboriginals, know this only too well. It is important that this attitude change and that we make sure that the history of Canada reflects the contribution of all involved.

The Acadians, like ourselves, did not have an easy time of it. History is marked with drama, error, suffering. We, the Aboriginal people of America, are well aware of that, but it is not a reason for silence. The Acadians have survived, and for that we should rejoice together! They are an important part of the Canada of today.

That is how we ought to see diversity. Let us have the courage to look at the path we have taken and see it as a reason for unity, not divisiveness. The shock waves from the Acadian festivities, this four hundredth anniversary, should carry as far as British Columbia, because history does not stop at the Bay of Fundy. The French presence in America has been sustained by its strong association with numerous First Nations, from the Mi'kmaq of Membertou to the Wallawalla right across the continent, on the other side of the Rockies.

Let us celebrate together, and let the celebration be of reunion, not separation. This is a celebration for everyone. This is a celebration of resistance, of survival, of the future. A Canada without diversity is not the true Canada. The Acadian celebrations concern us all; they are our celebrations as well. I am part of that history, as we all are, and further history stretches before us.

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• (1340)

[English]

[English]

## ROUTINE PROCEEDINGS

### CANADA NATIONAL PARKS ACT

#### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Tommy Banks**, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Wednesday, May 12, 2004

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

#### SIXTH REPORT

Your Committee, to which was referred Bill C-28, to amend the Canada National Parks Act has, in obedience to the Order of Reference of Monday, May 10, 2004, examined the said bill and now reports the same without amendment.

Respectfully submitted,

TOMMY BANKS  
*Chair*

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

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

[Translation]

### ASIA-PACIFIC PARLIAMENTARIANS' CONFERENCE

#### MEETING ON ENVIRONMENT AND DEVELOPMENT, NOVEMBER 13-15, 2003—REPORT TABLED

**Hon. Marie-P. Poulin:** Honourable senators, I have the honour to table, in both official languages, the report of the tenth General Assembly of the Asia-Pacific Parliamentarians' Conference on Environment and Development held on Cozumel Island, Mexico, from November 13 to 15, 2003.

## QUESTION PERIOD

### NATIONAL DEFENCE

#### POSSIBLE TRANSFER OF HEADQUARTERS— RECUSAL OF MINISTER

**Hon. J. Michael Forrestall:** Honourable senators, back to real estate. When I asked the Leader of the Government questions yesterday about the apparent conflict of interest with the Minister of National Defence planning to move DND headquarters from its present somewhat precarious location to the JDS Uniphase building in the minister's riding in what appears to be a sole-source, untendered contract, the government leader claimed that the minister had recused himself from the discussions. Can the Leader of the Government in the Senate tell us on exactly what date the Minister of National Defence recused himself from these discussions?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I spoke to the Minister of National Defence this morning and asked him that specific question. He advised me that he wrote to the Ethics Commissioner on December 13, 2003, to recuse himself from any participation in the question of Department of National Defence accommodation.

Senator Forrestall refers to an "apparent conflict of interest." I do not believe there is any conflict of interest, as Senator Murray pointed out, with a member of Parliament representing his constituents. However, Minister Pratt has gone, as we used to say in Victorian days, the full nine yards to ensure that there was no appearance of a conflict in this situation.

**Senator Forrestall:** Honourable senators, Senator Austin is a good leader.

Would the minister care to table in the Senate a copy of that letter to the Ethics Commissioner? It seems that the Ethics Commissioner is a ticket to get out of jail. If one has a chat with him, everything is okay, no matter what else it is that one does.

• (1350)

Honourable senators, I accept the leader's indication that the minister told him that he took the step of recusing himself in December of last year. However, we now hear from other sources that, indeed, it was just this past week that such a letter had been sent or conversation had taken place.

The Leader of the Government in the Senate has suggested that the recusal happened in December. I am unsure of the process and mechanics of recusal. What happens after the minister recuses himself? Is there any method of checking the date that would have taken place? Was it before Mr. Pratt became a minister of the Crown or after?

**Senator Austin:** Honourable senators, December 13 is the day following Mr. Pratt's swearing in as a minister. Several weeks ago, in response to a question from Senator Forrestall, I advised the chamber that Minister Pratt had asked Minister Guarnieri to act in all matters relating to the question of accommodation of the Department of National Defence.

Further to Senator Forrestall's questions of yesterday and the day before, I made inquiries of the Department of Public Works and have some information for the honourable senator. The Department of Public Works advises that they are in the process of negotiating agreements for office space in the national capital area. It is their role to support government departments by providing them with productive workplaces of the best value to be found for the Crown.

There are three causes driving the government's increasing requirements for space in the national capital area: First, the inventory of office space has aged and several buildings are now in need of major renovations; second, office space is required to replace leases that are expiring; and third, office space is required to accommodate the evolving needs of the Government of Canada.

With respect to the DND Headquarters issue, the Department of Public Works advises me that analysis has been undertaken on the JDS Uniphase campus to include DND, among other potential government users. They are conducting that analysis at the present time, but there is no arrangement between the Department of Public Works and any other party at this time with respect to the JDS Uniphase premises.

**Senator Forrestall:** Honourable senators, have discussions taken place between the Department of National Defence or the Government of Canada through Public Works Canada with officials of the City of Ottawa regarding the current National Defence Headquarters, and, in particular, its use as social housing? Have any discussions taken place in that respect? Was the Minister of National Defence involved in any of those discussions?

**Senator Austin:** Honourable senators, I have made inquiries with respect to the first part of the honourable senator's question and have not received a response as yet. While I have grave doubts that the Minister of National Defence was involved, I will ask the specific question.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### SPONSORSHIP PROGRAM— RESPONSIBILITY FOR MISMANAGEMENT

**Hon. Marjory LeBreton:** Honourable senators, *The Toronto Star*, which has long been known for its unwavering support of the Liberal Party, does smell a rat when it looks at the adscam scandal. An editorial from yesterday, May 11, poses an interesting question that perhaps the Leader of the Government in the Senate can answer. It reads:

Who was minding the taxpayers' store if civil servant Chuck Guité and advertising executive Jean Brault were, as the RCMP charge, looting the shelves?

That is a good question. Perhaps the Leader of the Government in the Senate can provide an answer for us and *The Toronto Star*.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, as Senator LeBreton knows, that question is extant. Processes are underway, the inquiry by Mr. Justice Gomery

among them, to determine whether anyone holding political office had any responsibility for the direct mismanagement or malfeasance of this file.

With respect to generic political responsibility, of course, there is a minister at the head of every department.

**Senator LeBreton:** We just had a preview of the answer we will hear on the campaign trail.

Honourable senators, so far, the former Prime Minister has refused to take responsibility, although at one point he mentioned a few million dollars being stolen. The current Prime Minister has refused to take responsibility, even though as Vice-President of the Treasury Board and as senior Quebec minister he ought to have known what was going on. No former Public Works Minister has come forward to accept responsibility, even though Chuck Guité reported directly to them.

Meanwhile, the House of Commons committee that is trying to get to the bottom of this scandal is being shut down. Could the Leader of the Government advise the Senate and the Canadian public why not one person is willing to come forward and accept responsibility for turning a blind eye to contracting abuses that went on in Communications Canada and Public Works Canada?

**Senator Austin:** Honourable senators, that is a political argument and I think we will just leave it as a political argument.

## HEALTH

### BRITISH COLUMBIA— DETECTION OF AVIAN INFLUENZA— DEMISE OF DUCK AND GEESSE CARRIERS

**Hon. Wilbert J. Keon:** Honourable senators, I have a question for the Leader of the Government in the Senate regarding the H5 avian influenza strain in B.C.

The H5 strain of avian flu has been detected among ducks and geese on a farm in British Columbia's Fraser Valley. Until now, the type of avian flu found in British Columbia's outbreak has been deadly to poultry only and posed no serious human health risk. While this particular H5 strain may not be the same strain that jumped species and killed 23 people in Thailand and Vietnam earlier this year, authorities say it will be two days before it can be identified. A school neighbouring the farm has been shut down as a precaution. Could the Leader of the Government in the Senate tell us exactly what is happening with the ducks and geese involved? There does not seem to be any information about them.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, at this moment I have only the most general of information for Senator Keon, which is to the effect that the Canadian Food Inspection Agency is closely monitoring the situation and has ordered the destruction of ducks and geese that appear to have some strain of avian flu. I am advised that it is not yet clear from scientific analysis which exact strain has infected this aquatic bird flock, but the information should be available very soon — within a day or two.

To anticipate a possible question from Senator Keon, the degree of risk to humans is not known, but it is believed to be quite low. The provincial government has taken the step of closing an elementary school that is located adjacent to the duck and geese farm.

• (1400)

**Senator Keon:** Would the Leader of the Government know if there is any cross-infection in wild species, or is this just on the farm? That is a pretty tough question. I tried to find out myself before I asked it.

**Senator Austin:** That is one of the questions being investigated. Whether officials can come to a definitive conclusion remains to be seen.

These flocks of aquatic ducks and geese are out in the open and free to intermingle with wild birds, which could be a possible source of the infection.

## JUSTICE

### FIREARMS REGISTRATION PROGRAM— REPORT ON OPERATIONAL ALTERNATIVES

**Hon. David Tkachuk:** Honourable senators, the Associate Minister of National Defence, the Honourable Albina Guarnieri, recently completed a cross-country tour charged by the Prime Minister with finding plausible proposals to deal with problems surrounding the firearms registration program. The contents of her secret report to the Prime Minister — a report generated at taxpayers' expense — have been leaking into public view in dribs and drabs through the media. Does the government plan to release the report in its entirety? If so, can the Leader of the Government give an indication whether that release will be in the near future and whether the Minister of Public Safety and Emergency Preparedness will provide a response at that time?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I can provide a partial answer at this moment. Reports prepared for cabinet are not normally released and are always paid for by the public treasury. To suggest that the taxpayers are being treated in an unfair manner by the preparation of reports for government decisions I am sure was not the specific intention of the Honourable Senator Tkachuk.

An announcement date with respect to the government's policy on gun control has not been issued.

**Senator Tkachuk:** I definitely did indicate that a report by a minister on a cross-country tour, one that is being leaked to the media, should be made public.

One of the solutions proposed by the minister is that control of the program be transferred to the RCMP. Responsibility for that program was initially assigned to the Minister of Justice but was transferred to the Solicitor General because, according to the Department of Justice, the move allows the program to benefit from the operational expertise of the Solicitor General of Canada

and would make the program more effective and less expensive. The Solicitor General at that time, the Honourable Wayne Easter, stated:

Now that the program is moving from development to ongoing management, it would be the appropriate time to integrate it into my overall portfolio responsibilities.

It seems we have three official languages in Canada.

Can the Leader of the Government in the Senate inform us if the proposal to transfer the firearms registry directly to the RCMP but still within the Solicitor General's portfolio is being given favourable consideration?

**Senator Austin:** I cannot advise honourable senators on what is taking place with respect to that specific question, which is a matter of cabinet confidence.

**Senator Tkachuk:** Honourable senators, we are having an important public policy debate. The government itself has already put the policy out into the public record. I am not making this up. The government itself has stated that it wants to do something like this. Is the proposal to transfer the firearms registry directly to the RCMP but still within the Solicitor General's portfolio being given favourable consideration? I am not asking for the final decision. However, if there is some favourable consideration, we can have a debate in this place as to whether that is a good thing, or are parliamentarians not considered important enough to consult with on this issue?

**Senator Austin:** Honourable senators, at the risk of revisiting Political Science 100, the process works like this: Governments consult with the public; departments consider the options; recommendations are made to the cabinet; cabinets have discussions; the cabinet announces a policy; and legislators debate the policy.

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour to present two delayed answers to oral questions. The first is in response to an oral question posed on April 29 by Senator Gauthier concerning Air Canada's legal obligation. The second is in response to a question posed by Senator Rivest on February 19 regarding the appropriateness of the RCMP investigating Via Rail's involvement in the sponsorship program after senior officers received free passage on Via Rail in 1998.

## OFFICIAL LANGUAGES

### POLICY OF AIR CANADA

*(Response to question raised by Hon. Jean-Robert Gauthier on April 29, 2004)*

### ANSWER: THE MINISTER OF TRANSPORT ADVISES, THAT:

These questions were raised during Question Period in the House of Commons on April 28, 2004.



The Honourable Minister of Transport reiterated at that time that this Government continues to expect Air Canada to meet all its obligations under the *Air Canada Public Participation Act* and other applicable legislation.

As well, on that same day, the Minister responsible for Official Languages stated that Air Canada must respect its linguistic obligations and act in complete compliance with the relevant provisions of the *Official Languages Act*.

As for whether the company's head office will remain in Montreal, Section 6(1)(e) of the *Air Canada Public Participation Act* states that Air Canada's head office is to be situated in the Montreal urban community and, as indicated, this Government continues to expect Air Canada to meet all its obligations under this Act.

### SOLICITOR GENERAL

#### ROYAL CANADIAN MOUNTED POLICE— POSSIBLE BREACH OF CODE OF ETHICS— INVOLVEMENT IN SPONSORSHIP PROGRAM

(Response to question raised by Hon. Jean-Claude Rivest on February 19, 2004)

The RCMP has confirmed that complimentary VIA Rail transportation was offered to its senior officers to travel from Québec City to Montréal to attend the RCMP "C" Division's 125th Anniversary Ball held on June 13th, 1998. The Commanding Officers were in Québec City to attend their annual conference. The majority of Commanding Officers had alternate arrangements for transportation, however three officers and their spouses accepted the offer and were provided with complimentary transportation from Québec to Montréal on VIA Rail to attend the Anniversary Ball.

After a review of the available information, the RCMP has determined that VIA Rail was a sponsor of the RCMP "C" Division's 125th Anniversary Ball and the offer of complimentary tickets was in compliance with existing RCMP policy on Sponsorship. The Anniversary Ball was a RCMP community relations event that supported a local charity.

The RCMP accepts the overall findings of the Auditor General's Report on the RCMP's management of its 125th Anniversary activities and has implemented measures and controls to ensure policies, procedures and regulations are clearly understood, monitored and enforced within the RCMP. At the request of the RCMP, the Sûreté du Québec has agreed to assume responsibility for that portion of the criminal investigation that touches upon entities involved with the RCMP's 125th celebrations.

## ORDERS OF THE DAY

### CANADA ELECTIONS ACT INCOME TAX ACT

#### BILL TO AMEND—THIRD READING— MOTION IN AMENDMENT—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Mercer, seconded by the Honourable Senator Munson, for the third reading of Bill C-3, to amend the Canada Elections Act and the Income Tax Act.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I think we are familiar now with the purpose of this bill; therefore, bear with me if I repeat some of its salient features. There are implications to this bill that I would like to develop.

As honourable senators know, Bill C-3 is in response to a decision of the Supreme Court that struck down certain parts of the Canada Elections Act, in particular that which fixed a threshold of 50 candidates for a political party to be registered and recognized between elections.

The Supreme Court suspended the declaration of unconstitutionality for a period of 12 months ending June 27 of this year to give Parliament time to bring the act into conformity with the court's interpretation of the Constitution.

Following the testimony of witnesses at the Standing Senate Committee on Legal and Constitutional Affairs, many there were left with a number of unresolved issues that I had hoped could be resolved by proposing amendments in committee. I was unable to do so as the committee never issued, contrary to custom, a notice of meeting indicating on what day clause-by-clause consideration would take place.

This may sound technical to some, but let me be allowed to elaborate on its significance.

Committee clause-by-clause examination of a bill is a vital stage in its study. It is a point in the proceedings at which members are able to propose amendments that can arise from the testimony of the witnesses.

In the normal course of events, as has been our custom to allow time for reflection on the testimony, clause-by-clause consideration of a bill should not occur on the same day that witnesses have been heard. This is both to enable those present to give full and proper consideration to the testimony and to provide an opportunity to formulate and articulate amendments in response if such are found useful.

I recognize that events may conspire to limit the time available for the consideration of testimony and there may be rare occasions when it is not possible to defer or delay clause-by-clause consideration. Whatever the case, in my mind it is both imprudent and improper to proceed to clause-by-clause consideration when there has been no public notice to this effect.

In this case, there was no public notice issued at any time indicating when clause-by-clause consideration of the bill would take place. In the unrevised transcript of the meeting that took place the night before, the chair did say that it was a possibility. Clause-by-clause consideration was moved by Senator Mercer the next day. This being the case, the public meeting notice issued ought to have included clause-by-clause consideration as a final item of business the following day. Just because it is on the notice, by the way, does not compel a committee to proceed with it. Indeed, the notice of the night before for the Standing Senate Committee on Legal and Constitutional Affairs had stated that the committee would proceed to an in camera consideration of a draft report on another bill, but the meeting did not so proceed due to a conflict with another committee meeting in the same room starting at 7 p.m.

• (1410)

Thus it was that the only senators who could possibly have been aware that Bill C-3 might proceed to clause-by-clause consideration the following day were those present, those few who were listening to the proceedings, or any who might have come into contact with those individuals. Only a handful was aware of a possibility that was not found important enough to be included in a notice.

I regret that the majority on the committee chose to disregard the traditions which govern the effective operation of this place. That is their choice, although it certainly appears to run counter to the intention of the Prime Minister with regard to democratic reform and the empowerment of individual parliamentarians. Sadly, this will not be the first time that electioneering promises have been sacrificed as a matter of expedience. I fear that it will not be the last.

However that may be, there is still the possibility that any time which might have been gained through this unfortunate trammelling upon the expectations not only of senators but also of the public at large, which we here seem to disregard all too often, may be lost as we end up considering amendments at the current stage before the entire chamber rather than in the confines of the committee. Observations which might have been appended and which might have sufficiently addressed the concerns arising from the testimony in light of the sunset clause contained in Bill C-3 remain unwritten.

It was a choice that was made. It was within the power of the majority on the committee to make that choice. It remains to be seen if it was a wise choice.

Returning to the matter at hand, the testimony raised a number of concerns about this bill. I do not propose to address them all in detail, although I hope others may choose to develop them more fully.

First, the decision of the Supreme Court of Canada appears to call into question the use of thresholds in relation to political parties. This is most clearly the case for the number of candidates that a party is required to field in order to achieve recognition as a political party under the Canada Elections Act. The court stated that a threshold of 50 was too high — in fact, any threshold was unconstitutional — and that the arguments presented by the

government in favour of one were not at all convincing. This being the case, it is a matter of some curiosity that this bill nonetheless contains a threshold. It requires that a party field at least one candidate. One is a low number, the lowest you can get, but it is still a threshold. A party with one candidate can achieve recognition, a party without one cannot. Is there in principle a difference between this and a party with 50 candidates achieving recognition but a party with only 49 not? In each case, the difference in the number of candidates is one.

So it is that the bill does not appear to achieve its aim of complying with the ruling of the Supreme Court. Frankly, it is doubtful that anyone would challenge this low threshold of one, but I do not see how it can be said that such a challenge would be unsuccessful, if the arguments already accepted by the Supreme Court against a threshold of 50 were to be repeated before the same court.

The second problem raised is that eliminating thresholds with regard to the number of candidates might pose similar difficulties for the thresholds for receiving political financing from the government, which are contained in Bill C-24, commonly known as the Elections Financing Bill. It specifies that political parties are required to obtain 2 per cent of the national vote to receive funding, or 5 per cent of the valid votes cast in the electoral districts in which the party ran a candidate.

Witnesses indicated that if Bill C-3 is passed they plan to launch similar legal action against those financing limits, those thresholds. If it turns out that thresholds of any kind are not permitted, they may well succeed.

The final problem which I intend to address was raised during the course of the testimony by the Chief Electoral Officer. Initially, the committee was given to understand that it would be possible to implement the provisions of Bill C-3 within, to quote him, "a matter of hours." However, upon further reflection, Mr. Kingsley said the following, and I quote from the unrevised transcript of the meeting held on April 29:

Madam senator, your question leads me to reconsider my answer about being ready to implement this within hours. If I have to produce guidelines or criteria, I have not even begun to do this. If I have to do this before I say that I am ready to implement this statute, then I can tell you I will not be ready by June 27 most probably — that is, if your question leads me to the conclusion that I must have these things.

On the other hand, if it is just a matter of changing the forms, changing my Web site, eliminating references to what constitutes a political party and changing them to this one in the different literature I have, those are things that we can flip over in a matter of hours.

However, if I have to develop those things before, then it is a theoretical discussion about whether or not I will be doing it before June 27, I most probably will not, unless we focus just on that.

Earlier in his testimony, the Chief Electoral Officer expressed more general reservations about the coming-into-force provision contained in clause 27 of the bill when he said:

The point that I tried to make, and that is highlighted by the earlier question that you raised about when would I be able to do this, once again I will be called upon to make a decision about implementing. That has a direct impact on parties immediately, the moment this is done. If there were a fixed date in the statute, then that would be Parliament that has decided that, and not the Chief Electoral Officer called upon to do that. It is that type of judgment, which I am ready to exercise, but which is not always easy to make. That sometimes leads to an apprehension that judgments are being put into the hands of an officer of Parliament that might best remain in the hands of Parliament.

The normal procedure with respect to amendments to the Canada Elections Act is that they come into force six months after Royal Assent, or if the Chief Electoral Officer has indicated that the necessary preparations have been completed and has so indicated by publication of notice in the *Canada Gazette*. Obviously, this provision is not applicable here and, as the Chief Electoral Officer has noted, he is not at all comfortable with taking a decision which he quite properly pointed out “might best remain in the hands of Parliament.”

Bearing in mind, honourable senators, the concerns clearly expressed by the Chief Electoral Officer, I think it is appropriate for this bill to be amended to provide an exact time for these provisions to come into force, and that the time be determined by Parliament itself, not by one of its officers.

#### MOTION IN AMENDMENT

**Hon. John Lynch-Staunton (Leader of the Opposition):** Accordingly, I move, seconded by Senator Kelleher:

That Bill C-3 be not now read a third time but that it be amended in clause 27, on page 14, by replacing lines 30 to 36, with the following:

“comes into force on June 27, 2004.”

**The Hon. the Speaker:** Are there honourable senators who wish to speak to the amendment or is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Will those honourable senators in favour of the motion in amendment please say “yea”?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Will those honourable senators opposed to the motion in amendment 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.

**Hon. Marjory LeBreton:** Pursuant to rule 67(1), I ask that the vote be deferred until tomorrow at 5:30 p.m.

**The Hon. the Speaker:** The vote on the motion in amendment will take place tomorrow, Thursday, at 5:30 p.m. The bells to call in the senators will ring at 5:15 p.m.

### BILL TO CHANGE NAMES OF CERTAIN ELECTORAL DISTRICTS

#### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C., seconded by the Honourable Senator Hervieux-Payette, P.C., for the third reading of Bill C-20, to change the names of certain electoral districts.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, this bill is at third reading. Yesterday, we heard some remarks by Senator Smith. I have studied his remarks. I think that all that needs to be said on the bill has been said. We are probably ready for a determination of the house's wish.

• (1420)

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

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Smith, seconded by Honourable Senator Hervieux-Payette, that this bill be read the third time.

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

Motion agreed to and bill read third time and passed.

### COMPETITION IN THE PUBLIC INTEREST

#### INQUIRY—DEBATE ADJOURNED

**Hon. Marcel Prud'homme** rose pursuant to notice of March 11, 2004:

That he will call the attention of the Senate to the Sixth Report of the Standing Senate Committee on Banking, Trade and Commerce entitled: *Competition in the Public Interest: Large Bank Mergers in Canada*, tabled in the Senate on December 12, 2002.

He said: Honourable senators, I will speak on this matter tomorrow, in case it is the last day, so that colleagues can go to committees earlier.

On motion of Senator Prud'homme, debate adjourned.

The Senate adjourned until Thursday, May 13, 2004, at 1:30 p.m.

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