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(HANSARD)

Thursday, June 7, 2007

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

CONTENTS

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

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THE SENATE

Thursday, June 7, 2007

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

Prayers.

SENATOR'S STATEMENT

CANADIAN CANCER SOCIETY'S RELAY FOR LIFE

Hon. Catherine S. Callbeck: Honourable senators, in communities across the country this month, Canadians are coming together to take part in the Canadian Cancer Society's Relay For Life. This relay is one of the society's biggest events. Teams of eight to 15 people take turns running, walking or strolling overnight for 12 hours around a non-competitive relay course to raise money for cancer research, for information services and programs, and for advocacy on public policies that prevent cancer. These inspired people represent families, friends, communities, businesses and corporations: people who share the hope that cancer can be beaten.

Perhaps the most moving event during the relay is the Survivors' Victory Lap. The first lap of the evening is walked by cancer survivors. Some have beaten back the cancer that struck them, while others are still fighting, but they are all joined together by their courage to face such a terrible disease. They serve as a symbol of hope to people living with cancer and their families.

Last year, Prince Edward Island relays saw more than 2,700 Islanders participating, and more than 500 survivors taking part in the victory laps.

• (1335)

Islanders raised $400,000 for the Canadian Cancer Society at this event. All told, more than $38 million was raised across the country in 2006.

For those unable to participate in the relay, Canadians can buy luminaries, candles in fireproof bags that are lit at sunset and burn throughout the night. Luminaries bear the names of survivors and of people whose lives have been cut short by cancer. They pay tribute to loved ones lost and celebrate loved ones who have won the battle. They line the relay course to light the way for participants.

Honourable senators, nearly 160,000 new cases of cancer will be diagnosed this year, and more than 72,000 Canadians will lose their lives. Cancer is indiscriminate: It strikes people from all walks of life, and affects families, friends and loved ones. Anyone and everyone can be touched by cancer.

I urge you to take part in the Relay for Life events — be a participant, be a supporter, volunteer your time or buy a luminary to honour someone you know. If we all work together, we can make cancer history.

Hon. Senators: Hear, hear!

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before proceeding to tabling of documents, I am pleased to introduce one House of Commons page who is participating in the page exchange this week. It is Mark Friedman of Toronto, Ontario, who is pursuing his studies at the Faculty of Social Sciences at the University of Ottawa, where he is majoring in history and political science.

[*Translation*]

ROUTINE PROCEEDINGS

SENATE ETHICS OFFICER

2006-07 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the 2006-07 annual report of the Senate Ethics Officer, pursuant to section 20.7(1) of the Parliament of Canada Act.

[*English*]

AUDITOR GENERAL

2006-07 ANNUAL REPORT ON PRIVACY ACT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the Auditor General's 2006-2007 annual report on the Privacy Act, pursuant to section 72 of the Privacy Act.

NATIONAL CAPITAL 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:

Thursday, June 7, 2007

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

EIGHTH REPORT

Your Committee, to which was referred Bill S-210, An Act to amend the National Capital Act (establishment and protection of Gatineau Park), has, in obedience to the Order

of Reference of Wednesday, December 13, 2006, examined the said Bill and now reports the same with the following amendments:

1. Page 2, clause 4:

(*a*) Replace line 32 with the following:

"10.1 (1) There is hereby established a park"; and

(*b*) Add after line 34 the following:

"(2) Gatineau Park is hereby dedicated to the people of Canada for their benefit, education and enjoyment, subject to this Act and the regulations, and it shall be maintained and made use of so as to leave it unimpaired for the enjoyment of future generations.

(3) Maintenance or restoration of ecological integrity, through the protection of natural resources and natural processes, shall be the first priority of the Commission when considering all aspects of the management of Gatineau Park.".

2. *Page 4, clause 5*: Replace line 3 with the following:

"Park to anyone other than the Commission unless the person has given the right of".

Your Committee appends to this report certain observations relating to this Bill.

Respectfully submitted,

TOMMY BANKS
Chair

Appendix to the Eighth Report of the Standing Senate Committee on Energy, the Environment and Natural Resources (Bill S-210 – Observations)

The Committee recommends that, in the interests of the ecological integrity of Gatineau Park, the National Capital Commission consider limiting automobile traffic in the Park, and consider the use of alternative fuel vehicles.

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

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

SALES TAX AMENDMENTS BILL, 2006

REPORT OF COMMITTEE

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

Thursday, June 7, 2007

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

NINETEENTH REPORT

Your Committee, to which was referred Bill C-40, An Act to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts, has, in obedience to the Order of Reference of Tuesday June 5, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JERAHMIEL S. GRAFSTEIN
Chair

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

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

• (1340)

KYOTO PROTOCOL IMPLEMENTATION BILL

NOTICE OF MOTION FOR TIME ALLOCATION

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

That it be an Order of the Senate that on the first sitting day following the adoption of this motion, at 3:00 p.m., the Speaker shall interrupt any proceedings then underway; and all questions necessary to dispose of third reading of Bill C-288, An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol, shall be put forthwith without further adjournment, debate or amendment; and that any vote to dispose of Bill C-288 shall not be deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for thirty minutes, after which the Senate shall proceed to take each vote successively as required without the further ringing of the bells.

STUDY ON INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS

NOTICE OF MOTION TO REQUEST GOVERNMENT RESPONSE ON REPORT OF HUMAN RIGHTS COMMITTEE

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that, two days hence, I will move:

That the Senate request a complete and detailed response from the Government to the tenth report of the Standing Senate Committee on Human Rights, entitled: *Children: The Silenced Citizens*, with the Minister of Justice, the Minister of Labour, the Minister of Human Resources and

Social Development, the Minister of Foreign Affairs, the Minister of Public Safety, the Minister of Citizenship and Immigration, the Minister of National Defence, the Minister of Canadian Heritage and Status of Women, the Minister of Indian Affairs and Northern Development and the Minister of Health being identified as the Ministers responsible for responding to the report.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF PROVISIONS OF CONSTITUTION ACT, 1867 RELATING TO SENATE

Hon. David P. Smith: Honourable senators, I give notice, for Senator Keon, that at the next sitting of the Senate he will move:

> That, notwithstanding the Order of the Senate adopted on December 14, 2006, the date for the presentation of the final report by the Standing Committee on Rules, Procedure and the Rights of Parliament, authorized to examine and report upon the current provisions of the Constitution Act, 1867 that relate to the Senate, be extended from June 21, 2007, to June 24, 2008.

[*Translation*]

QUESTION PERIOD

NATIONAL DEFENCE

UNITED STATES MISSILE DEFENCE PROGRAM

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. Could the minister tell us what her government's position is on the missile defence shield?

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. The position that the government took previously on the missile defence shield has not changed. I expect that the honourable senator has asked this question in relation to the news reports out of the G8 summit. The Prime Minister is urging calm in these speculations about Russia and the United States. However, the government's position, as indicated to the United States earlier, has not changed.

[*Translation*]

Senator Tardif: In 2005, at the Conservative Party convention, after having criticized the Liberal government's position on the missile defence shield, Mr. Harper said, and I quote:

[*English*]

> On missile defence, I will tell you only one story, the same one I told our Parliament in public and the President in private: "I will not sign on to a deal that Canadians have not seen."

• (1345)

[*Translation*]

Does the Prime Minister plan on consulting Canadians about the missile defence shield, as he told his party members?

[*English*]

Senator LeBreton: The honourable senator confirmed in her quotation what I said in answer to her question. The Prime Minister's and the government's position on the issue has not changed; any comments made by the Prime Minister about this issue stand.

FINANCE

ATLANTIC ACCORD— OFFSHORE OIL AND GAS REVENUES

Hon. Jane Cordy: My question is also to the Leader of the Government in the Senate. I find it hard to imagine that the Leader of the Government in the Senate can actually believe her answer to me yesterday concerning the Atlantic accord. She said:

> The accords that were in place the day before the budget in March were in place the day after.

MPs and senators from all political parties know that this agreement was broken. I find it offensive that the leader would tell us the Atlantic accord was not changed in the budget. The Atlantic accord was signed by the federal government and the provinces of Nova Scotia and Newfoundland and Labrador. Nova Scotia and Newfoundland and Labrador signed the accord in good faith. Like the income trust promise, this appears to be another case of promises made, promises broken.

I ask the Leader of the Government in the Senate again: When will this Conservative government end the betrayal of Atlantic Canadians and honour the Atlantic accord?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. In fact, I shall again put on the record exactly what was in the budget. Before I start, I must say that I find it rather amusing to get a lecture from people opposite. When Mr. Chrétien became Prime Minister, he was going to get rid of the GST and cancel the free trade agreements.

Senator Rompkey: Irrelevant.

Senator LeBreton: It is relevant.

It is important to point out that, over the next two years, compared to what it received in 2005-06, Nova Scotia will receive an additional $327 million in federal transfers and programs. Minister Flaherty met with provincial officials in Nova Scotia on

May 2. The Deputy Premier, Angus MacIsaac, said after the meeting that the budget infrastructure funding was extremely positive for the Province of Nova Scotia.

Budget 2007 fully honours the commitment to respect the offshore accords by allowing Nova Scotia to operate under the existing equalization system for the life of the accord. For 2008-09, Nova Scotia has chosen the new system, which will result in the province receiving $95 million in additional benefits. Nova Scotia has a year to look at that decision. If the government decides that it wishes to go back to the old system, they are able to do that.

Under the fiscal balance package, we will provide Nova Scotia with more than $2.4 billion in 2007-08, and it breaks down as follows: $1.3 billion for equalization; $130 million for offshore accord offsets; $639 million under the Canada Health Transfer; $277 million under the Canada Social Transfer for post-secondary education and child care; and $42.5 million for the environment, to fight climate change.

The people of Nova Scotia will benefit from tax cuts in the budget, such as the Working Income Tax Benefit, the so-called WITB, which will provide workers in Nova Scotia with $17.8 million in tax relief.

I will wait until the honourable senator asks a supplementary question before I go on to a second page of figures.

Senator Cordy: That is great, except those are not answers. The reality remains that the Atlantic accord has been broken and the people of Atlantic Canada have been betrayed by this government once again.

This morning, in *The Daily News*, a Halifax newspaper, I read a quotation from David Rodenhiser. Because I believed it was so true, I wish to share it with honourable senators:

> . . . Stephen Harper has a phobia of accords: the Atlantic Accord, the Kyoto Accord and the Kelowna Accord. The man must be petrified when passing a Honda dealership.

• (1350)

Under section 36(2) of the Constitution, Nova Scotia is entitled to equalization just like every other province. Under the offshore accord, we settled offshore jurisdiction with Canada in return for 100 per cent of the offshore revenues. This Conservative government is breaking that agreement and asking that we give up our right to 100 per cent of our offshore revenues in order to fully participate in our constitutional right to equalization. The Atlantic accord preserves Nova Scotia's right to 100 per cent of our offshore revenues no matter how the equalization formula may change. Stephen Harper and this government have abandoned a signed agreement. Nova Scotians want nothing more than the Atlantic accord honoured.

Why is this government unwilling to keep their word?

Senator LeBreton: I wish to thank the honourable senator for that question. The fact is that Budget 2007 fully kept the agreement that the accords would remain.

In the case of Nova Scotia, that province has decided to try the new formula for a period of time. I would hasten to point out, honourable senators, that, first, the so-called Kelowna accord was not an accord; it was a press release. It was not called an accord. It was called an accord two months after the fact by *The Globe and Mail*.

On the question of the Atlantic accords, as Senator Carney has pointed out, and as I pointed out yesterday, there would be no Atlantic accords with either Newfoundland and Labrador or Nova Scotia if it were not for the Conservative party in opposition before Mr. Mulroney came into government and then the Conservative government, negotiated by Senator Carney and the premiers in office at that time.

I should also like to respond to Senator Cordy's question by pointing out to the honourable senator that she has a leader in the person of Stéphane Dion who has given support many times in the past for the inclusion of all non-renewable resources and equalization calculations and for a fiscal cap. Just a year ago, on May 5, 2006, on *Mike Duffy Live,* Mr. Dion said:

> I think you need to have a clause that says whatever is the formula of equalization payments, a province that received equalization payments cannot see its fiscal capacity going above the fiscal capacity of a province that does not receive equalization payments."

Senator Cordy: Honour the agreement.

Senator LeBreton: The agreements were first signed by the Conservatives. These are yet other examples from Mr. Dion. Mr. Dion said on CBC *Newsworld*, less than six months ago, on this question:

> Yes, it would be my preference. This being said, I would be open if I was a prime minister to discuss with the provinces our views, but my preference is to go with the logic. We have ten provinces in Canada. Then you take into account the ten provinces in that formula. All the revenues affect the — the fiscal capacity of provinces. You take into account all revenues.

In the *St. John's Telegram*, on March 10 this year, Mr. Dion said that, "Prime Minister Harper's promise," which he believed was the case, "to exclude 100 per cent of non-renewable revenues from equalization was 'foolish.'" The article also stated that Mr. Dion was emphatic about his disagreement with excluding 100 per cent of resource revenues for the equalization formula. "No, no. I would not commit to this," said Stéphane Dion.

• (1355)

Hon. Bill Rompkey: Honourable senators, I want to ask questions on the same subject. I know how difficult this subject is for the Leader of the Government in the Senate, because she worked for Brian Mulroney, who was the author of this accord and who is revered in Newfoundland, unlike the present Prime Minister.

I want to read to her from two documents. The first is a Conservative brochure from before the last election, which reads: "There is no greater fraud than a promise not kept."

Some Hon. Senators: Hear, hear!

Senator Rompkey: The brochure goes on to say:

> The Conservative Party of Canada believes that offshore oil and gas revenues are the key to real economic growth in Atlantic Canada.
>
> That's why we would leave you with 100 per cent of your oil and gas revenues.
>
> No small print.
> No excuse.
> No caps.

The second document I want to read from is the 2007 budget speech, page 6:

> A fiscal capacity cap will provide fairness by ensuring that Equalization payments do not result in a receiving province ending up with a fiscal capacity higher than a non-receiving province.

That is in the budget speech: no cap in the brochure but a cap in the budget.

What the budget and the government are saying to Newfoundland is: "Stay there. Zap, you're frozen. You can never be a have-province. Do not try to play in the big leagues. Mind your own business and stay where you are, little Newfoundland and Nova Scotia." That is what the government is saying to us.

His Honour would not allow me to wear this cap in the Senate because I would be breaking the rules. I will not break the rules; I will take off my cap. I am asking the Leader of the Government in the Senate to ask the Prime Minister to take off his cap.

Some Hon. Senators: Hear, hear!

Senator LeBreton: Honourable senators, this reminds me of the old days when George Baker and John Crosbie used to get into it. If nothing else, it was entertaining.

To answer the honourable senator's question, Newfoundland and Labrador will continue to receive the full benefits provided under the offshore accord without a cap, while keeping the equalization regime it had when it signed the accord. Everything in the accord when they signed it is being respected: the accord without a cap, and operating under the equalization scheme as it was when they signed the accord.

The budget provides the province with the choice of two equalization formulae. Provinces can opt into the new equalization formula at any time during the life of the accord, but what was left in place untouched was the agreed-to Atlantic accord without a cap and the equalization in place at the time.

On the fiscal cap itself, the fiscal capacity cap in the new system was recommended by the O'Brien expert panel, which, as the honourable senator knows, was set up by the previous government. Minister Flaherty has said that although the O'Brien panel recommended that the accords be capped, our government decided not to keep them so the accords the government signed with Newfoundland and Labrador and Nova Scotia would be honoured.

Senator Rompkey: As a supplementary question, I am glad the leader mentioned John Crosbie because I want to bring him into the debate. By the way, he is known in Newfoundland as "St. John of St. John's," as Brian Mulroney is known as "St. Brian of Baie-Comeau."

I want to read from a letter from Mr. Crosbie and Rolly Martin to the Prime Minister. Rolly Martin was an adviser to John Hamm. He is really from Newfoundland and he made it all the way to Nova Scotia. The letter reads as follows:

> The Federal Government has chosen unilaterally to change the 2005 Arrangement with Nova Scotia, and Newfoundland and Labrador, with significant financial consequences.

The letter goes on to say:

> A consequence of the 2007 Federal Budget is that the 1985 and 1986 Offshore Accords could be unilaterally amended, contrary to their legislation. . . .
>
> The Federal Government will again become the principal beneficiary.

• (1400)

That is not Newfoundland and Labrador and not Nova Scotia, as is in the accord.

> The Federal Government will again become the principal beneficiary. . . . For example, Newfoundland and Labrador's annual equalization has already declined significantly from a peak of approximately $1.2 billion in 1999-2000 to a projected $477 million in 2007-08, partly because of the increase in its non-renewable petroleum revenues, but also because its population has significantly declined. Meanwhile its per capita debt remains the highest in Canada . . . .
>
> . . . the new Equalization program has side-swiped the 1985 and 1986 Offshore Accords and also the more recent 2005 Arrangement, all of which are meant to operate outside of Equalization and to assist Nova Scotia and Newfoundland and Labrador to improve their economic and financial positions by having access to 100 per cent of their offshore oil and gas revenues, without "clawback", during the life of these Agreements.
>
> . . . there should be no application of a "cap" to the 2005 Arrangement at anytime during its life. This was not the Agreement. . . .

That is what John Crosbie said. John Crosbie signed the agreement, and so did Brian Mulroney.

> This was not the Agreement entered into by the three governments, and if not corrected, will set a poor example for future public policy making within the Canadian Federation.

Will the leader ask Stephen Harper to be a gentleman for once in his life and take off his cap?

Senator LeBreton: Honourable senators, I thank the senator for reading into the record what was, according to the news reports, John Crosbie's so-called strictly confidential letter.

I want to correct something right now, and our colleague Senator Carney will be correcting the record. I have the greatest respect for John Crosbie, but John Crosbie was not in the room and did not sign the original Atlantic accord. It was Pat Carney and Mr. Mulroney, and Pat Carney has written today to *The Chronicle Herald* in Halifax to correct the record.

Senator Rompkey: Who will believe he knew nothing about it? He was only the finance minister. He had nothing to do with it.

Senator LeBreton: All that to say that Newfoundland and Labrador will continue to receive the full benefits that are provided under the offshore accord, without a cap, while keeping the same equalization regime when it signed the accord. The budget provided the province with a choice, as I said. I have heard some say that they were promised the benefits of the offshore accord without a cap, but were also promised the new formula. How on earth could anyone believe that that is the case? During the election campaign, we promised not to interfere with the offshore accords, without a cap, and respect the equalization formula in place. How could anyone say we also promised the new formula? We did not even know there would be a new formula.

We were the ones talking about fiscal imbalance. The party of the honourable senator was denying the fiscal imbalance. We did not know what the O'Brien commission would recommend, so there is no way that anyone could possibly believe we could say, "We will recognize and respect the accords and, by the way, we also promise the new formula," when at that point in time there was no question of there being a formula, let alone a new formula.

Hon. James S. Cowan: Honourable senators, my question is also directed to the Leader of the Government in the Senate. The leader and other government ministers have dismissed suggestions repeatedly that the budget broke the Prime Minister's promise to respect the Atlantic accord, dismissing it as mere political rhetoric. An article in today's *Halifax Daily News* said "Stephen Harper's Conservatives are vicious, vindictive liars."

Senator Angus: Yellow journalism.

Senator Cowan: I am sure a letter from Pat Carney will not settle that.

To settle this controversy and eliminate any taint of the partisan rhetoric, will the leader obtain from the Prime Minister or the Minister of Finance, and table in this house at the earliest possible opportunity, a legal opinion confirming the Prime Minister's position that the provisions in the budget honour the guarantees provided to Newfoundland and Labrador and to Nova Scotia in the Atlantic accord?

Senator LeBreton: Honourable senators, if the honourable senator insists on reading into the record something that appeared in a publication such as the *Chronicle Herald* today, which used very disparaging comments, would he at least have the decency to provide the name of the author? Was the honourable senator referring to a letter to the editor?

• (1405)

Senator Cowan: No, I was referring to an article by David Rodenhiser.

Senator LeBreton: The fact is, any one of us could get up on any given day and quote things that have been said about the opposing political party. That does not mean it is a fact or that it is true.

Senator Cowan: The Leader of the Government in the Senate does it all the time.

Some Hon. Senators: Hear, hear!

Senator LeBreton: I do not think that Senator Fortier and my colleagues and I on this side would agree that we are vicious, or whatever words were used in the article.

The fact is that when Minister Flaherty was developing the budget, he made it clear that he would honour the commitment of our party when we ran in the election, to honour the offshore accords without a cap and would follow the exact situation that was in place when the accords were signed. That is what the government has done, and no one can say that we did not honour our commitments as they were signed by both of those provinces.

As I mentioned previously, to now say it was the offshore accord plus a future equalization is unfair. When the commitment was made, we agreed to honour the accords without a cap and to continue along with the equalization formula that was in place when the accords were signed. That is the commitment we made, and there is nothing more that can be said. That is exactly what we have been doing.

Senator Cowan: That is not what the accord said. That is why I am suggesting that the whole matter might be diffused if the Leader of the Government in the Senate would provide the legal opinion that reinforces the position of the Prime Minister or the Minister of Finance.

Clearly, the Province of Nova Scotia and the Province of Newfoundland and Labrador have received legal opinions quite to the contrary.

I am asking that Senator LeBreton obtain the legal opinion, which I am sure the Prime Minister has, and table it in this house to make the matter more clear.

Senator LeBreton: The accords were signed by the previous government. During the election campaign, we committed to honouring the accords as they were signed and under the circumstances in which they were signed, and that is exactly what we are doing.

I will take the question as notice and ascertain whether it is even possible to provide an answer.

Senator Cowan: I would appreciate that. My understanding of the Atlantic accord is that it talked about honouring the equalization regime as it existed from time to time, not freezing in place the equalization regime as it existed when the Atlantic accords were signed.

Therefore, I suggest that the honourable senator, in taking my question as notice, ask for that opinion to address that precise point. I think that is the key point of misunderstanding, to put it mildly.

Senator LeBreton: That is the interpretation of the honourable senator. I will certainly add that to the notice and attempt to obtain an answer.

HERITAGE

WAR MUSEUM—PLAQUE ON WORLD WAR II ALLIED BOMBING RAIDS ON GERMANY

Hon. Gerry St. Germain: Honourable senators, my question is also directed to the Leader of the Government in the Senate.

Senator Moore: On the Atlantic accord?

Senator St. Germain: No, I do not want to get into the importance of any issue in this place. I am just putting forward the concerns of the Toronto and Greater Vancouver branches of the Aircrew Association in regard to the Enduring Controversy plaque that appears in the Canadian War Museum.

• (1410)

Honourable senators, many veterans who flew in the Second World War are upset at this situation. I believe our former colleague, the Honourable Archibald Johnstone, flew in the campaign that is referenced in that panel.

The Canadian War Museum has sought out experts to provide their opinions on the panel and the air war exhibit in general. The decision of the expert panel came back supporting the Canadian War Museum's position.

Could the Leader of the Government in the Senate find out what expertise was brought to the fore in this particular situation? This decision has not, in any way, shape or form, changed the attitude of members of air crew associations.

I would like to know — and I think they have a right to know — how the experts were picked, whether they actually served in any theatre of action and why Mr. Rabinovitch and Mr. Geurts have not addressed in a more compassionate way what the air crew associations have brought forward.

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Senator St. Germain is referring to the contentious representation of the bombing of Dresden. This matter has been raised in this place before. Great concern has been expressed by veterans, airmen in particular, as to how this exhibit at the War Museum has been displayed.

Museums operate independently. Having said that, I am also aware that a panel was struck. I certainly heard from quite a number of veterans as a result of the findings of that panel. I believe Jack Granatstein was a member of that panel as well.

In any event, I understand the concern of the honourable senator. I will certainly take as notice the request that we provide information as to what criteria was used and what expertise was required for that panel to deliver the decision with which they came forward.

As well, honourable senators, I believe this issue is also a matter of discussion before the Subcommittee on Veterans Affairs. I am not certain at what stage of deliberations the committee is at, but I understand they are looking into this matter as well. I will try to ascertain on what basis the panel was chosen and what criteria were used.

• (1415)

ORDERS OF THE DAY

NON-SMOKERS' HEALTH ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Mac Harb moved second reading of Bill S-228, to amend the Non-smokers' Health Act.

He said: Honourable senators, I am honoured to rise to speak today, one year after you joined me in passing a motion, seconded by Senator Keon, calling for amendments to the Non-smokers' Health Act, amendments that would ban, once and for all, smoking rooms in workplaces and public spaces under federal jurisdiction.

Twelve months after that motion passed unanimously and was sent to the other place, Canadians who work in areas under federal jurisdiction are still being exposed to the deadly effects of second-hand smoke. The legislation has not been updated. I rise today to ask for your support for legislation that will fulfil the intent of that motion by amending the Non-smokers' Health Act to close the doors on smoking rooms in federal workplaces.

This is not to say that our motion was ignored. In fact, after conducting air-quality studies to find out what we already knew, that second-hand smoke is deadly, the Minister of Labour has agreed that these smoking rooms must close. I commend the minister and his staff for making a commitment to close the rooms, but I am, as many, disappointed that he has chosen to work around the flawed legislation that allowed them to exist in the first place.

Unfortunately, honourable senators, the minister has chosen to change the regulation under the Non-smokers' Health Act to close down the smoking rooms rather than address the problem at its source.

As honourable senators know, regulations are made under the authority of an act. The act specifies who may make regulations in the scope of the regulation-making authorities. Regulations must stay within this scope and, consequently, they are often called "delegated" or "subordinated" legislation.

Well, honourable senators, I am uncomfortable having this issue "delegated."

[*Translation*]

Canadians deserve a tough measure to make up for the shortcomings of the Non-smokers' Health Act. As legislators, it is our responsibility to ensure that the act is amended and its shortcomings eliminated.

The Non-smokers' Health Act governs the use of tobacco in over 25,000 workplaces federally regulated. This legislation, which was passed 20 years ago, allows employers in some workplaces federally regulated to designate smoking areas. Surprisingly, it also allows employers to require employees to perform some of their tasks in a smoking room or area.

[*English*]

Allow me to quote section 3(1) of the existing act. This section reads, in part:

> 3(1) Every employer, and any person acting on behalf of an employer, shall ensure that persons refrain from smoking in any work space under the control of the employer.

However, the act goes on to say:

> (2) An employer may, to the extent permitted by the regulations, designate for smoking
>
> (*a*) enclosed rooms under the control of the employer other than rooms normally occupied by non-smokers; and
>
> (*b*) areas under the control of the employer on an aircraft, train, motor vehicle or ship or in an airport passenger terminal, railway passenger station, interurban bus station or marine passenger terminal other than areas normally occupied by non-smokers.

That section goes on to say:

> (3) Notwithstanding subsection (1), an employer may require employees, by reason of the nature of their duties, to perform those duties in a room or area designated for smoking under subsection (2).

• (1420)

Notwithstanding the fact that we already have clear evidence that second-hand smoke is deadly, the present legislation, as it is written, still allows smoking rooms to exist. Furthermore, the legislation gives the employer, the Government of Canada, the authority not only to allow those rooms to exist, but also to force employees to work in those areas, therefore exposing them to further health risks.

The Minister of Labour is content to leave this legislation in place. I think, honourable senators, he is making a big mistake. Failure to remove the offending clauses in the legislation could leave the door open to a regressive regulatory change in the future. It might not happen, but why take a chance?

Honourable senators, our parliamentary system works by passing legislation, ensuring that its intent is in keeping with the priorities and values of Canadians. Once passed, we can add or change regulations relating to that initial intent. I would contend, however, that using regulatory change in this instance could allow a future minister, under pressure from industry, for example, or lobby groups, to revisit this regulatory change. The argument could be made that as the original law makes provisions for designated smoking rooms, the intent of Parliament was to allow them, and so the regulation could be changed once again to permit smoking rooms in areas under federal jurisdiction without having to return to Parliament for approval.

Slipping in an administrative change that is not binding on future ministers or governments is not good enough. This legislation needs to be amended if it is to permanently reflect the priorities and values of Canadians in 2007.

[*Translation*]

Furthermore, those of us who are aware of the work involved in amending legislation through the regulatory process know all too well how long it will take to eliminate smoking areas.

Even if the minister makes drafting this legislation a priority, and even if the Treasury Board's Regulatory Affairs section gives it the green light, it is a safe bet that the regulatory measures will get bogged down once they reach the Department of Justice where a whole lot of regulations are tied up in the backlog. Then they will be sent back to the Treasury Board and published in the *Canada Gazette*.

Given the typical pace of the regulatory process, we can expect this to take at least 18 months. Meanwhile, smoking areas in federal buildings will be maintained, thereby compromising the health of Canadians and suggesting to smokers that the federal government tacitly condones this life-threatening activity.

[*English*]

By amending the act, we are ensuring that parliamentarians in the Senate and in the other place uphold their commitment to protect the health of Canadians. Canada has been a world leader on the tobacco file, but the existence of these smoking rooms has been a national and, indeed, international embarrassment. I believe all honourable senators were ashamed when footage of the very legal smoking rooms in the CBC building in Toronto made prime-time news. To put it simply, shutting these smoking rooms is our responsibility as legislators.

This is why I introduced this legislation to amend the outdated act. Bill S-228 will delete the words "designated smoking area" from the Non-Smokers Health Act. It contains a comprehensive definition of work spaces which will be smoke-free, including parking garages and around entrances to buildings.

Honourable senators, this legislative amendment takes into consideration the cultural significance of tobacco in the lives of Aboriginal Canadians and the ceremonial role of tobacco in cultural and spiritual practices and ensures that this role can continue.

One year ago, I stated that we needed to set an example for other jurisdictions. Sadly, I will amend that now to say that we need to follow the example of other jurisdictions. Municipalities across Canada have led the way on this file. Provincial authorities have been forced to play catch-up and have responded admirably.

Even Alberta, honourable senators, one of the last holdout provinces, has overtaken the federal government. The Government of Alberta has announced that it will introduce legislation this fall to ban smoking in all public places and work sites.

A new international report, *Global Voices for a Smokefree World*, was released last week by the Global Smokefree Partnership on the World Health Organization's World No Tobacco Day, which, incidentally, focused attention this year on the importance of smoke-free air laws.

The report shows that nine countries now have laws that require smoke-free air in all workplaces, including restaurants, bars and pubs. These countries are Ireland, Uruguay, New Zealand, Bermuda, Iran, Scotland, Wales and Northern Ireland. The law in England will take effect on July 1. Many other countries, including France, Italy, South Africa and Hong Kong, have laws covering most workplaces, and the European Union is now considering a proposed continent-wide ban on smoking in public places.

Canada, however, joins Argentina, Australia and the United States as nations that have strong smoke-free laws at the provincial, state and city levels, but not at the federal level.

The report predicts that the momentum behind smoke-free air laws will surge now that 146 countries have ratified the Framework Convention on Tobacco Control, a global tobacco control treaty that requires government to protect workers and the public from second-hand smoke. Canada ratified the convention early and we passed it in 2004.

The continued existence of these smoking rooms flies in the face of our commitment to the World Health Organization and devalues the hard work being done by Health Canada on other aspects of our commitments under the convention.

Dr. Margaret Chan, the head of the World Health Organization, said:

> I urge all countries that have not yet done so to take this immediate and important step to protect the health of all by passing laws requiring all indoor workplaces and public places to be 100 per cent smoke-free.

Smoking is the single most serious public health problem in Canada, killing more Canadians than car accidents, murders, suicides and alcohol combined. Smoking results in 45,000 deaths every year in Canada. One thousand of those deaths are non-smokers who die from smoke-related lung cancer or heart disease.

When the results were released from the air quality tests run by Labour Canada in smoking rooms across the country, the minister reported — and this should come as no surprise — that they found evidence that smoking rooms are a danger to those who enter them, whether to smoke there or to clean them. The levels of very fine particles — which help spread diseases like bronchitis and which are carcinogenic — can be as much as 245 times higher inside the smoking rooms than outside of them.

In his press release, Minister Blackburn also acknowledged that:

> Smoking in the workplace is a clear and immediate threat to the health of Canadian workers and contributes to indoor air pollution and the failing health of Canadians.

I repeat his words, "clear and immediate threat," and yet the rooms remain open, creating second-class employees of those who work under federal jurisdiction.

Organizations such as the Canadian Cancer Society, the Canadian Medical Association, the Canadian Council for Tobacco Control and Physicians for a Smoke-Free Canada are calling for a nationwide ban on second-hand smoke.

• (1430)

Provincial legislation such as the Minister of Health's promotion in Ontario has publicly called for an end to federally-regulated smoking rooms in airports, ports and the CBC headquarters in Toronto.

Honourable senators, it is interesting to note that employees of federal prisons filed mass grievances against Corrections Canada because of the excessive exposure to smoke in areas where prisoners are permitted to smoke. Under the Non-Smoker's Health Act they are required to perform their duties in these rooms and these smoking areas despite the danger to their own health. This is why I believe that we collectively, as legislators, need to correct this law once and for all. We have been patient. We sent our motion to the other place. We voted for it unanimously. It languished on the Order Paper for more than a year without action.

We were assured that the minister responsible had made the outdated Non-Smokers' Health Act a top priority and that smoking rooms would be closed. Sadly, the rooms are still open, as far as I am aware, and will be for months and possibly years to come.

The proposal of the minister to proceed with changes to the regulations through amending the legislation is simply not good enough.

[*Translation*]

Generally speaking, we agree on the need to close smoking rooms. We must now reach an agreement on the best way to go about it. Honourable senators, I think we owe it to Canadians to correct the legislation that currently puts their lives in danger. It is not enough to temporarily amend the regulatory provisions. We have bad legislation. We must correct it. All parliamentarians, both here in the Senate and in the other place, must work to ensure that this legislation is up to date, comprehensive and complete.

[*English*]

Honourable senators, when I spoke one year ago on this subject, along with our colleague Senator Keon, we quoted anti-smoking crusader Heather Crowe, who at that time was dying of cancer caused by second-hand smoke. We spoke about her support for the smoke-free motion. Heather is gone now, but her supporters and friends have created a lasting memorial by establishing Ottawa's first smoke-free park. The Heather Crowe Memorial Park will be 100 per cent smoke free.

Honourable senators, I am asking for your support in order to pass this legislation as quickly as possible so that we can say the same about workplaces under federal jurisdiction: 100 per cent smoke free.

On motion of Senator Di Nino, debate adjourned.

MEDICAL DEVICES REGISTRY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I wish to say a few words on this bill. However, at the present time, I am still in the process of preparing my notes. I would like to be given the time to complete my preparation before making my speech.

The Hon. the Speaker: Honourable senators, is it agreed that the item stand in the name of Senator Comeau?

Hon. Senators: Agreed.

On motion of Senator Comeau, debate adjourned.

CANADA SECURITIES BILL

SECOND READING—DEBATE ADJOURNED

Hon. Jerahmiel S. Grafstein moved second reading of Bill S-226, to regulate securities and to provide for a single securities commission for Canada.—(*Honourable Senator Grafstein*)

He said: Honourable senators, I rise to speak in support of Bill S-226, mu private member's bill, to regulate securities to provide a single securities commission for Canada. If adopted, this bill would create one single regulatory body for all 13 of the country's current securities markets.

Honourable senators, we live in a complex world. Canada stands alone amongst all industrial nations in that we do not have a single national regulator for our security markets. Having one regulator would improve the efficiency and the productivity of Canada's capital markets. It would provide Canadian corporations and their investors with certainty, consistency and protection afforded by a national regulatory framework. Moreover, the cost of capital would go down for Canadian corporations and the system would work faster. More foreign companies would be enticed to enter Canada's capital market. This proposed legislation would modernize Canada's capital markets and pull us into the 21st century; this bill is long overdue. Around the world, developed and developing countries are quickly establishing single securities regulators in order to create economies that are competitive and efficient — Singapore, China, India and Poland, to name a few. Canada is behind all of our global competitors.

On May 29, the *Financial Times* reported that New York Governor Eliot Spitzer, a staunch advocate of an effective and competitive securities regulator, called together a blue-ribbon panel to modernize and streamline the American financial services regulation, replete with powerful investor protection, in order to compete better with European and Asian markets.

Honourable senators will recall that the United States, during the Depression, established a single securities regulator located in Washington as part of the "New Deal." This revolutionary change marked the launch of America as the leading capital market in the world. Canada, too, took some steps to modernize its economy at the time with the establishment one central bank. Other steps in the securities area were not undertaken by the federal government, so a vacuum developed. It was filled by a plethora of provincial and territorial regulators, now 13 in all, each with somewhat different rules, regulations and procedures.

Senator Baker drew my attention to the tangled securities case law. In case after case before Canadian courts, the different tests and standards in provincial and territorial legislation made legal redress complicated, slow and ineffective. The frustration of the courts is easy to discern if one reads these cases. No single government seems to take into account or to move to improve this hopeless legal situation or is able to rectify this morass. These different jurisdictions make it virtually impossible for shareholders to bring a successful action or for underwriters to bring a successful suit for offences such as misleading information in IPOs issued across Canada because of a hodgepodge of different legal tests imposed by various regulatory regimes in Canada. Read these cases and ask where responsible government might redress these apparent flaws and gaps in the law.

Last week, in response to my tabling of the bill, I received letters and emails from across the country. Virtually all of the correspondence was in agreement that there is a pressing need for a single regulator. Let me quote from two of the letters I received. The first is from a dynamic Canadian company seeking capital to expand its growing business. In this letter, the CEO made the following observations:

> My company and I would like to congratulate you on probably being what would be called the only forward thinking politician in Canada.

That is a small commercial; I thought I would include that. Let me now get to the substance of the letter, which states:

> Our company has moved our operations and technologies to the U.S.A. because of this being one of our issues. The lack of National Securities Regulation.

> Presently our company has drawn interest from many countries around the world as we are at the stage of doing an IPO leaning more towards Asia or Dubai. Our company at full production would provide for over 3 billion a year in exports per factory and produce demand that extends out 27 years with three factories running at full capacity. In doing the math over this time frame that could have meant 243 billion in exports, 7,800 direct jobs and established 19,900 auxiliary jobs that Canada would have had an opportunity to compete for but due to the lack of such a single securities body it makes it impossible for us to even put Canada within the top six locations we are considering.

• (1440)

Honourable senators, if that were not chilling enough in support of this bill, let me quote from yet another email I received. This thoughtful letter is from an investor, securities lawyer and securities policy adviser:

> I watched your appearance on BNN concerning your private member's bill for a national securities regulator and I am responding to your request for feedback.
>
> I wish to express my support for this type of federal legislation and congratulate you on its introduction. Rather than commenting from a transaction or compliance perspective, on which I expect you will receive considerable feedback and on which others have considerably more involvement than me, I will comment from the perspective of the policy-maker, in which I have experience in two different decades.
>
> From 1990-92 I worked on policy matters at the OSC, having been hired in the International Markets Branch on its formation. My work included much of the drafting of the multi-jurisdictional disclosure systems, the major policy initiative that came into effect during that period, and preparing the recommendations of the Canadian Securities Administrators for use by the federal Department of Finance in negotiating a free trade agreement with the United States and in negotiating the agreement that led to the creation of the World Trade Organization.
>
> As contract staff at the OSC from 1999 to 2000 and then acting as a consultant to the OSC from 2000-2004, I mostly worked on proposed changes in the regulation of the retail side of the securities industry. More recently I have done some consulting work for the federal Department of Finance relating to the proposal for free trade in securities.
>
> Based on my experience, I wish to make the following observations:
>
> 1. The securities rule-making process is excessively cumbersome and wasteful of government resources in attempting to achieve a consensus of 13 regulators. For those regulators who do not actively participate in a regulatory initiative, their involvement in the initiative is just a waste of their time in contributing nothing to the process, though they have a necessary involvement in approval of the initiative.
>
> For those regulators who actively participate in a regulatory initiative, the process becomes very cumbersome and drawn out, resulting in a greatly reduced ability for regulators to act in a timely manner and sometimes in a loss of momentum that can kill a useful initiative.
>
> 2. The attempt to achieve a consensus of 13 regulators opens the door for industry to attack or delay an initiative by successfully lobbying just one of the larger regulators, including taking advantage of disagreements between Ontario and British Columbia.
>
> 3. My experience is that the rule-making process has gotten more cumbersome between the two decades, not less.
>
> 4. Opponents of a national regulator cite the existence of state security regulators in the United States as justification for provincial securities regulation in Canada. However, the existence of state regulators does not impede the ability of the U.S. SEC to enact rules or the U.S. government's ability to enact legislation.
>
> 5. You noted that the opposition to a national securities regulator comes from those with a vested interest in the status quo. I strongly agree with that comment. Securities policy concerns and goals are fundamentally the same among the provinces, making the current system of provincial regulation highly artificial.
>
> 6. Notwithstanding the considerable abilities of staff of the federal Department of Finance, I would regard the Department to be inherently disadvantaged in negotiating securities matters with their counterparts in other countries as a result of the federal government's lack of involvement in regulating securities.
>
> 7. I understand the Canadian government has significant involvement in the current initiative towards free trade in securities. However, this initiative is based on a system of substituted compliance based on a finding of equivalence between two regulatory systems. Even if this concept is accepted in the future by the United States and other G7 countries, it is quite possible that Canada could be left out of its implementation because of the need for other countries to make this determination of equivalence with 13 regulatory systems, unless they decide to limit free trade in securities to certain provinces, such as Ontario and possibly Quebec.

He concludes by saying:

> It appears that the best that can be said for the current system of securities regulation in Canada by the provinces and territories, including the new passport initiative, is that the system could be even worse than it is. As an investor, securities lawyer and taxpayer, I don't think it's enough.

Finally, honourable senators, in a report on May 30, just last week, in the *International Herald Tribune*, the headline reads: "IPO earnings in U.S. losing the lead to Europe."

This article notes that for the first time since World War II, while bankers on Wall Street are earning less from initial public offerings in Europe than in the United States, the gap is rapidly closing, with more than $1.1 billion in fees from European IPOs compared to $1.4 billion from U.S. initial sales.

The move towards favouring London is here to stay. The big headline is: "London is rapidly becoming a new Big Board."

Honourable senators, 14 out of 15 of the world's biggest IPOs were listed in Europe this year because of lower fees — regulatory lag. As a result, the United States Secretary of the Treasury, Mr. Henry Paulson, Jr., has also called for streamlining securities rules and curbing shareholder lawsuits to increase competition with regulated overseas markets. Unless such changes are made, it is predicted the United States will lose its place as the world's leading financial centre. Canada lags far behind the United States.

Why is this important reform to our economy necessary? Why is time of the essence? Global capital — and we read this every day in our newspapers — does not sit still. It moves effectively and promptly to the most efficient venue.

Why is our capital market the essence and heart of Canada's growth and prosperity? Capital means jobs, growth and innovation. Capital provides the engine that drives our tax system and supports our social net. For scarce capital to be deployed directly and not frittered away in a costly, cumbersome regulatory system will simply create more jobs, greater productivity, greater efficiency and greater prosperity for our citizens.

No reform is more immediate and vital to the vibrancy of our economy. Our global competitors are moving to modernize their regulatory systems and their economies as we speak. It is with great modesty that I say, having studied this subject for over 40 years, this is the most important step to modernize our economy since the creation of the Bank of Canada.

Honourable senators, I do not intend to try your patience any longer. *Res ipsa loquitur*; this matter speaks for itself.

Honourable senators, I urge your support and speedy approval of this proposed legislation at second reading so that this bill might be referred to committee for careful consideration and review.

Let me conclude with this gentle reminder: Every federal finance minister in the last 50 years at some time or another urged the creation of a single securities regulator for Canada, yet no prime minister has been prepared to invest his political capital in this essential reform. Honourable senators, the Senate can now lead the way.

This bill addresses the question of responsible government. In recent years this call has been taken up repeatedly by the Governor of the Bank of Canada. This is the time. If not now, when? Let us move this bill to second reading as quickly as possible and get it to committee.

Hon. Lowell Murray: Honourable senators, I congratulate the honourable senator on his speech and thank him for his initiative. At this point I have no substantive problems with the bill, although I would want to hear the debate in the chamber and at committee.

I have several comments on process, which I shall try to formulate by way of questions so that the honourable senator can respond immediately.

First, it occurs to me that if this bill receives second reading, it would normally be referred to the Standing Senate Committee on Banking, Trade and Commerce. That would be a mistake in this case, I believe, because the Honourable Senator Grafstein is both sponsor of the bill and chairman of the Standing Senate Committee on Banking, Trade and Commerce. I am well aware that there are precedents for this happening, including, I believe, at least one in which I was personally involved. However, most of the precedents are bad ones and I would implore the honourable senator in the discussions that he will no doubt have with the leadership on both sides, where these things are resolved, to find another committee to which to send this bill.

Second, I hope that the study by the committee will be sufficiently detailed as to provide for testimony from constitutional experts and from the provincial governments, who obviously have views on the matter.

• (1450)

Senator Grafstein: I anticipated the honourable senator's question. It would be my intention that this matter be referred to the Standing Senate Committee on Banking, Trade and Commerce, if I can convince my colleagues to do that. It would be my intention to recuse myself as chairman but to sit on the committee. I have discussed this matter with the deputy chairman, Senator Angus. He is familiar with this particular matter. He shares my enthusiasm for the subject matter. I am sure that he and Senator Moore, who can be acting deputy chairman, can conduct the hearings. I would recuse myself from the leadership but would actively participate on the bill, which I think is appropriate.

The second question is important — the constitutionality of the bill and provincial considerations. It would be certainly my interest to have the provinces and the regulators of each one of the commissions attend and to have the constitutional matter be dealt with at committee. I have already satisfied myself that the federal government has the power to do this. It has the power under the interprovincial power; it has its Criminal Code powers.

Quite frankly, this would remedy a huge flaw in our system, that is, Canadians who are charged with offences not being charged in Canada but being charged in the United States. Each day, honourable senator, I pick up the newspaper and read about Canadians being charged with white collar crimes in the United States, and I cringe. I say to myself, "Where is our sovereignty?" This bill will go a long way to restoring our sovereignty on securities matters and security offences.

Hon. Marcel Prud'homme: Did I hear the honourable senator say that he sees no conflict of interest because he trusts that Senator Angus will replace him and he knows Senator Angus shares all his views? In that way, Senator Grafstein is telling us that Senator Angus is a duplicate of himself and, therefore, he is not answering the questions and apprehensions put forward by Senator Murray.

Senator Grafstein: Senator Prud'homme did not listen carefully; he is a usually a careful listener. What I said was that Senator Angus shares my enthusiasm for the subject matter. I did not say that Senator Angus agrees with the bill or the content of the bill. My understanding is that he has not read the bill in totality.

Senator Prud'homme: Read the blues.

Senator Grafstein: Having said that, Senator Prud'homme has sat on many committees where he had a passionate view on the subject matter, and that did not prevent him from participating on these committees. I am prepared to accept the wisdom of our leadership and the judgment of my colleagues on this side who sit on the committee to ensure that I do not overstep my boundaries.

Hon. Francis William Mahovlich: Send it to Fisheries.

I should like to ask the senator to comment on the remarks made by David Brown on this bill.

Senator Grafstein: I have not had the opportunity to read them, honourable senators.

On motion of Senator Nolin, debate adjourned.

[*Translation*]

DRINKING WATER SOURCES BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-208, An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future. —(*Honourable Senator Comeau*)

Hon. Pierre Claude Nolin: Honourable senators, I am pleased to rise here today to participate in the debate at second reading of Bill S-208.

This private member's bill calls on the Minister of the Environment, in cooperation with the provinces, to establish an agency with the power to identify and protect Canada's watersheds. In other words, once adopted, this bill would compel the Minister of the Environment to conclude an agreement to establish a federal-provincial agency to administer lands in a designated watershed.

In addition, this bill sets December 31, 2007, as the deadline for concluding the agreement or presenting a progress report to both the Senate and the House of Commons. The bill, which stands in the name of the Honourable Senator Grafstein, is designed to protect our drinking water resources. This is a goal we can all get behind.

However, I believe — as does the government, which I consulted before sharing these remarks — that this bill poses certain problems. To the current water management system, it would add an administrative level that would be expensive and far removed from the decision-making process on land use.

Honourable senators, when we examine bills, we need to keep in mind certain realities of our federal system of governance and ask ourselves, for example, if this bill could present constitutional problems or complicate the division of powers, or both? Are we not required to respect the division of powers between the federal and provincial governments?

In addition, would Bill S-208 duplicate certain legislative functions and other existing mechanisms at both the federal and provincial levels? Is the purpose of the bill in line with what our provincial governments expect of their federal partner?

From this perspective, Bill S-208 raises some serious questions. Honourable senators, the fact is that the provinces have primary responsibility for water management and drinking water supply. Many aspects of land use planning and development, which can have an impact on water quality and availability, come under provincial jurisdiction.

The proposals in Bill S-208 would conflict with this constitutional reality. The same reasoning can apply to Bill S-205, which also stands in Senator Grafstein's name and is aimed at amending the Food and Drugs Act in order to define watersheds as food, which would place them under federal jurisdiction.

When a forerunner to Bill S-205 was debated in the Senate by Senator Beaudoin, a recognized expert on constitutional issues, our former colleague established certain basic facts about the bill's main objective. These facts also apply to Bill S-208, and our former colleague's words bear repeating:

> . . . jurisdiction over water, particularly water supply systems and water purification, falls under provincial jurisdiction.

With regard to property rights and civil law, our former colleague was of the opinion that the fundamental power lays with the provinces, as clearly established by section 92(13) of the Constitution Act, 1867. Senator Beaudoin added:

> . . . section 109 of the Constitution Act, 1867, provides that the provinces are the owners of the natural resources located on their territory. There is no doubt that water is a natural resource.

I would like to remind honourable senators that, when raising these issues, Senator Beaudoin also mentioned the fact that another eminent constitutional expert, Professor Hogg, in his book, *Constitutional Law in Canada*, expressed the same opinion.

Consequently, we must ask ourselves if Bill S-208, which proposes to establish a new federal structure in an area of provincial and territorial jurisdiction, might not be poorly received by some, if not all, provinces and territories.

Honourable senators, our federal system works best when each level of government respects the jurisdictions of the others, so as to meet the needs of our citizens.

• (1500)

Although it was introduced with the best intentions — and I must commend Senator Grafstein on his passion in raising an issue such as water quality — Bill S-208 appears to violate the principle I just described.

As Senator Beaudoin pointed out with respect to Bill S-205, standing in Senator Grafstein's name, it is clear that the provinces are responsible for water and watersheds, with the notable exception of First Nations lands and interprovincial waters.

It seems logical that Bill S-208, by placing some 21,000 municipal water systems under the responsibility of a single authority established through federal legislation, could represent an encroachment into provincial jurisdictions in a similar way to Bill S-205. That said, there are issues related to watershed management that we should take into account, but it seems that Bill S-208 is simply not the solution.

Many of the provinces and territories have already implemented initiatives. In my province of Quebec, integrated watershed management has been the primary focus since a water policy was adopted in 2002. The main objective of the policy was to reform water resource management. Under this umbrella policy, watershed management in Quebec was considered from both the local and the regional perspective.

It is also based on an ecosystems approach, with a view to promoting sustainable development and protecting public health. The key to this policy is that it considers watersheds as planning units for water quality. The purpose of all this is to better understand the problems related to water quality, supply and aquatic ecosystems, while trying to find sustainable solutions.

The purpose of Quebec's watershed management policy is to make it easier to set priorities by taking into account the cumulative impact on aquatic ecosystems. The key players in watershed management in Quebec are the organizations responsible for the watersheds. These organizations consist of groups of stakeholders who participate in watershed management, such as regional county municipalities, towns, users, environmental groups and citizens.

The main goal of these organizations is to establish a general plan for water, including the monitoring and analysis of the watershed, problems to be resolved, directions to take and objectives to achieve. By adopting an integrated watershed management approach, Quebec's water policy has improved the establishment of consensus and the responsibility taken by the various stakeholders and the public in the management of water and aquatic ecosystems.

Moreover, Quebec plays an international role in the integrated management of watersheds. For example, Quebec is a member of the International Network of Basin Organizations. Created in 1994, this network has 134 member organizations from 51 countries, including France, Poland, Algeria, Brazil, Mexico, Spain, Morocco, Hungary, Romania and the Ivory Coast. A Quebecer was president of the network from May 2002 to January 2004. Promoting the integrated management of watersheds as an essential tool for sustainable development is at the heart of the network's mission.

Honourable senators, I am listing the elements of Quebec's watershed management policy to show that each Canadian province and territory already has its own strategic approach in this area. A comparison of the experiences of the provinces and territories with respect to the management of watersheds and efforts to ensure the quality of drinking water shows how difficult it is to create a single Canadian policy on this issue. For example, Ontario has its own protection measures for drinking water supplies, which require each municipality to implement plans to cover management, watersheds and drinking water protection.

Honourable senators, with taking these various approaches, it is not out of the question for the federal government to play a role in the water issue. In fact, Budget 2007, which includes a national water strategy, contains some major strategic initiatives.

However, the federal measures are primarily designed to offer financial, scientific and technical support and to support the efforts of the provinces and territories. Thus, instead of trying to impose the kind of federal superstructure proposed in Bill S-208, which would duplicate the provinces' efforts or encroach on provincial jurisdiction, the federal government's efforts should be focused elsewhere.

Specifically, they should focus on improving existing mechanisms to find better ways to manage our water systems, and to support, not supplant the work and priorities of provincial and territorial governments. The concept of negotiating collaborative management and watershed designation mechanisms, as proposed in Bill S-208, has existed in Canada for 37 years.

Another piece of legislation, the Canada Water Act, which was enacted on September 30, 1970, established a cooperative framework with the provinces and territories to conserve, develop and use Canada's water resources. This act sets out a wide range of federal activities conducted under the authority of the act, including significant water research, participation in various federal-provincial agreements and a public information program.

In brief, the act is comprised of four parts covering four key areas: Part I provides for the establishment of federal-provincial consultative arrangements for water resource matters; Part II envisages federal-provincial management agreements where water quality has become a matter of urgent national concern; Part III provides for regulating the concentration of nutrients in cleaning agents and water conditioners; and Part IV contains provisions for the general administration of the act. I find it rather surprising, however, that Part II of this act is not being implemented and that the advisary committees have remained silent.

Before I rose, I spoke with Senator Grafstein about a suggestion that I wanted to make. If I may, I would like to suggest that, instead of creating new legislation, that is, a new structure as proposed in Bill S-208, we must ensure that the existing legislation, the Canada Water Act, is fully operational in its entirety. Additionally, the Standing Senate Committee on Energy, the Environment and Natural Resources — incidentally, I was able to speak with the chair of that committee before addressing you here today — must report on that legislation and, if necessary, recommend to the other place that the act be amended in order to harmonize government actions at all levels. We must bear in mind that, in the past, the federal government's role as coordinator has taken the form of scientific advice, information, and identification of targeted programs, specifically —

The Hon. the Speaker: Honourable senators, I regret to advise the honourable senator that his time has expired. Would the honourable senator like to ask for an extension of his speaking time?

Senator Nolin: I would like five more minutes, if my honourable colleagues will agree.

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

Hon. Senators: Agreed.

• (1510)

Senator Nolin: Honourable senators, the actions of all governmental players must be harmonized. On this point, my comments are in line with the bill sponsored by Senator Grafstein. We agree on the goal, but not on how to achieve it.

In the past, the federal government's coordinating role has taken the form of scientific advice, information and targeted programs. We have seen major investments in infrastructure projects for water purification to support the provincial and territorial water management systems. Adopting other cooperative management mechanisms is certainly a laudable goal, but we must never lose sight of the repercussions this could have on provincial and territorial authorities.

The federal government has designated water and watersheds as a priority and will consider negotiating on management issues in a broader policy context.

I took the liberty of doing some research on the implementation of the Canada Water Act. This act requires the Minister of the Environment to lay an annual report before both Houses of Parliament on the implementation of the act. The last time such a report was tabled in the Senate and the House of Commons was in 2002.

We would have many questions for the Minister of the Environment and his officials about what use they are making of this existing legislative tool. This information could be useful to us, considering that the report is five years old. That is why I decided to discuss this with Senator Grafstein and Senator Banks, the committee chair, to see whether it would be a good idea to expedite the process instead of reinventing the wheel by creating a second federal statute.

Let us take the statute we have, which has been in existence for 37 years and already provides for mechanisms, and amend it if necessary. Let us put our questions to the Minister of the Environment and his officials our questions to find out about the water situation and federal jurisdictional powers.

[*English*]

Hon. Jerahmiel S. Grafstein: I will not try the patience of the chamber much longer, but I do want to correct one factual error.

I want to commend the honourable senator for his very thoughtful analysis of the subject matter. He has closely looked at it, as have I. We have come to different conclusions, but we both share the objective of mapping our water sources and preserving them for Canadians.

The only factual error I wish to bring to his attention is the question of constitutionality. My Bill S-205 was deemed constitutional by the government itself in committee under Senator Banks. Senator Nolin will recall that the earlier edition was referred to committee, where it was held up because of the opinions of some senators that it was not constitutional, and that was all finished and concluded in committee when the government agreed that it was constitutional.

With respect to the constitutionality of this bill, that is still a question I would have to satisfy the committee of, and I am prepared to do that. I hope to respond more fulsomely to the senator's comments in conclusion of this debate.

I want to thank the honourable senator again. He made a very thoughtful effort, an effort that has added to the importance of this debate. I congratulate him on his thorough research.

[*Translation*]

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I realize that the time reserved for questions is drawing to an end. However, I have a few comments.

First, I would like to thank Senator Nolin for raising these important points. We will certainly want to examine the constitutionality of the differences between Bill S-205 and Bill S-208. It would also be desirable to consider the point raised by Senator Nolin that legislation already exists. According to the motion, we would be requiring the Minister of the Environment to impose another agency on the provinces. We should perhaps give the federal minister more latitude and flexibility so that he may have discussions with his provincial counterparts before imposing this type of measure.

I have other comments to make. Therefore, I wish to move adjournment of the debate for the time remaining to me.

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

On motion of Senator Comeau, debate adjourned.

[*English*]

KYOTO PROTOCOL IMPLEMENTATION BILL

THIRD READING—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(*a*) in clause 3, on page 3, by replacing line 19 with the following:

"Canada makes all reasonable efforts to take effective and timely action to meet";

(*b*) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

"to ensure that Canada makes all reasonable efforts to meet its obligations",

(B) by replacing line 6 with the following:

"ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,", and

(C) by adding after line 13 the following:

"(iii.2) the recognition of early action to reduce greenhouse gas emissions, and",

(ii) on page 5,

(A) by replacing line 9 with the following:

"(*a*) within 10 days after the expiry of each",

(B) by replacing line 23 with the following:

"first 15 days on which that House is sitting", and

(C) by replacing lines 26 and 27 with the following:

"each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that";

(*c*) in clause 6, on page 6, by adding after line 29 the following:

"(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by "large industrial emitters", persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada's greenhouse gas emissions, namely,

(*a*) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(*b*) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(*c*) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.";

(*d*) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

"that Canada makes all reasonable attempts to meet its obligations under", and

(B) by replacing line 38 with the following:

"ensure that Canada makes all reasonable attempts to meet its obligations", and

(ii) on page 7, by replacing line 4 with the following:

"(3) In ensuring that Canada makes all reasonable attempts to meet its";

(*e*) in clause 9,

(i) on page 7, by replacing line 33 with the following:

"ensure that Canada makes all reasonable attempts to meet its obligations", and

(ii) on page 8,

(A) by replacing line 3 with the following:

"Minister considers appropriate within 30 days", and

(B) by replacing line 7 with the following:

"(1) or on any of the first fifteen days on which";

(*f*) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

"**10.** (1) Within 180 days after the Minister",

(B) by replacing line 11 with the following:

"tion 5(3), or within 90 days after the Minister", and

(C) by replacing line 38 with the following:

"(*a*) within 15 days after receiving the", and

(ii) on page 9,

(A) by replacing line 6 with the following:

"Houses on any of the first 15 days on", and

(B) by replacing line 9 with the following

"(*b*) within 30 days after receiving the advice,";

(*g*) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

"and Sustainable Development may prepare a",

(ii) by replacing line 32 with the following:

"report to the Speakers of the Senate and the House of Commons", and

(iii) by replacing lines 34 and 35 with the following:

"Speakers shall table the report in their respective Houses on any of the first 15 days on which that House".

Hon. Lowell Murray: Honourable senators, I have made no secret of the fact that I want to amend this bill, and I will try to do so when I am able procedurally to do so. I have signalled to honourable senators on both sides during informal encounters that my amendment would be a simple one-sentence amendment that would add a coming-into-force provision to Bill C-288.

My amendment, when I move it, would provide that the act would come into force at a time to be determined by the Governor-in-Council. That addresses the problem that I have raised about the very bad precedent created by the bill in terms of our system of parliamentary responsible government.

Meanwhile, I should signal to Senator Tkachuk, if I have not already done so, that it is my intention to vote against his amendments, as I voted against those of Senator Cochrane last night. It may be that those amendments would go some way to attenuating the impact of the precedent on our system of parliamentary responsible government, but my preference would be to leave the bill intact and to put a coming-into-force provision that would leave the proclamation of the bill to the discretion of this government, or the successor government, if it is one of another political stripe.

Meanwhile, I want to take a very few minutes of honourable senators' time today, because I have not really addressed the substantive issues that the bill purports to deal with, that is to say, the Kyoto Protocol. I do not intend to do so at any length today.

However, before Elizabeth May comes gunning for me, I should state for the record that I have never had any reason to doubt the science, including the evidence of how human activity contributes to the phenomenon of climate change and global warming. That phenomenon to me is obvious enough.

• (1520)

Prime Minister Chrétien signed the Kyoto Protocol in 1998 almost on impulse. There was no planning and no plan for its implementation before or since. Mr. Goldenberg's defence is that signing it served a greater purpose: to "galvanize public opinion." Perhaps it did and, if so, God bless them. To me, galvanizing public opinion is not sufficient justification for any government to sign a treaty or protocol committing Canada to objectives that could be achieved only by extraordinary measures involving concerted federal-provincial-municipal, public-private agreement, collaboration and action. There was none of that and I have seen little of it since.

I know there are cosmetic references in Bill C-288 to "cooperative measures" with the provinces and territories and a further reference to "respect" for "provincial jurisdiction." However, I must say that in my opinion Prime Minister Chrétien signed and committed Canada to Kyoto as if the "environment" was the exclusive responsibility of the federal government and Parliament, and as if we could, on our own, achieve its objectives.

I explained my reservations about all this five or six years ago when the aforementioned Elizabeth May and a delegation of environmentalists came calling on me and some of our colleagues about Kyoto. One member of the delegation of environmentalists impatiently brushed off my criticism. His view, although he did not state it in so many words, was simply that Ottawa is the national government and that Ottawa should bring down the hammer on the other parties in our federation and in our economy.

Let me say that it is the besetting sin of some social and environmental activists and advocates in this country to believe that the federal government, by fiat, can solve any problem, and compel the collaboration of other governments and of citizens generally. It cannot be done. It cannot be done even when we would like to do it. It cannot be done even when we are acting in a field of our own exclusive jurisdiction. We need other actors in government and the private sector by way of a national effort.

In the 1980s, the Mulroney government had no doubt as to our constitutional authority to negotiate a free trade agreement with the United States. When that authority seemed in question, Prime

Minister Mulroney bluntly affirmed our federal authority at a televised first ministers' meeting in Toronto in 1987.

At the same time, however, while we never accepted any challenge to our constitutional authority, we recognize that a free trade agreement that did not have the close collaboration of the provinces and the private sector, while not a dead letter — I would not go that far — would at least be uncertain, perhaps even chaotic, in its implementation.

Throughout the negotiations, we held 11 first ministers' meetings presided over by the Prime Minister to discuss the issues and receive reports from our negotiators who had been conducting the negotiations with the United States. There were meetings of federal and provincial trade ministers and numerous meetings of federal and provincial trade officials. My recollection is there were conference calls with the provinces after every negotiating session with the U.S., and sectoral advisory committees were set up representing all the main sectors of the Canadian economy that would be affected by the free trade agreement.

At the end, our largest province, Ontario, and our smallest province, Prince Edward Island, opposed what we had done. However, I never heard either Premier Peterson or the late Premier Ghiz protest or complain that there had been any lack of consultation, nor did I hear people in various parts of the economy who had reservations or who were downright opposed to the free trade agreement complain that there had been inadequate consultation. Never did any of them, in either of those provinces or in the private sector, try to frustrate or impede the trade and commercial regime established by the free trade agreement, as they might have done.

Another example is the Canada-U.S. acid rain agreement, an environmental matter. That is understandably thought of as something of an achievement in international relations and in environmental matters. Senator St. Germain properly brings up the name of the former Member of Parliament from Parry Sound—Muskoka, Stan Darling. I used to say that Mr. Mulroney's feet were put to the fire by Mr. Darling and that he found it much easier to confront George Bush and the U.S. administration than he did to confront Mr. Darling in the Progressive Conservative caucus.

It is thought of as a good environmental agreement between Canada and the United States, but it is also, I think we can say, a modest achievement in federal-provincial relations. We needed to bring provinces on board with acid rain objectives. I still have notes somewhere in my files from the former environment minister, the Honourable Tom MacMillan, complaining that certain provinces were trying to hold the acid rain issue hostage to other unrelated considerations that they were trying to obtain from the federal government.

Senator Comeau: Sounds familiar.

Senator Murray: It was ever thus and it is never easy, but it was done.

What happened with the Kyoto accord reminds me of Winston Churchill's boast later in life that, as colonial secretary in the early part of the 20th century, he had created the Kingdom of Transjordan "with the stroke of a pen one Sunday afternoon in Cairo." We know how that turned out. It seems to me that is what happened when Prime Minister Chrétien signed the Kyoto accord.

I know it is a common enough vanity among ex-ministers and ex-political advisers, strategists and whatnot to believe that things were always done better in their day. I do not want to pretend that the process that was followed in the free trade agreement or even with the acid rain agreement should be replicated entirely with regard to Kyoto. However, the Winston Churchill notion of doing things with the stroke of a pen is counter-productive. It may well be that Mr. Chrétien's signature on that accord and the subsequent debate has helped to galvanize public opinion, which is fine. What it did not do was galvanize the principal actors in the public and private sectors in this country to ensure the successful implementation of Kyoto. That criticism is serious, and I believe it is at the origin of many problems we face with this debate.

• (1530)

Honourable senators, thus endeth my lesson for the moment. I will move my coming-into-force amendment as soon as the way is clear for me to do so.

Hon. Gerry St. Germain: Honourable senators, I am pleased to enter the debate on the proposed amendment to Bill C-288. At the outset, I will stress that our nation deserves something that the Liberals failed to deliver and that this bill fails to provide as drafted, that is, a credible and realistic plan on this issue of climate change.

Canadians do not want, and Canada cannot have, a government or a Minister of the Environment who promises action and then fails to deliver. Canadians expect their governments to keep their word. Canadians expect their governments to competently build a plan and administer this plan in the best interests of all Canadians, not only for today but for the future benefit of our children.

The present government's climate change action plan, Turning the Corner, will deliver this. The plan targets four areas of concern: industrial emissions, transportation, consumer and commercial products, and indoor air quality.

On the first item of industrial air emissions, the action plan will outline how the Government of Canada will move forward on three fronts: a regulatory framework for greenhouse gas emissions; a regulatory framework for air pollutants; and issues of compliance, penalties and enforcement.

Second, in the area of transportation, the plan proposes initiatives to reduce air emissions from motor vehicles, rail, marine, aviation, and on-road and off-road vehicles and engines.

On the third front, consumer and commercial products, the government is developing and will implement regulations to strengthen required energy performance standards for various products.

On the fourth and final front, Turning the Corner proposes to develop measures for improving indoor air quality.

The plan goes beyond Kyoto to propose measures to address not just CO_2 emissions but also very harmful pollutant emissions like nitrogen oxides, sulphur oxides, volatile organic compounds and particulate matter. Frankly, honourable senators, these other toxic pollutants are the cause of serious health conditions and are attributable to the death of Canadians each year. Unfortunately, I have witnessed this in the east end of the Fraser Valley in British Columbia. Left unchecked, the situation will only get worse.

Our plan proposes to stop the growth in greenhouse gases by 2010 to 2012; to cut them by 20 per cent, or 150 megatons, by 2020; and to cut them by up to 70 per cent by 2050.

With respect to air pollutant emissions that cause smog and acid rain, Turning the Corner proposes to cut emissions by up to 55 per cent as early as 2012 compared to 2006 levels.

I believe our plan is attainable. It is a job we can get done. We are committed to actively participating in the United Nations' process on climate change as well.

However, it would be irresponsible to pretend that we could meet our emission reduction target of 6 per cent below 1990 levels by 2008-2012 without imposing punitive costs on Canadians. Canada cannot reach its target within the specified time frame, and Canada cannot do in eight months what would have taken 15 years to complete. To instantly undo years of Liberal inaction would lead to a deep recession, major job losses and a significant decline in incomes for Canadians.

Honourable senators, let us face the facts. The Liberals in office were unable to develop a pragmatic, credible approach to climate change that meets the economic and political realities of our nation. Instead, they embraced the symbolism of Kyoto while doing nothing to achieve the goals and requirements of Kyoto. The Liberals see Kyoto not as an environmental goal but as a political tool that can be used as long as the electorate is not exposed to the costs.

Canadians expect their governments to tell them the truth. If you do not believe me, consider the public outrage whenever gasoline prices spike, as they did in the middle of last month.

A few years ago, on the March 25, 2005 edition of CTV *Question Period*, a real gentleman and a great senator in this place, Senator Munson, said:

> So when it comes to the Kyoto plan, whatever works itself out. If you want to tax me today for the future, go ahead and tax me. I'll buy into it.

Curiously, the official opposition in the other place now does not buy into it, demanding in Question Period that the government do something about high gas prices. Are you ready to pay $1.70 or so at the pump? If not, then you are not ready to buy into Kyoto.

To listen to another distinguished senator of this place, my good colleague Senator Mitchell, meeting our Kyoto commitments is easy. Just buy carbon credits from Europe, which at the moment are available at a discount, thanks to the fact that no one wants them. Honourable senators, create a demand, and those credits will not be cheap for very long. To Senator Mitchell, I pose a simple question: If it were as easy as he says, why did the Liberal government not get the job done? Why, as Minister of the Environment, did Stéphane Dion not propose his own version of Bill C-288?

Honourable senators, according to the *Hill Times* of November 27, 2006 — a great publication, one that only features great senators, like Senator Mitchell and others — Senator Mitchell supported Mr. Ignatieff for the Liberal leadership. I am not questioning the honourable senator's judgment on that. I have to wonder, though: When the leadership debate shifted to the environment, did Senator Mitchell say, "Right on" when Mr. Ignatieff said, "We didn't get it done," or did he identify with his new leader as he stated, "This is unfair"? Did he agree with his new leader when he said, "You don't know what you speak about. Do you think it's easy to make priorities?"

Does the honourable senator seriously think that Bill C-288 would have had a prayer of getting out of the other place if the Liberals were in office?

Senator Mitchell: Yes.

Senator St. Germain: Or does Senator Mitchell seriously think that, if the Liberals were to form a government, Stéphane "didn't-get-it-done" Dion would not immediately seek changes to this law?

Honourable senators, the amendment before us will help to fix a badly written bill. Nothing is perfect. In spite of the greatness of this Albertan, nothing is perfect. However, I believe it may be helpful if we focus our attention on one aspect of the amendment.

Senator Cowan: Let us have a vote! Right now!

Senator St. Germain: Do honourable senators want a vote? Right now.

While I certainly agree with and support the overall purpose and effect of the amendment, I do have one small concern, namely, that the change to clause 5(*a*)(i) on page 4 will narrow its scope, limiting it to automobiles. I therefore propose that that portion of the amendment be deleted to retain the somewhat more expansive wording of the bill as it now stands, and I welcome discussion on whether this is appropriate or not.

MOTION IN SUBAMENDMENT

Hon. Gerry St. Germain: Accordingly, I move:

> That the motion in amendment be amended by deleting amendment *b*(i)(B) and re-lettering amendment *b*(i)(C) as amendment *b*(i)(B).

Senator Mitchell: Question!

• (1540)

The Hon. the Speaker: 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: In my opinion, the nays have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators. Order!

Hon. Terry Stratton: Honourable senators, I wish to refer you to rules 67(1), 67(2) and, in particular, 67(3), which I shall read into the record:

> 67(3) When a standing vote has been deferred, pursuant to section (1) above, on a Thursday and the next day the Senate sits is a Friday, the Chief Government Whip may, from his or her place in the Senate at any time before the time for the taking of the deferred vote, again defer the vote until 5:30 o'clock p.m. on the next day thereafter the Senate sits.

As we have not received notice of a sitting tomorrow, I would offer that the vote will take place on Tuesday at 5:30.

The Hon. the Speaker: Honourable senators, the chief government whip has deferred the vote until tomorrow and has further deferred the vote until the first sitting day after tomorrow.

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, I am wondering if we can defer a vote on adjournment of the debate. We can defer a vote on the main issue, adopting the motion, but is it possible to defer the vote on adjournment of a debate?

The Hon. the Speaker: The question is on the subamendment.

[*English*]

Hon. Sharon Carstairs: It would appear to me, Your Honour, that we have not yet determined whether we are sitting tomorrow. How can we defer a vote scheduled for tomorrow when we have not determined yet whether we are sitting tomorrow?

The Hon. the Speaker: Honourable senators, the rule is very clear. The chief government whip, on a Thursday, is able to defer the vote until tomorrow. The rules then provide that the chief government whip may defer the vote that would be ordered for tomorrow further to the next day that the Senate sits after tomorrow, whatever day that will be. Senator Carstairs is correct; we will only know what that "next day after tomorrow" will be when we hear the adjournment motion.

QUESTION OF PRIVILEGE

MOTION TO REFER TO STANDING COMMITTEE ON RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus:
>
> That all matters relating to this question of privilege, including the issues raised by the timing and process of the May 15, 2007 meeting of the Standing Senate Committee on Energy, the Environment and Natural Resources and their effect on the rights and privileges of Senators, be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for investigation and report; and
>
> That the Committee consider both the written and oral record of the proceedings.—(*Honourable Senator Tardif*)

Hon. Tommy Banks: Honourable senators, on the question of privilege, I rise in effect to defend myself and to speak on this motion. I oppose this motion. I shall speak against the motion and, when the opportunity is given, I shall vote against it.

I regret that, as I stand to defend myself against accusations that have been made against me, some of my accusers from among us are not at the moment in the chamber. I wish very much that they were.

Speaking to the question before us and referring to His Honour's ruling on the question, for which I thank His Honour, I want to remind us that His Honour found and was careful to point out that there was not a specific finding of abridgement of privileges and that it was for the Senate to determine whether there was such a thing. I presume that we are now doing that.

His Honour was also careful to point out that the proceedings of one of the meetings in question, that is to say, Tuesday, May 15, were in order, according to the rules of the Senate. Therefore, the determination that was made in that meeting was in order and the reporting by the committee of the bill to the Senate was in order. It follows that the motion for third reading was in order, that the debate that then ensued was in order and that the introduction of amendments were in order.

Honourable senators, I am pleased that Senator Tkachuk is now here. Thank you.

These things are in order and we are now talking strictly about the question of whether senators' privileges have been intruded upon. In that respect — and it is perhaps merely naivety — I must say that senators opposite are possessed of selective compunction. When extraordinary procedural niceties were used in this place, entirely within the *Rules of the Senate*, to stop the progress of a bill and, in fact, to stop a Senate committee from meeting at its appointed time, there was no such compunction. However, when I — and it is I, we must be clear — used procedural niceties in the committee to ensure that there would be forward progress of the bill, there is cry of havoc. In my thinking, that selectivity is out of order — and I do not mean that in the literal sense; I mean that I think that selectivity is questionable.

Honourable senators, every senator here knows — and I have said this before — that, if the matters in this place had proceeded normally on that day according to the normal practice and according to the rules, proceedings in the committee would have proceeded normally that day. The fact that they did not began here, not there.

With respect to the timing of the events, I want to say, as I have said before, that there are clocks and there are clocks and there are clocks. However, it has been suggested by some of our colleagues in national radio programs and in articles in newspapers that members of the Standing Senate Committee on Energy, the Environment and Natural Resources were waiting already in the committee room to begin the meeting. That is patently not so. That fact is well known to both Senator Di Nino and Senator LeBreton. All the members of that committee who were members of the Liberal Party — I cannot speak for members of the committee who were not members of the Liberal Party — were standing in the lobby of the Senate. Senator LeBreton and Senator Di Nino know that because they both walked among us more than twice during the course of proceedings in this place. It has been further suggested that those committee members ran to room 257 in the East Block in order to begin the meeting.

• (1550)

Honourable senators, I do not run. I am not a runner. My doctor said to me, "Banks, you have to get more exercise," but he said, "Do not run." I always take his advice, so I did not run to that meeting.

In respect of the 49 seconds, which some of our colleagues said on the radio and to newspaper reporters was the length of time the meeting lasted, it is a physical impossibility, honourable senators. No one in this place, least of all me, is able to convene a meeting and ask the 21 questions and hear the responses that occurred in that meeting in 49 seconds. It did not happen. It is not physically possible. The actual time it took to ask those questions was about three minutes.

I note, honourable senators, in respect to the time of that meeting and the time it began, that yesterday the Senate adjourned at 4 p.m., and a meeting of a Senate committee in a different building from this one — the Victoria Building — began, according to the record, at 4 p.m., immediately when the hammer dropped. If that is so, and if this is a point of privilege, then it must be true that members of this place who were here doing their duty in the chamber and who might be members of that committee were disallowed their privilege in getting there, because the meeting started, according to the record — according to the clocks in those places — at exactly the instant that the Senate adjourned yesterday. I do not presume to say that those members of that committee had their privilege abridged yesterday.

It has been suggested in speeches in connection with this motion that I acted arbitrarily and improperly on that day, and that I was the one responsible. I do not believe that I acted arbitrarily and improperly. However, it has also been suggested by Senator Angus, and repeated again yesterday by Senator Di Nino, that I "bandied about" in this place the names of members of senators' staffs.

Honourable senators, Senator Angus stood in his place and accused me of wrongdoing, of impropriety and of arbitrary action that was a breach of his privilege, without compunction. Yet, offence is taken when I stand to defend myself against such an accusation. I read into the record, and will again, if asked, irrefutable proof that those charges are not true and that the proceedings of this committee were undertaken with the unanimous consent of the steering committee of that committee, and in some cases by the committee itself. The proceedings were entirely in order in every respect, including the number of meetings that were held, which is eight, and the number of witnesses that were called, which is 18, all approved and agreed to unanimously by the steering committee. I will read those things again, including the responses of the members of the steering committee and of other members of the committee to notices and requests that I had sent, and that the clerk had sent, to confirm these proceedings, the number of meetings, the subject matter of those meetings and the witnesses who would be heard at those meetings.

When I am accused of not having acted properly, it is inappropriate that I be accused of bandying things about in this place — I do not think it is bandying things about — when I refute those allegations. I think it is bandying things about to use false numbers and accusations such as "49 seconds" and "ran." That is bandying about, but we did not do that in this place. None of us did.

In short, I do not agree that there has been a breach of privilege of senators. If there was one on Tuesday, May 15, then there was one yesterday in a committee that I will not name, which began its proceedings at precisely four o'clock, according to the measurements and according to the record, when members of that committee were sitting in this place. If one is true, then so is the other.

I, therefore, argue that there is no question of privilege. There has been no breach of privilege. I urge all senators to vote against the present motion.

Some Hon. Senators: Hear, hear!

Hon. Terry Stratton: I have a simple question. When the honourable senator did clause-by-clause consideration of the Kyoto bill on that day, May 15, were any Conservative senators present?

Senator Banks: No.

Senator Stratton: This so called clause-by-clause consideration. Yesterday, the chamber was suspended to allow committees to meet until the vote at 5:30. Was there a committee that did clause-by-clause consideration precisely at four o'clock yesterday?

Senator Banks: I do not know what the subject matter was of the committee meetings yesterday.

Senator Stratton: When we talk about privilege here, we are talking about privilege with respect to the right to vote on clause-by-clause consideration. There is a vast difference between

meetings at four o'clock on a suspended sitting when there is no clause-by-clause consideration on a bill, and what happened on May 15.

Senator Banks: I am not sure if that was a question, but if it was, the subject matter of the present motion does not relate only to questions of voting. It also relates to questions of having taken part in debate. The answer is, that debate could have taken place yesterday before any member of this place who was present here could possibly have gotten to the committee meeting that began at four o'clock.

Hon. Consiglio Di Nino: Since the honourable senator referred to my having seen him and other members of the Liberal caucus outside, I should clarify by way of a question that the one time that I went outside, for a specific reason — I cannot remember exactly the reason and I do not want to guess — was a number of minutes before His Honour adjourned the proceedings, if that is the right term, for lack of quorum. I agree with the honourable senator. I saw the honourable senator and a number of other colleagues. As a matter of fact, I probably said hello to the honourable senator, as I usually do, because I consider him a friend. However, it was certainly not at the moment that the Senate was adjourned. It was three or five minutes, something of that nature, before that. Am I correct?

Senator Banks: That is correct. It certainly was not at the instant the Senate adjourned, but I will tell the honourable senator, and I hope he will believe me, that I and other members of the committee who are Liberals were standing there until the Senate adjourned, and it is that reference. The honourable senator is right. He did not see any of us at the instant that happened.

Senator Di Nino: What I was disturbed about concerning the events that took place that evening was that this action took place when we all know that the honourable senator's side has at least twice as many members on the committee as the government side has. Could the honourable senator not have waited a couple of minutes and still achieved the clause-by-clause results that he wanted, merely because the numbers were eight to four, at worst?

Senator Banks: Perhaps. I have no idea of what other members of the committee, both Conservatives and independents, who were not there might have entered into by way of discussion, debate or amendment.

The Hon. the Speaker: I am sorry to interrupt, but I must advise the house that Senator Banks' 15 minutes have elapsed.

Hon. Anne C. Cools: Honourable senators, I wish to join this debate on Senator Tkachuk's motion. I want to begin by stating strongly that it is my intention to vote against this motion when it comes to a vote. I sincerely believe that there is no breach of privilege here.

Honourable senators, I would like to begin with a point —

Senator Stratton: Just like a puppy dog.

Senator Cools: Who is a puppy dog? I assure you that if I am a puppy dog, I am a German shepherd. I owned a German shepherd when I was a young girl. My mother loved German shepherds, and I love them too.

• (1600)

I want to begin briefly on the point upon which I began last time when I articulated one of the fundamental principles of the law and one of the fundamental principles of equity. I want to repeat this because, for many in today's community, the notion of the principles of equity in the law has been lost. In courts of equity, the Lord Chancellor's courts called the Courts of Chancellery or the Courts of Equity, a fundamental principle is that any plaintiff or any person seeking redress or remedy must come with clean hands.

When I rose earlier, whenever it was we spoke, I said Senator Tkachuk did not come to this high court of Parliament with clean hands. Honourable senators, I reiterate that point. Senator Tkachuk was a leader in a war strategy that failed. He was an officer and a commander in a strategy that failed. That failure having happened, or run aground, as I prefer to say, I do not think there is a breach of privilege and that he should go around and cry foul. There is something about this warfare. I do not like that sort of thing.

This court should not suffer gladly the kind of mischief that has been put before us today. I said before that a violation of a privilege is a very serious thing. Honourable senators, we all work in this place, and we have all had to leave here when the Senate has risen. Most of the time, by the time one gets to committee, that committee is well in motion and, quite often, down the road. Chairmen of committees are already there with witnesses lined up. I have seen many chairmen leave the Senate sitting in order to begin committee meetings as soon as the bells ring, the moment the Senate rises. I have not complained about that. If such a complaint were to be brought here, that there was insufficient time, then that complaint should not take the bitter song that this complaint has taken, and neither should it be as personal. I view much of what has been said as a personal attack on Senator Banks. I have a difficult time with that.

Honourable senators know me, and when Mr. Mulroney was under attack some years ago from certain ministers, I rose in this place and condemned that attack. I do not have to be a friend of anyone to be able to say that we must be fair and even-handed and balanced, especially when accusations are being made. I was raised with the common law, and I have a common law cast of mind. That is my natural instinct.

This motion does a few things, but it does not do even many more things. It does not address any of the problems that all of the speakers on this side of the house raised. That is very important. For example, if we were to look to the concluding words of Senator Tkachuk's first complaint raised on May 17, 2007, he said:

> What I am seeking is a genuine remedy that the Senate has the power to provide. I am raising it because I believe that the actions of the chair of the Standing Senate Committee on Energy, the Environment and Natural Resources constitute a grave and serious breach that I believe needs to be corrected.

Honourable senators, there is nothing in what this motion states that asks the Senate to correct anything whatsoever about what Senator Banks is supposed to have done. Let us understand very clearly, honourable senators. Senator Tkachuk's motion

does not ask the Senate to find that there is a breach of privilege, which is the first thing it should be asking. It does not ask the Senate to find a breach of privilege. Neither, honourable senators, does it ask the Senate to provide a remedy. It does not propose a remedy. All it says is to refer everything and all matters sundry to the committee, but it does not ask the Senate to make a finding or to find a remedy. Finally, it does not ask the Senate to do anything about the conduct of anyone at the committee. I would say that this motion has no relationship whatsoever to anything that has been raised in the debates.

My conclusion is that there is another mischief at work. Motions cannot have ulterior motives, but it has a secondary purpose, and its secondary purpose has to be to seek to ask the Standing Committee on Rules, Procedures and the Rights of Parliament to nullify the proceedings of another committee, being the committee that Senator Banks chairs. Honourable senators, that is out of order and very improper. A motion should be very clear as to the decision it is asking the Senate to make. This one is not, and that is why I will vote against it.

Honourable senators, in my view, the claim that Senator Banks did wrong is a frivolous one, so I would like that dismissed immediately. The claim that privileges have been breached is not a credible one. No evidence has been put before the Senate whatsoever that Senator Banks did anything wrong. There are only allegations that have been made. We are really dealing with, as I said earlier, not a breach of privilege, just some breached egos. I do not think damaged egos are a good reason to occupy the attention of the Senate.

Having said that, honourable senators, I would close on the final point, which is that it is a very serious matter for any senator to seek to have the proceedings of a committee meeting nullified or voided. It is an extremely serious matter. It can be done; it is within reach. However, my understanding is that were such a request to be put before the Senate, this house is the only body that can, in point of fact, oust the conclusions of another committee or nullify its proceedings. When a request is put, that request should be clearly put before the house, before this Senate. There should be no doubt and it should not be ambiguous. It should be very clear and unambiguous as to what the house is being asked to do.

• (1610)

Therefore, honourable senators, know that I am, among all here, the fastest to get to my feet to defend other senators on questions of privilege, but in this instance I am voting against this motion. I am voting in support of Senator Banks. I do not like the fact that this question of privilege has been used as an opportunity to malign or smear. That has bothered me very deeply. I can disagree with you and think that you are a lousy chairman. I can think you do not know how to handle a meeting. All of that is many things, but it is not a breach of privilege.

I should like to say that I shall be voting against this motion, which is so poorly drafted as to be defective and flawed. If it were not a question of privilege and if the debate had not developed in the way it has, I would have raised a point of order trying to show why this motion was so deeply flawed and so deeply defective.

I suppose the same purpose can be achieved in a way by just voting in the negative in the hopes that other senators will see it the same way and will negative the entire experience. Perhaps one or two apologies can be expressed. Perhaps one or two individuals can say they are sorry or admit that maybe they went too far.

A couple of months back, the CBC invited me to take part in a series they are doing called "This I Believe." They chose 40 Canadians to write personal essays beginning with the words "This I believe." It was a personal essay about how one approaches life. Mine was broadcast yesterday. I had forgotten about it actually. At the end of my essay, I said that I believe in the power of love and in the power of forgiveness and that the power of love is a mighty power and a very healing one. It can work wonders between individuals as well as between nations.

Honourable senators, I should like us to bring this motion to a vote and defeat it, so that we can put it behind us so that perhaps some healing can begin. I have no doubt that Senator Banks has been deeply hurt and bruised by this. I am also extremely sympathetic to Senator Tkachuk, that he arrived at the committee to find that it was over. I was very prepared at first to support a rule or a motion that would state that, in the future, when the Senate rises, senators would have 15 minutes to get to committee meetings. Unfortunately, Senator Tkachuk has not put that before us for our consideration, so I do not have to deal with that, but I would still support it.

Having said all that, I wish to thank you so much. This I believe; I just remembered.

Hon. Lowell Murray: Honourable senators, I am not a member of the Standing Senate Committee on Energy, the Environment and Natural Resources. I was not even in my seat on the day that the quorum call came; perhaps if I had been, the quorum call would not have been necessary. Therefore, I have no direct knowledge of the facts in this case and I had resolved not to intervene.

However, what got my attention was the statement by Senator Cools and by Senator Banks, whose speeches I followed carefully, that they intend to vote against this motion.

I want to contribute to the debate the fact that, first, a question of privilege having been raised by a senator and the chair having found that there is a prima facie case, it is almost unprecedented for us to refuse the remedy, which is to send the matter to committee. I wish to draw honourable senators' attention a not dissimilar case that occurred in the presence of Senator Banks, I think, and certainly of Senator Cools, in 1999.

On June 9, 1999, I and a group of other senators were in the Victoria Building when we heard the bills ringing for a vote. We rushed, to the extent that we are capable of rushing, downstairs and took the bus over here, only to discover that the whips, by agreement, had determined upon a five-minute bell. The group of us were too late for the vote.

The next day, I raised a question of privilege on the matter, on behalf of myself and my colleagues. I did not assert that what the whips had done was against the rules; unfortunately, it was within the rules. I did, however, say that I thought our privileges had been abridged.

It was the next day that I raised the question of privilege and Mr. Speaker Molgat ruled at once that there was a prima facie case in terms virtually identical to those used by Mr. Speaker Kinsella in the present case. I think Mr. Speaker Molgat said, certainly Mr. Speaker Kinsella said, that there had been no breach of the rules, however, there was, in the facts that I had presented, a prima facie case of privilege and that I had already indicated what my remedy would be. Therefore, I had moved, in the following terms, that the issue of the rights of all senators to be able to participate in standing votes in the Senate that have been requested in accordance with rule 65(3), and the procedures followed on June 9, 1999, regarding the vote to adjourn the debate on the eleventh report of the Privileges, Standing Rules and Orders Committee, be referred to the Standing Senate Committee on Privileges, Standing Rules and Orders.

I believe there was no further debate at the time, and my motion was passed on the nod by all honourable senators. I have the transcript of the subsequent meeting, on June 16, of the Standing Senate Committee on Privileges, Standing Rules and Orders. I do not think it is germane at the moment. My contention was that, while a rule had not been broken, the privilege had been breached. I felt then that the remedy was in a change in the rules, which is why I wanted it sent to the Rules Committee.

I do not think Senator Tkachuk argues that a rule has been broken. Even if he does, Your Honour has stated that on the facts that have been presented to the chair, the chair found that a rule had not been broken. However, Mr. Speaker Kinsella found a prima facie case of privilege. Senator Tkachuk availed himself of the remedy and made a motion that I think is not that much different. I am quite prepared to be persuaded otherwise, but I do not think it is that much different from the motion I made in 1999.

Therefore, as I say, it is almost without precedent in my memory for the chamber to decide not to let an honourable senator avail himself of the remedy, which is to have a reference to a committee of a prima facie question of privilege.

Senator Banks: I shall try to frame my explanation as a question. The question will be, however you want to take it, that I relied in my argument on matters from His Honour, which I will quote.

First, I must say parenthetically that I did not have the advantage of being here in 1999. I came here on April 7, 2000. I was unaware of the previous case.

• (1620)

His Honour stated in the penultimate paragraph of the ruling:

> I reiterate that this decision on the prima facie aspect of the question of privilege is not a definitive resolution of the issue. This ruling does not establish that Senator Tkachuk's privileges were breached, nor does it conclude that any action must be taken on the matter. That is a decision for the Senate.
>
> Senator Tkachuk now has an opportunity, under rule 44(1), to move a motion either calling on the Senate to take some action or referring the matter to the Rules Committee.

I took it from that that it was appropriate that this matter be dealt with either in the Rules Committee or in the Senate, which is what I think we are now trying to do. Does the honourable senator understand what I just said?

Senator Murray: Yes, I do. I do not have the ruling of His Honour before me. However, as I said, the ruling that our late friend Speaker Molgat made is almost identical to that which Speaker Kinsella made. Speaker Molgat said:

> Our rules are very clear on this point. Insofar as whether or not there is a *prima facie* case, the conditions are outlined in 43(1)(a), (b), (c) and (d).
>
> It must be raised at the earliest opportunity: It has been. It must be a matter directly concerning the privileges of the Senate, of any committee thereof, or of any senator. It is obviously one that concerns the privileges, the right to vote, of not only the one senator who has raised it but others who have spoken.
>
> It must be raised to seek a genuine remedy which is in the Senate's power to provide, and for which no other parliamentary process is reasonably available. That has been done, because Senator Murray told us in his oral statement that he was providing a remedy.

The remedy was my motion to refer to the committee.

I do not know what more I can say. That was the process then. I must say, I took it for granted. I was not taking much interest in all of this. When the Speaker brought in his ruling, I just assumed that a motion by Senator Tkachuk or someone to refer the matter to committee would be passed on the nod. Obviously it has not been.

Senator Cools: Honourable senators, I wish to ask Senator Murray a question. I took part in that debate and, if he will recall, I supported the honourable senator and said that his cause was just.

Would Senator Murray not agree that the difference between his motion and Senator Tkachuk's motion is like night and day? That is my first question.

Second, the issues that Senator Murray raised were not personal or tied to the individual chairman or anything like that. The issues as he raised them were essentially saying that this particular rule should be looked at to allow a bit more time for senators to get to the house. I submit perhaps that is the reason it carried so quickly.

Senator Murray did not suggest to the Senate, for example, that all the proceedings that had taken place that he had missed should be voided or nullified. Therefore, he stayed within the extreme narrow framework of the issue that he had raised, which is the fact that a five-minute bell was simply too short and the rules should reflect that.

I made it my business to reread the Speaker's ruling and the debates and to compare the two motions. I assure Senator Murray that, had Senator Tkachuk followed his example, I would be voting with him exactly as I did with Senator Murray.

Senator Murray: I appreciate the intervention of the honourable senator.

Someone will have to explain to me how the motion that I made and that was passed on June 10, 1999, and the rather longer motion that Senator Tkachuk made are as different as night and day.

I hear what Senator Cools is saying about Senator Tkachuk's view, which I think he incautiously expressed when he opened debate on the motion to the effect that what the committee should do or cause to be done is nullify what happened at the Standing Senate Committee on Energy, the Environment and Natural Resources.

Frankly, Senator Tkachuk's views as to what the committee should do with this motion, if the matter goes to committee, are irrelevant. He can express those views at the committee. I think we all know that one committee cannot nullify the actions of another committee. I do not think that is in very much doubt.

Senator Tkachuk made a motion to send the matter to committee and then proceeded to tell us what he thought the committee should find. I say that is irrelevant and we should, if we can, expunge it from our minds in considering the simple matter of whether a prima facie case of privilege ought to be referred to the relevant committee.

Hon. Joan Fraser: Honourable senators, by way of a supplementary question, I would like Senator Murray to explain his reasoning a little more.

Senator Tkachuk's motion did not set out the remedy he sought, but his speech here did. For senators who may have missed it, it was quite sweeping. He said in the course of his speech:

> My view is that the proper resolution of this issue is simple: The meeting of the committee ought to be declared null and void. The report should be deemed not to have been made. The Standing Senate Committee on Energy, the Environment and Natural Resources should be required to do what it was charged to do, which is to examine the bill.

That is a very formal statement made in a serious situation by the senator in question. I return to the Speaker's ruling, which said repeatedly that it is for the Senate to decide. The Speaker's ruling did not say it is for the Rules Committee to decide and, indeed, I cannot imagine this chamber deeming it appropriate to tell the Rules Committee to decide whether or not to nullify the proceedings of the committee.

I did not really believe what I heard, but is Senator Murray truly saying that when the senator who brought the question of privilege declares that the remedy is a remedy which I believe the Senate would find inappropriate, that we should say, "That is fine; we will just send it off to the Rules Committee"? Surely he did not mean that.

Senator Murray was seeking a change in the rules. If Senator Tkachuk had been seeking a change in the rules to allow, for example, a gap in time between the rising of the Senate and the commencement of the committee, I would have thought that would be a perfectly reasonable thing for the Rules Committee to review. Can we truly not pay attention to what the honourable senator said?

Senator Murray: One can pay attention to what the honourable senator says, if you like, and I would agree that he went several bridges too far in his remarks, but it is irrelevant to the motion.

He can make his pitch, if I can put it in a colloquial way, when the matter goes to committee. I am not suggesting for a moment that the committee has any power other than to recommend something to the Senate, and it may well recommend a change in the rules, as Senator Carstairs, I believe it was, suggested earlier, that there ought to be 10 or 15 minutes of elapsed time between the adjournment of the Senate and the commencement of a committee.

As I said earlier, this is the vanity of old men, but I want to see the process that I believe has worked well in the past continue to be respected; that is, that a prima facie question of privilege having been found to exist by the Speaker, we send the matter to the committee and the committee decides what to do. I am sure that the committee will know what to do with Senator Tkachuk's recommendations.

The Hon. the Speaker: I regret to inform honourable senators that Senator Murray's time has elapsed.

Continuing debate.

• (1630)

[*Translation*]

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I move adjournment of the debate.

[*English*]

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

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion please signify by saying "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion please signify by saying "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my view the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Is there agreement between the whips on the time?

Senator Stratton: Honourable senators, I refer you to the previous vote utilizing rules 67(1), 67(2) and 67(3).

The Hon. the Speaker: This is an adjournment motion, and adjournment motions are not deferrable.

May I consult the house?

Is it the view of the house that our rules provide that adjournment motions are not deferrable?

Senator Tardif: No.

Senator Stratton: One-hour bell.

The Hon. the Speaker: The vote will take place at 5:30. Call in the senators.

Does the chair have permission of the house to leave?

Hon. Senators: Agreed.

• (1730)

The Hon. the Speaker: Honourable senators, before putting the question, the chair wishes to recognize the chief government whip, followed by the chief opposition whip.

Senator Stratton: I believe agreement has been reached on both sides for this matter to be adjourned until next week.

Hon. James S. Cowan: Agreed.

The Hon. the Speaker: Honourable senators, the standing vote is obviated by the agreement.

On motion of Senator Comeau, debate adjourned.

THE SENATE

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

On the Order:

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

Hon. Sharon Carstairs: Honourable senators, when this motion was first introduced to this chamber, I had known for some time of the incredible support that Senator Di Nino had given to the Dalai Lama in the past, and clearly he feels strongly about this matter.

Then Senator Cools rose on a point of order, and His Honour ruled on that point of order. What I heard in the point of order, however, gave me a great deal of concern. Senator Cools said, and I totally agree, that the Senate should not send instructions or make requests directly to a foreign power. That is why we have a Foreign Affairs Department. That is why we have a government.

It is appropriate for us not to give instructions to the People's Republic of China but to give instructions to the Government of Canada. I can fully support a concept that we give instructions to the Government of Canada.

MOTION IN AMENDMENT

Hon. Sharon Carstairs: Honourable senators, I move:

> That the motion be not now adopted but that it be amended immediately following the word "of" in the first line by eliminating all the words in the rest of the motion and by replacing them with the following:
>
> Canada and in particular the Foreign Affairs Minister, to have discussions with the Foreign Minister of the People's Republic of China regarding the Dalai Lama and the aspirations of the Tibetan people.

Hon. Consiglio Di Nino: I would like to reflect on the issue. If someone wishes to debate, I am happy to step down. Otherwise I will move the adjournment.

Hon. Anne C. Cools: I was prepared to move the adjournment.

Hon. Marcel Prud'homme: I will not stop the adjournment, but I would like to know if this change really is an amendment. I feel strongly about the words expressed by Senator Carstairs and Senator Cools. I have strong views on this matter. If honourable senators change some words and deny this motion, the Chinese government could ask the Canadian government to pay more attention to our First Nations people. I put to His Honour that an amendment is an amendment. Is it considered by the Speaker to be an amendment or a different motion? In my view it looks like a different motion. I am prepared to participate when the time comes.

The Hon. the Speaker: The chair is comfortable that the motion in amendment as moved by Senator Carstairs is in order, and therefore the debate can continue on the motion in amendment.

I recognized Senator Di Nino, who then stepped aside. Are there any other senators who wish to speak before I put the motion of Senator Di Nino?

On motion of Senator Di Nino, debate adjourned.

[*Translation*]

VICTIMS OF CRIME

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Di Nino calling the attention of the Senate to problems and challenges faced by victims of crime. —(*Honourable Senator Comeau*)

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I still have concerns about very important points of this bill and, given how late it is, I propose making my comments another time.

On motion of Senator Comeau, debate adjourned.

• (1740)

[*English*]

THE SENATE

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

On the Order:

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

Hon. Jim Munson: Honourable senators, this debate, as we know, deals with the failure of the government to appoint qualified people to the Senate. I would like to say a few words on this issue because it brings to light aspects of Canada's not-so-new government that should be of concern not only to us in the Senate but to all Canadians.

When it comes to the Senate, the Prime Minister has chosen to leave seats vacant except for two appointments for political purposes. The Prime Minister has chosen to appoint people he needs while ignoring the needs of Canadians who deserve to be represented in Parliament.

[*Translation*]

The Prime Minister's creativity is truly remarkable. He does not like the Senate of Canada and, accordingly, he refuses to recognize the fact that the Canadian Confederation requires a second chamber. Our Constitution specifies how and when a new senator is to be appointed, but this process poses political problems for Mr. Harper. To solve his problems, he is proposing to change the Senate by bypassing the Constitution. Senators Banks, Day and Moore have all explained the Prime Minister's plan in a clear and understandable way.

[*English*]

I thank honourable senators for their remarks. Since being appointed to this chamber, I have a renewed appreciation of history. The honour of being here amongst my honourable colleagues is surpassed only by the honour of being in this chamber, where so many worthy predecessors served since the time of Confederation.

This chamber, this institution, is a proud part of Canada's history. We are part of a tradition that reflects the birth of our nation and how Canada's Confederation was formed. This tradition has served our country well by ensuring regional representation and greater representation from women, Aboriginal people and minority groups in Canada's Parliament. Grattan O'Leary was one of my favourite senators.

Of course, the Senate is a human creation and, as such, may need to change with time. If the time has come to change the Senate, let us do so, but first let us respect our Constitution, our history and our traditions.

Senator Segal: How about Bill S-4?

Senator Munson: Thank you for that segue, Senator Segal.

We cannot sneak around the Constitution to serve our own means, as the Prime Minister has done. I have never been impressed with backdoor politics.

An Hon. Senator: How can you say that with a straight face?

Senator Munson: Because there are no cameras in here.

It is reprehensible for the Prime Minister to appoint a senator in order to have a strategic representative in his government from an urban centre, or to appoint a popular figure from his own province when so many seats in this chamber sit empty.

An Hon. Senator: Twice.

Senator Munson: Twice is too many.

This hypocrisy is unacceptable. I call on the Prime Minister to do three things: First, fill the empty seats in the Senate; and if he wants — for those friends of mine who have been heckling me this afternoon — he could appoint worthy people who represent his vision and his politics.

I know others on this side will welcome new colleagues and will look forward to working together, as we know how to do. That is what I have discovered in this place. Having more Conservative senators would not bother me in our Senate committees.

Senator Segal: It would not bother us.

Senator Munson: Talk to your boss when he returns from Berlin. Tell him the time has come. He has a real opportunity here.

Second, I call on the Prime Minister to respect Canada's Constitution. If he wants to change the Senate, he must follow proper procedure and, in particular, take into account the views of the provinces. We have heard from four provinces who do not particularly like this change.

Third, I call on the Prime Minister to do his job.

I must be saying something. I have not had this much feedback for a long time.

The Prime Minister needs to remember his Canadian history and our parliamentary traditions. By not asking the Governor General to appoint the senators that we need in this chamber, the Prime Minister has failed Canadians and has failed in his constitutional obligations.

Hon. Senators: Hear, hear!

On motion of Senator Comeau, debate adjourned.

• (1750)

MOTION URGING GOVERNOR GENERAL TO FILL VACANCIES IN SENATE—DEBATE ADJOURNED

Hon. Wilfred P. Moore, pursuant to notice of May 29, 2007, moved:

> That an humble Address be presented to Her Excellency the Governor General praying that she will fill the vacancies in the Senate by summons to fit and qualified persons.

He said: Honourable senators, for the past two months the Senate has been debating the inquiry of Senator Banks calling our attention to the large number of vacancies in the Senate and to the constitutional obligation of the government to fill those vacancies.

A number of senators who participated in the debate expressed their dismay that the Prime Minister has clearly stated a general policy that he will not fill vacancies. Not surprisingly, he made a glaring exception to this policy when he announced an appointment to fill a vacancy in his own home province of Alberta, before that vacancy even occurred.

I acknowledge that there have been periods of time in the Senate when the vacancies here have exceeded 12. In the fullness of time, all such vacancies were filled. However, in those situations none of those Prime Ministers stated, "I do not intend to appoint senators unless necessary," as Prime Minister Harper has said.

We have expressed concern about the impact of the Prime Minister's decision on the rights of provinces. Senate representation is not optional. It is not the gift of a Prime Minister to give or withhold at his whim. Representation in the Senate is constitutionally guaranteed to every province as part of the compromise that made Confederation possible. The Prime Minister's policy unilaterally denies the rights of the provinces. This Prime Minister cannot unilaterally rewrite a section of the Constitution which is an agreement between the federal government and the provinces that has existed for 140 years.

We have also expressed concern about having sufficient numbers to carry on the proper functioning of the Senate. Honourable senators, we had an illustration of this problem recently. On May 15 of this year, the Senate adjourned for a lack of quorum. It is not unusual in a parliamentary body for the opposition to attempt to use a lack of quorum to delay a government initiative that it opposes. This tactic is rarely successful because, under normal circumstances, the government can easily establish a quorum with its own members. On May 15, when the Speaker's attention was called to a lack of quorum in the Senate, debate was suspended for five minutes while the senators were summoned from the Reading Room. After that failed to establish a quorum, the bells were rung for a further 15 minutes.

Honourable senators, I emphasize that the day in question was a Tuesday — normally the beginning of our weekly calendar, not the end of it. After the bells were rung, the government could not muster the 15 senators needed to carry on the business of this place. For the first time since 1914, the Senate adjourned for a lack of quorum. This is the result of the Prime Minister's refusal to appoint senators, a serious undermining of the Senate's ability to function.

Equally disturbing is the constitutional situation the Prime Minister has created with his refusal to recommend appointments. Some seats have been vacant for well over a year. The Prime Minister has put the Governor General in the intolerable position of not carrying out her duty under section 32 of the Constitution Act, 1867.

Honourable senators, over the past two months no one on the government side in this place has defended the Prime Minister's policy of letting the vacancies linger. I wish I could say I am surprised. I particularly regret that none of my Conservative colleagues from Nova Scotia have spoken on an issue that affects our province's commitment to Confederation so deeply. Nova Scotia is currently the most affected by the Prime Minister's policy of neglecting vacancies. We have three vacancies, which amounts to 30 per cent of the seats guaranteed to Nova Scotia under the Constitution. Out of those vacancies, the seat left open by the retirement of Senator Buchanan has gone unfulfilled for almost 14 months now.

Honourable senators, I do not think we can remain silent about this state of affairs. At a minimum, we must say collectively that we want these vacancies filled. The Prime Minister advocates changes to the Senate; that is his privilege. In the meantime, he is wrong to say that he will disregard the Constitution until his proposals are adopted. He is wrong to oppress the constitutional rights of Nova Scotia and other provinces. He is wrong to fail to do his duty to recommend appointments to the Governor General.

One of the most basic roles of the Queen's representative is to preserve the Constitution. Normally, the Governor General acts on the advice of ministers. However, when the Prime Minister omits to tender advice in an effort to prevent the fulfillment of a constitutional obligation, where does that put the Governor General? Honourable senators, I submit that since the Prime Minister has plainly said that he refuses to recommend appointments, then it is incumbent upon Her Excellency to take whatever steps necessary to fulfill her constitutional duties. For that reason, I urge you to support the humble address I propose today, praying Her Excellency carry out her duty under section 32 of the Constitution Act, 1867, and fill the 12 vacancies in this place.

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray: Honourable senators, I have never been a client of Senator Moore's, but I trust his legal opinion is as good as people say it is because I intend to vote for his motion.

However, I have done some research on the matter, which I think is germane to some of the issues he has raised. I shall put it on the record when next we meet, which will be, I suppose, Tuesday.

Until then, I will propose the adjournment of the debate.

On motion of Senator Murray, debate adjourned.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

COMMITTEE AUTHORIZED TO REFER DOCUMENTS FROM STUDY ON MATTERS RELATING TO AFRICA DURING PREVIOUS PARLIAMENTS TO STUDY ON BILL C-293

Hon. Consiglio Di Nino, pursuant to notice of May 30, 2007, moved:

> That the papers and evidence received and taken and the work accomplished by the Standing Senate Committee on Foreign Affairs and International Trade for the special study on Africa, during the First Session of the Thirty-ninth Parliament and the First Session of the Thirty-eighth Parliament, be referred to the Committee for its study on Bill C-293, An Act respecting the provision of development assistance abroad *(Development Assistance Accountability Act)*.

He said: Honourable senators, during our two-year special study on Africa, a great deal of information was gathered. Some of it was relevant and germane to the study of Bill C-293, which the Standing Senate Committee on Foreign Affairs and International Trade Committee is now in the process of reviewing. It was felt by the members of the committee that that information and those papers gathered during our special study on Africa would enable us to deal in a more effective way with Bill C-293. Therefore, we request your permission to transfer them to this committee.

Hon. Anne C. Cools: Honourable senators, why is an order of reference needed for the committee to be able to use those papers?

Senator Di Nino: We were informed by the very capable clerk and staff of the committee that this is required. I did not question that advice. If we look back, we will find that this process has happened many times. I believe there was one instance in the last week or so.

Senator Cools: I am aware of that. There are many of these orders of reference coming forward. Sometimes they are not necessary. I was wondering why an order was needed. When one studies a bill, normally — some people do it in committees; I no longer do it — one can look up and use any material that is the property of the Senate. We do not need a reference. If the study was of Bill S-4, one does not need a reference to look at all the other special committee reports that have gone on for the past number of years. I find this odd. Perhaps I will defer to Senator Corbin.

Senator Di Nino: Honourable senators, I believe the rules require this.

Hon. Eymard G. Corbin: Honourable senators, I wish to inform Senator Di Nino that once a committee has concluded its examination of the question referred to it by the Senate, and once it has reported on that matter, the so-called matter is no longer before the committee. Therefore, one requires a motion of this type to bring the matter back to the committee.

Senator Cools: Obviously, that is the purpose of the committee report.

The Hon. the Speaker: The question was put to Senator Di Nino, whose time we are on. Senator Di Nino, do you wish to answer that?

Senator Di Nino: This is the kind of assistance that I needed. As I said, we were told that the rules required it. Obviously Senator Corbin, who is knowledgeable on these issues, as we all know, has put it more succinctly than I would have. Therefore, honourable senators, it is clear that we need this motion to be able to retrieve this information for us to use during our study on Bill C-293.

Senator Cools: Honourable senators, I am not trying to be difficult, but a committee reports and the whole system moves on a conveyor belt, so it is here.

• (1800)

That is quite true. The subject matter is no longer before that particular committee. However, Bill C-293 is. One does not need a reference in particular, because when any committee studies a bill, one can bring all sorts of other information forward. People can do that. This process is a little redundant.

If the committee wanted to go down the road of commencing a particular study, it would definitely need a reference. It is tiresome; I hear all the time that this person said we should do this and that person said we should do that. It is nonsense much of the time.

The Hon. the Speaker: Honourable senators, is there further debate?

Some Hon. Senators: Question!

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, it now being six o'clock, I seek advice from the whips.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, if we were to seek the unanimous consent of the house, we might agree that we not see the clock.

The Hon. the Speaker: Honourable senators, is it agreed not to see the clock?

Hon. Senators: Agreed.

STUDY ON ISSUES RELATED TO NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

MOTION TO REQUEST GOVERNMENT RESPONSE ON REPORT OF HUMAN RIGHTS COMMITTEE— DEBATE ADJOURNED

Hon. A. Raynell Andreychuk, pursuant to notice of May 31, 2007, moved:

> That, pursuant to rule 131(2), the Senate request a complete and detailed response from the Government, with the Minister of Foreign Affairs being identified as the Minister responsible for responding to the twelfth report of the Standing Senate Committee on Human Rights, entitled: *Canada and the United Nations Human Rights Council: At the Crossroads*.

She said: Honourable senators, I am rising to put a few words on the record, as I understand there is a senator who might wish to ask questions, perhaps not with respect to the actual motion, but on the report that the committee has adopted previously, which is the report on the Human Rights Council and the interim report that we filed here.

On motion of Senator Corbin, debate adjourned.

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO REFER DOCUMENTS FROM STUDY ON BILL S-21 DURING FIRST SESSION, THIRTY-EIGHTH PARLIAMENT TO STUDY ON BILL S-207

Hon. A. Raynell Andreychuk, pursuant to notice of June 5, 2007, moved:

> That the papers and evidence received by the Standing Senate Committee on Legal and Constitutional Affairs during its study of Bill S-21, An Act to amend the Criminal Code (protection of children), during the first session of the 38th Parliament be referred to the Standing Senate Committee on Human Rights for the purpose its study on Bill S-207, An Act to amend the Criminal Code (protection of children).

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

Motion agreed to.

[*Translation*]

ADJOURNMENT

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

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday, June 12, 2007, at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, June 12, 2007, at 2 p.m.

THE SENATE OF CANADA

PROGRESS OF LEGISLATION

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

(1st Session, 39th Parliament)

Thursday, June 7, 2007

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

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to amend the Hazardous Materials Information Review Act	06/04/25	06/05/04	Social Affairs, Science and Technology	06/05/18	0	06/05/30	07/03/29	7/07
S-3	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act	06/04/25	06/06/22	Legal and Constitutional Affairs	06/12/06	0 observations + 1 at 3rd	07/02/15	07/03/29	5/07
S-4	An Act to amend the Constitution Act, 1867 (Senate tenure)	06/05/30	07/02/20	(subject-matter 06/06/28 Special Committee on Senate Reform) Bill 07/02/20 Legal and Constitutional Affairs	Report on subject-matter 06/10/26				
S-5	An Act to implement conventions and protocols concluded between Canada and Finland, Mexico and Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	06/10/03	06/10/31	Banking, Trade and Commerce	06/11/09	0	06/11/23	06/12/12	8/06
S-6	An Act to amend the First Nations Land Management Act	07/04/25	07/05/15	Aboriginal Peoples	07/05/31	0	07/05/31		

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability	06/06/22	06/06/27	Legal and Constitutional Affairs	06/10/26 Report amended 06/11/06	156 Observations + 3 at 3rd (including 1 amend. to report) 06/11/09 Total 158	06/11/09 Message from Commons-agree with 52 amendments, disagree with 102, agree and disagree with 1, and amend 3 06/11/21 Referred to committee 06/11/23 Report adopted 06/12/07 Message from Commons-agree with Senate amendments 06/12/11	06/12/12	9/06
C-3	An Act respecting international bridges and tunnels and making a consequential amendment to another Act	06/06/22	06/10/24	Transport and Communications	06/12/12	3 observations	06/12/13 Message from Commons-agree with Senate amendments 07/01/30	07/02/01*	1/07
C-4	An Act to amend An Act to amend the Canada Elections Act and the Income Tax Act	06/05/02	06/05/03	Legal and Constitutional Affairs	06/05/04	0	06/05/09	06/05/11	1/06
C-5	An Act respecting the establishment of the Public Health Agency of Canada and amending certain Acts	06/06/20	06/09/28	Social Affairs, Science and Technology	06/11/02	0 observations	06/11/03	06/12/12	5/06
C-8	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2007 (*Appropriation Act No. 1, 2006-2007*)	06/05/04	06/05/09	—	—	—	06/05/10	06/05/11	2/06
C-9	An Act to amend the Criminal Code (conditional sentence of imprisonment)	06/11/06	07/02/27	Legal and Constitutional Affairs	07/05/03	0 observations	07/05/16	07/05/31*	12/07

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-10	An Act to amend the Criminal Code (minimum penalties for offences involving firearms) and to make a consequential amendment to another Act	07/05/30							
C-11	An Act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts	07/03/01	07/03/28	Transport and Communications	07/05/17 Report amended 07/05/30	2 observations	07/05/31		
C-12	An Act to provide for emergency management and to amend and repeal certain Acts	06/12/11	07/03/28	Special Committee on the Anti-terrorism Act	07/06/05	0	07/06/06		
C-13	An Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/06/06	06/06/13	National Finance	06/06/20	0	06/06/22	06/06/22*	4/06
C-14	An Act to amend the Citizenship Act (adoption)	07/06/05							
C-15	An Act to amend the Agricultural Marketing Programs Act	06/06/06	06/06/13	Agriculture and Forestry	06/06/15	0	06/06/20	06/06/22*	3/06
C-16	An Act to amend the Canada Elections Act	06/11/06	06/11/23	Legal and Constitutional Affairs	07/02/15	0 + 1 at 3rd	07/03/28 Message from Commons disagreeing with Senate amendment 07/04/27 Senate does not insist on its amendment 07/05/01	07/05/03*	10/07
C-17	An Act to amend the Judges Act and certain other Acts in relation to courts	06/11/21	06/12/11	National Finance	06/12/12	0 observations	06/12/13	06/12/14*	11/06
C-18	An Act to amend certain Acts in relation to DNA identification	07/03/29	07/05/09	Legal and Constitutional Affairs					
C-19	An Act to amend the Criminal Code (street racing) and to make a consequential amendment to the Corrections and Conditional Release Act	06/11/02	06/11/21	Legal and Constitutional Affairs	06/12/14	0 observations	06/12/14	06/12/14*	14/06
C-22	An Act to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act	07/05/08							
C-24	An Act to impose a charge on the export of certain softwood lumber products to the United States and a charge on refunds of certain duty deposits paid to the United States, to authorize certain payments, to amend the Export and Import Permits Act and to amend other Acts as a consequence	06/12/06	06/12/12	National Finance (withdrawn) 06/12/13 Foreign Affairs and International Trade	06/12/14	0 observations	06/12/14	06/12/14*	13/06

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-25	An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act	06/11/21	06/11/28	Banking, Trade and Commerce	06/12/14	0 observations	06/12/14	06/12/14*	12/06
C-26	An Act to amend the Criminal Code (criminal interest rate)	07/02/07	07/02/28	Banking, Trade and Commerce	07/04/19	0 observations	07/04/26	07/05/03*	9/07
C-28	A second Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006	06/12/11	07/01/31	National Finance	07/02/13	0	07/02/14	07/02/21*	2/07
C-31	An Act to amend the Canada Elections Act and the Public Service Employment Act	07/02/21	07/03/21	Legal and Constitutional Affairs	07/06/05	11			
C-34	An Act to provide for jurisdiction over education on First Nation lands in British Columbia	06/12/06	06/12/11	Aboriginal Peoples	06/12/12	0	06/12/12	06/12/12	10/06
C-35	An Act to amend the Criminal Code (reverse onus in bail hearings for firearm-related offences)	07/06/05							
C-36	An Act to amend the Canada Pension Plan and the Old Age Security Act	07/03/20	07/04/17	Banking, Trade and Commerce	07/04/19	0	07/05/01	07/05/03*	11/07
C-37	An Act to amend the law governing financial institutions and to provide for related and consequential matters	07/02/28	07/03/21	Banking, Trade and Commerce	07/03/29	0	07/03/29	07/03/29	6/07
C-38	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 (*Appropriation Act No.2, 2006-2007*)	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	6/06
C-39	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 (*Appropriation Act No.3, 2006-2007*)	06/11/29	06/12/05	—	—	—	06/12/06	06/12/12	7/06
C-40	An Act to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts	07/05/15	07/06/05	Banking, Trade and Commerce	07/06/07	0			
C-46	An Act to provide for the resumption and continuation of railway operations	07/04/18	07/04/18	Committee of the Whole	07/04/18	0	07/04/18	07/04/18*	8/07
C-48	An Act to amend the Criminal Code in order to implement the United Nations Convention against Corruption	07/05/01	07/05/10	Foreign Affairs and International Trade	07/05/17	0	07/05/29	07/05/31*	13/07
C-49	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007 (*Appropriation Act No.4, 2006-2007*)	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	3/07

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-50	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008 (*Appropriation Act No.1, 2007-2008*)	07/03/26	07/03/27	—	—	—	07/03/28	07/03/29	4/07

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-252	An Act to amend the Divorce Act (access for spouse who is terminally ill or in critical condition)	07/03/22	07/04/19	Social Affairs, Science and Technology	07/05/10	0	07/05/29	07/05/31*	14/07
C-277	An Act to amend the Criminal Code (luring a child)	07/03/29	07/05/10	Social Affairs, Science and Technology	07/05/31	0			
C-280	An Act to Amend the Immigration and Refugee Protection Act (coming into force of sections 110, 111 and 171)	07/05/30							
C-288	An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol	07/02/15	07/03/29	Energy, the Environment and Natural Resources	07/05/17	0			
C-292	An Act to implement the Kelowna Accord	07/03/22	07/06/06	Aboriginal Peoples					
C-293	An Act respecting the provision of official development assistance abroad	07/03/29	07/05/29	Foreign Affairs and International Trade					
C-294	An Act to amend the Income Tax Act (sports and recreation programs)	07/04/17	07/05/02	National Finance	07/06/06	0			
C-299	An Act to amend the Criminal Code (identification information obtained by fraud or false pretence)	07/05/09							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-201	An Act to amend the Public Service Employment Act (elimination of bureaucratic patronage and geographic criteria in appointment processes) (Sen. Ringuette)	06/04/05	06/06/22	National Finance	06/10/03	1	07/05/10		
S-202	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	06/04/05	06/05/31	Legal and Constitutional Affairs	06/06/15	1	06/06/22		
S-203	An Act to amend the Public Service Employment Act (priority for appointment for veterans) (Sen. Downe)	06/04/05	Dropped from the Order Paper pursuant to Rule 27(3) 06/06/08						
S-204	An Act respecting a National Philanthropy Day (Sen. Grafstein)	06/04/05	07/05/29	Legal and Constitutional Affairs					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-205	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	06/04/05	06/10/31	Energy, the Environment and Natural Resources	07/02/14	0	07/04/25		
S-206	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	06/04/05	06/10/31	Legal and Constitutional Affairs					
S-207	An Act to amend the Criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	06/04/05	06/12/14	Human Rights					
S-208	An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein)	06/04/06							
S-209	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	06/04/25	06/12/14	Energy, the Environment and Natural Resources	07/05/31	0			
S-210	An Act to amend the National Capital Act (establishment and protection of Gatineau Park) (Sen. Spivak)	06/04/25	06/12/13	Energy, the Environment and Natural Resources	07/06/07	2	observations		
S-211	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	06/04/25	06/05/10	Social Affairs, Science and Technology	06/06/13	0	06/10/17		
S-212	An Act to amend the Income Tax Act (tax relief) (Sen. Austin, P.C.)	06/04/26	Bill withdrawn pursuant to Speaker's Ruling 06/05/11						
S-213	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	06/04/26	06/09/26	Legal and Constitutional Affairs	06/12/06	1	06/12/07		
S-214	An Act respecting a National Blood Donor Week (Sen. Mercer)	06/05/17	06/10/03	Social Affairs, Science and Technology	06/12/14	0	06/12/14		
S-215	An Act to amend the Income Tax Act in order to provide tax relief (Sen. Austin, P.C.)	06/05/17	07/02/20	National Finance					
S-216	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	06/05/30	06/12/13	Aboriginal Peoples					
S-217	An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal)	06/05/30	06/10/18	National Finance					
S-218	An Act to amend the State Immunity Act and the Criminal Code (civil remedies for victims of terrorism) (Sen. Tkachuk)	06/06/15	06/11/02	Legal and Constitutional Affairs					
S-219	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	06/06/27	07/05/31	Rules, Procedures and the Rights of Parliament					
S-220	An Act to protect heritage lighthouses (Sen. Carney, P.C.)	06/10/03	06/11/28	Fisheries and Oceans	06/12/11	16	06/12/14		

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-221	An Act to establish and maintain a national registry of medical devices (Sen. Harb)	06/11/01							
S-222	An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures, in order to provide assistance and protection to victims of human trafficking (Sen. Phalen)	07/02/01							
S-223	An Act to amend the Access to Information Act (Sen. Milne)	07/02/15							
S-224	An Act to amend the Access to Information Act and the Canadian Wheat Board Act (Sen. Mitchell)	07/04/17							
S-225	An Act to amend the International Boundary Waters Treaty Act (bulk water removal) (Sen. Carney, P.C.)	07/05/09							
S-226	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Grafstein)	07/05/29							
S-227	An Act to amend the Bankruptcy and Insolvency Act (student loans) (Sen. Goldstein)	07/05/29							
S-228	An Act to amend the Non-smokers' Health Act (Sen. Harb)	07/05/30							

PRIVATE BILLS

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

CONTENTS

Thursday, June 7, 2007

PAGE

SENATORS STATEMENT

Canadian Cancer Society's Relay For Life
Hon. Catherine S. Callbeck 2555

Pages Exchange Program with House of Commons
The Hon. the Speaker 2555

ROUTINE PROCEEDINGS

Senate Ethics Officer
2006-07 Annual Report Tabled.
The Hon. the Speaker 2555

Auditor General
2006-07 Annual Report on Privacy Act Tabled.
The Hon. the Speaker 2555

National Capital Act (Bill S-210)
Bill to Amend—Report of Committee.
Hon. Tommy Banks 2555

Sales Tax Amendments Bill, 2006 (Bill C-40)
Report of Committee.
Hon. Jerahmiel S. Grafstein 2556

Kyoto Protocol Implementation Bill (Bill C-288)
Notice of Motion for Time Allocation.
Hon. Sharon Carstairs 2556

Study on International Obligations Regarding Children's Rights and Freedoms
Notice of Motion to Request Government Response on Report of Human Rights Committee.
Hon. A. Raynell Andreychuk 2556

Rules, Procedures and the Rights of Parliament
Notice of Motion to Authorize Committee to Extend Date of Final Report on Study of Provisions of Constitution Act, 1867 Relating to Senate.
Hon. David P. Smith 2557

QUESTION PERIOD

National Defence
United States Missile Defence Program.
Hon. Claudette Tardif 2557
Hon. Marjory LeBreton 2557

Finance
Atlantic Accord—Offshore Oil and Gas Revenues.
Hon. Jane Cordy 2557
Hon. Marjory LeBreton 2557
Hon. Bill Rompkey 2558
Hon. James S. Cowan 2560

PAGE

Heritage
War Museum—Plaque on World War II Allied Bombing Raids on Germany.
Hon. Gerry St. Germain 2561
Hon. Marjory LeBreton 2561

ORDERS OF THE DAY

Non-smokers' Health Act (Bill S-228)
Bill to Amend—Second Reading—Debate Adjourned.
Hon. Mac Harb 2561

Medical Devices Registry Bill (Bill S-221)
Second Reading—Debate Continued.
Hon. Gerald J. Comeau 2564

Canada Securities Bill (Bill S-226)
Second Reading—Debate Adjourned.
Hon. Jerahmiel S. Grafstein 2564
Hon. Lowell Murray 2566
Hon. Marcel Prud'homme 2566
Hon. Francis William Mahovlich 2567

Drinking Water Sources Bill (Bill S-208)
Second Reading—Debate Continued.
Hon. Pierre Claude Nolin 2567
Hon. Jerahmiel S. Grafstein 2569
Hon. Gerald J. Comeau 2569

Kyoto Protocol Implementation Bill (Bill C-288)
Third Reading—Motions in Amendment and Subamendment—Debate Continued—Vote Deferred.
Hon. Lowell Murray 2571
Hon. Gerry St. Germain 2572
Motion in Subamendment.
Hon. Gerry St. Germain 2573
Hon. Terry Stratton 2574
Hon. Fernand Robichaud 2574
Hon. Sharon Carstairs 2574

Question of Privilege
Motion to Refer to Standing Committee on Rules, Procedures and the Rights of Parliament—Debate Continued.
Hon. Tommy Banks 2574
Hon. Terry Stratton 2575
Hon. Consiglio Di Nino 2576
Hon. Anne C. Cools 2576
Hon. Lowell Murray 2577
Hon. Joan Fraser 2579
Hon. Gerald J. Comeau 2579
Hon. James S. Cowan 2580

The Senate
Motion to Urge Continued Dialogue Between People's Republic of China and the Dalai Lama—Debate Continued.
Hon. Sharon Carstairs 2580
Motion in Amendment.
Hon. Sharon Carstairs 2580
Hon. Consiglio Di Nino 2580
Hon. Anne C. Cools 2580
Hon. Marcel Prud'homme 2580

Victims of Crime
Inquiry—Debate Continued.
Hon. Gerald J. Comeau 2581

PAGE

The Senate

Failure of Government to Appoint Qualified People to the Senate—Inquiry—Debate Continued.

Hon. Jim Munson 2581

Motion Urging Governor General to Fill Vacancies in Senate—Debate Adjourned.

Hon. Wilfred P. Moore. 2582

Hon. Lowell Murray 2582

Foreign Affairs and International Trade

Committee Authorized to Refer Documents from Study on Matters Relating to Africa During Previous Parliaments to Study on Bill C-293.

Hon. Consiglio Di Nino 2583

Hon. Anne C. Cools. 2583

Hon. Eymard G. Corbin. 2583

PAGE

Business of the Senate

Hon. Gerald J. Comeau 2583

Study on Issues Related to National and International Human Rights Obligations

Motion to Request Government Response on Report of Human Rights Committee—Debate Adjourned.

Hon. A. Raynell Andreychuk 2584

Human Rights

Committee Authorized to Refer Documents from Study on Bill S-21 During First Session, Thirty-eighth Parliament to Study on Bill S-207.

Hon. A. Raynell Andreychuk 2584

Adjournment

Hon. Gerald J. Comeau 2584

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