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(HANSARD)

**Tuesday, June 20, 2006**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

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## THE SENATE

Tuesday, June 20, 2006

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of a distinguished delegation from Bulgaria, Ms. Karmella Kassabova, Deputy Chair of the National Assembly of the Republic of Bulgaria and Chair of the Bulgarian — Canadian Parliamentary Friendship Group and Ms. Gergana Grancharova, Deputy Minister of Foreign Affairs.

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

**Hon. Senators:** Hear, hear!

[Translation]

### SENATORS' STATEMENTS

#### LA SOCIÉTÉ NATIONALE DE L'ACADIE

##### ONE HUNDRED TWENTY-FIFTH ANNIVERSARY

**Hon. Rose-Marie Losier-Cool:** Honourable senators, if you do not have plans for July 20 to 23, I invite you to come home with me to New Brunswick, to Memramcook to be exact, to celebrate the 125th anniversary of the founding of the Société Nationale de l'Acadie.

It was in 1881, in Memramcook, that 5,000 Acadians held their first convention and created what was then called Société Nationale l'Assomption, and declared August 15 the Acadian national holiday. From 1881 to 1955, the SNA held 11 conventions.

In 1884, at the second convention, in Miscouche, Prince Edward Island, the SNA chose its flag. It is the tri-coloured French flag adorned with the golden Stella Maris in the blue band. That same year, the SNA also adopted the Acadian national anthem, *Ave Maris Stella*, the only anthem, to my knowledge, that is still sung in Latin.

At these conventions, the Acadians not only created their symbols, but also gave themselves something even more important and that is a vision for education, the key to their future. The Acadian people have their own school systems, schools, colleges and a university, in Moncton, not to mention the current scholarship programs with France and the Communauté

Wallonie-Bruxelles. This francophone education network was and continues to be the source of our economic prosperity, our political power and our vitality.

In 1957, at the twelfth convention, in Memramcook, the Société Nationale l'Assomption became the Société Nationale des Acadiens and it established a partnership to serve New Brunswick, Nova Scotia and Prince Edward Island. In 1986, the francophones of Newfoundland and Labrador joined the SNA and, in 1992, the organization adopted its current name, the Société Nationale de l'Acadie.

The SNA, today chaired by Michel Cyr, is an umbrella for Acadia promotion organizations in New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Magdalen Islands, Saint-Pierre and Miquelon, Louisiana and Paris. The SNA also has observer status at the International Organization of the Francophonie.

Since there is no shortage of reasons to celebrate, honourable senators, I hope you will join me in wishing the Société Nationale de l'Acadie a very happy 125th anniversary and a very long life.

[English]

### SOUTH AFRICA

#### THIRTIETH ANNIVERSARY OF SOWETO UPRISING

**Hon. Donald H. Oliver:** Honourable senators, last weekend people from around the world paused in remembrance of the murder of 13-year-old Hector Pieterse, killed by police in Soweto, South Africa in the unarmed demonstration by young students 30 years ago.

Last Friday, President Mbeki led hundreds of South Africans through the streets of the Black township of Soweto, retracing the steps of student protesters who galvanized the anti-apartheid struggle 30 years ago.

Honourable senators, I was in Soweto a month ago and visited the monument built in memory of Hector Pieterse. It was a sad, but moving experience. The death of Hector Pieterse came to symbolize the sacrifices of young people in the fight for South Africa's democracy and freedom.

Honourable senators, the significance of this event culminated for me when I attended, as an election observer, the first ever democratic elections that saw Nelson Mandela become the President of South Africa in 1994. It was a day and an experience I shall never forget.

More than 500 young people were estimated to have been killed in the Soweto uprising and its bloody aftermath. Thousands of others disappeared into detention or fled the country. Honourable senators will recall that the uprising started as a student protest against being taught in Afrikaans, the language of White oppressors, which few among the Black majority could

understand. When the students started to march to voice their concerns, the South African White police responded with brutal force, and news of the killings and the riots unleashed across the country awakened the world to the government's violence.

The courage of the students drew other South Africans into the struggle. Unfortunately, the "Liberation before Education" spirit of the protest had lasting, destructive consequences, leaving much of the generation of Black South Africans without the skills to fully participate in the inclusive society that emerged after the first all-race elections of 1994. Today, poverty, AIDS and the consequences of decades of racist policies threaten young Blacks.

• (1410)

Honourable senators, President Mbeki, who was in Ottawa three years ago, said the following over the weekend:

This day, National Youth Day, is a moment of thanksgiving dedicated to the young people of our country for the contribution they made to free South Africa from the tyranny of apartheid.

Honourable senators, may democracy, equality and freedom continue to reign in South Africa and throughout the world.

[Translation]

#### SAINT-JEAN-BAPTISTE CELEBRATIONS

**Hon. Lucie Pépin:** Honourable senators, on June 24, Canada's francophones and francophiles will celebrate Saint-Jean-Baptiste Day.

In Quebec, this year's festivities will focus on Quebec cinema. This choice pays tribute to the members of Quebec's film community. Thanks to their combined talents, film in Quebec has become a successful industry.

These directors, screenwriters, actors, producers and technicians have succeeded in making film in Quebec a mode of expression that reflects our values, our history, our love for our language, our hopes and our doubts. They have created magnificent works that, for the most part, have prompted us to take a close look at those around us.

The outstanding work done by these creative artists has brought the industry to maturity. The time when theatre managers balked at showing Quebec films is long past. Quebec, along with France and the Scandinavian countries, is one of the rare societies on earth where domestic films can compete with American blockbusters.

Moreover, Quebec films enjoy a good reputation on the international market, where they achieved unequalled success in 2005. When Quebec films are screened around the world, others see the diversity of Canadian culture.

In an environment dominated by the big Hollywood machine, our gifted filmmakers have won appreciation for another type of cinema, not just the one driven by commercial motives. This auteur cinema that we are so proud of needs more government

support so that it can develop. I hope that the meeting scheduled for tomorrow between the Minister of Canadian Heritage and a coalition of producers, directors, distributors and actors will lead to solutions to this underfunding problem.

Honourable senators, I invite you to spend Saint-Jean-Baptiste Day in joy and celebration. I am certain that, if you have not already done so, you will be sure to discover Quebec films, which mirror the difference between Quebec and Canadian culture.

[English]

#### HUMAN TRAFFICKING

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise to speak to the unsavoury side of the World Cup. On Friday, June 9, the world came together for what is known as the "World's Biggest Party," the World Cup, in Germany. While tens of millions have rallied together to celebrate soccer, national pride and international sportsmanship, an estimated 40,000 women have been trafficked into the city of Cologne for the month-long tournament. These women will be far from celebrating.

While nearly 100,000 women and young girls are trafficked into Europe each year, Germany has done little to alter its policy of legalized prostitution. Instead, it has subsidized new brothels to keep visitors entertained for the duration of the tournament. Over the last few years I attended several conferences in Europe, all of which focused on the growing presence of human trafficking. It was at these conferences that numerous participants aired their concern for the worldwide prevalence of human trafficking and its looming effects on the World Cup. Words cannot convey the inhumanity present in a witness's testimony of what was described to me as "warehouses stocked full of women and young girls."

Honourable senators, on July 2, 2003, Canada was granted the honour of hosting the Twenty-first Winter Olympic Games in Vancouver. Like the World Cup, the Olympics place the host country on an international stage for the entire world to experience. This is an ideal opportunity to again showcase to the world the strength and freedom that defines Canada.

Though four years remain until the commencement of the 2010 Winter Games, there is already an international concern that Vancouver will become a magnet for women and young girls forced into prostitution by organized crime. This fear continues to evolve into a reality as just last week, six Korean women were found outside Vancouver, waiting to be the latest victims of human trafficking.

• (1415)

In a recent study on the international treatment of human trafficking victims, Canada was the only nation to receive a failing grade, stating:

Canada's record of dealing with trafficking victims is an international embarrassment and contrary to best practices.

[ Senator Oliver ]

The report continues:

Canada has ignored calls for reform and continues to re-traumatize trafficking victims, with few exceptions.

Last October, I introduced Bill C-49 in the Senate. This bill criminalized human trafficking, resulting in Canada's first step in taking a stand against human trafficking. As a global example of strength and freedom, the time has come for Canada to spread a sense of urgency and fulfil its obligations in preparing for the international spotlight.

Honourable senators, please join me in celebrating the World Cup, but I graciously ask this: Please save a place in your hearts for the lives of those women and young girls so unjustly dispossessed of their dignity.

#### CANADA-JAPAN INTER-PARLIAMENTARY GROUP

CONGRATULATIONS TO  
THE HONOURABLE DANIEL HAYS AND  
THE HONOURABLE DONALD H. OLIVER ON  
THEIR APPOINTMENTS AS HONORARY CHAIRS

**Hon. Marie-P. Poulin:** Honourable senators, it is with great pleasure that I inform you that members of the executive committee of the Canada-Japan Inter-parliamentary Group, at their meeting of Thursday, June 15, 2006, agreed unanimously to recommend the appointment of the Honourable Don Oliver and the Honourable Dan Hays as honorary chairs of the Canada-Japan Inter-parliamentary Group.

Both Senator Oliver and Senator Hays have a long association with the Canada-Japan Inter-parliamentary Group and both have been strong proponents of closer ties between Canada and Japan.

[Translation]

Honourable senators, Senator Hays is one of only two Canadians have been awarded the Grand Cordon of the Order of the Sacred Treasure by the Emperor of Japan. Senator Hays chaired the Canada-Japan Inter-Parliamentary Group from 1994 to 1995, and Senator Oliver chaired the Group from 1993 to 1994.

[English]

I invite you all to join me in congratulating our two colleagues for their well-deserved nominations.

[Translation]

#### ROUTINE PROCEEDINGS

##### SENATE ETHICS OFFICER

##### 2005-06 ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the 2005-06 Annual Report of the Senate Ethics Officer, pursuant to section 20.7(1) of the Parliament of Canada Act.

[English]

#### PRIVACY COMMISSIONER

##### 2005-06 ANNUAL REPORT ON PRIVACY ACT TABLED

**The Hon. the Speaker:** Honourable senators, I also have the honour to table, in both official languages, the annual report of the Privacy Commissioner of Canada on the Privacy Act covering the period April 1, 2005 to March 31, 2006.

#### BUDGET IMPLEMENTATION BILL

##### REPORT OF COMMITTEE

**Hon. Joseph A. Day,** Chair of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, June 20, 2006

The Standing Senate Committee on National Finance has the honour to present its

#### THIRD REPORT

Your Committee, to which was referred Bill C-13, An Act to implement certain provisions of the budget tabled in Parliament on May 2, 2006, has, in obedience to the Order of Reference of Tuesday, June 13, 2006, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOSEPH A. DAY  
*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.

• (1420)

#### CANADA-AFRICA PARLIAMENTARY ASSOCIATION

##### BILATERAL VISIT TO MOZAMBIQUE AND SOUTH AFRICA, MARCH 21-24, 2006—REPORT TABLED

**Hon. A. Raynell Andreychuk:** Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation to the Canada-Africa Parliamentary Association respecting the bilateral visit to Mozambique and South Africa; Maputo, Mozambique, March 21-23, 2006, and Cape Town, South Africa, March 24, 2006.

**CANADA-UNITED STATES  
INTER-PARLIAMENTARY GROUP**

CAN/AM BORDER TRADE ALLIANCE CONFERENCE,  
APRIL 30-MAY 2, 2006—REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canada-United States Inter-Parliamentary Group entitled *The Canadian/U.S. Border: A Unified Focus CAN/AM Border Trade Alliance*, held in Ottawa, Ontario, April 30 to May 2, 2006.

[Translation]

**THE SENATE**

NOTICE OF MOTION TO STRIKE SPECIAL COMMITTEE  
ON SENATE REFORM

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That a Special Senate Committee be appointed to undertake a comprehensive review of the Senate Reform or any other matter referred to it by the Senate;

That, notwithstanding rule 85(1)(b), the Special Committee comprise ten members, namely the Honourable Senators Adams, Austin, P.C., Bacon, Baker, P.C., Banks, Biron, Andreychuk, Angus, Carney, P.C. and Murray, P.C., and that four members constitute a quorum;

That, pursuant to rule 95(3)(a), the committee be authorized to meet during periods that the Senate stands adjourned for a period exceeding one week;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That the committee have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such bills and subject matters of bills as are referred to it;

That the committee be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings; and

That the committee submit its final report no later than September 28, 2006.

[English]

**Hon. Marcel Prud'homme:** I would have suggested Senator Murray, and I am glad he will sit on that committee. It would have been highly appreciated by the senators who are not aligned — and I can see them here — to have known about that motion, even though, at the end of the day, I would have suggested with great pleasure the very senior Senator Murray. When things of that kind are about to take place, it would not be a bad idea for the non-aligned senators to be informed. I was told

once, rudely by someone who is yelling at the moment, “If you do not like it, just join a party.” Well, we are non-aligned senators and we will join a party if we want to, when we decide to.

However, I am happy with the nomination. I find myself comfortable with the fact that Senator Murray will be part of this group. Again, it would have been a good touch if the others had known about it.

• (1425)

**Hon. Anne C. Cools:** Honourable senators, I understand this is a debatable motion. Is it a notice? Will it be debated tomorrow?

**The Hon. the Speaker:** Yes.

**Senator Cools:** Is it a one-day notice?

**The Hon. the Speaker:** Yes.

**QUESTION PERIOD**

**PUBLIC WORKS AND GOVERNMENT SERVICES**

FRAMEWORK FOR PROCURING INFORMATION  
AND COMMUNICATIONS TECHNOLOGY

**Hon. Daniel Hays (Leader of the Opposition)** Honourable senators, today I have a question for the Minister of Public Works and Government Services. The honourable senator will have noted in the media a statement from the Canadian Advanced Technology Alliance through the person of its President, John Reid. Mr. Reid indicated that CATA has been working with Public Works and Government Services Canada on the development of a process for tendering or determining who will provide services, software and other related materials to Canada through PWGSC. He advises that the process has been ongoing for 18 months and crosses over the previous government and the new government.

Mr. Reid has a grievance, which is that the work of the consultative group that is trying to reach a consensus on the best processes to serve Canada and the Government of Canada has been ignored and that a third-party study on strategic sourcing has been given notice of and tabled. The work that the group has done with Public Works and Government Services Canada has not been carried through in the way the group thought it would be, based upon the consultations.

Can the minister advise us what is behind the decision, as Mr. Reid says, to ignore the work over the past 18 months on a framework for making decisions on procurement in the information and communications technology area?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** Honourable senators, I wish to thank the honourable senator for the question. Several processes are currently taking place in Public Works and Government Services Canada with respect to procurement, and, as honourable senators are now aware, with respect to real estate.

I am not aware of this particular process. I apologize, but I will find out and report back to the honourable senator, if that is acceptable. However, at this point, I would be guessing at the answer.

**Senator Hays:** I thank the minister and accept that he wishes to be informed. Perhaps we can return to this area as early as tomorrow.

While I have the floor and we are on the subject, I draw to all honourable senators' attention the importance of this area to the Canadian economy. The information communication technology sector, or ICT, Mr. Reid reminds us, is responsible for some 550,000 jobs; it has a three-time multiplier effect for each job, so job losses are critical. It produces \$130 billion in revenue, \$5.2 billion in research and development, \$18.7 billion in exports and \$10.8 billion in capital expenditures. The thrust, Mr. Minister, is that Canada, like other countries with which we compete, needs an industrial strategy in this area. The Canadian Advanced Technology Alliance is happy to have been engaged in this process but is disappointed that it has not produced the desired results. Accordingly, we are, perhaps, missing an opportunity for an industrial strategy in this important area. With that notice, I hope we can return to this subject tomorrow.

**Senator Fortier:** Clearly, this is an important area for Canadian industry. It is important also for us as a client to such suppliers, whether it is information technology or telecommunications. In those two industries, we spend over \$1 billion.

• (1430)

Therefore, I want to reassure the honourable senator that the procurement strategies in place currently are, in my opinion and in the opinion of the department, fair, transparent and open. We obviously are buying mostly Canadian technology and from Canadian suppliers. However, I will find out about what the honourable senator raised in his first question.

#### DISTRIBUTION OF REAL ESTATE IN OTTAWA-GATINEAU REGION

**Hon. Jack Austin:** Honourable senators, my question is for the same minister. I was interested to hear his last statement that the systems being used in his department are fair, transparent and open. That means he is using the systems put there by the previous government.

I would like to ask the minister a question with respect to the National Capital Region. On May 9, Senator Fox addressed a question to the minister regarding the policy of previous governments to maintain a 75/25 ratio in the distribution of federal real estate assets in employment between the Ottawa side and the Hull-Gatineau side. The minister replied that the current ratio was 77/23 and also said:

...I hope that by the end of my time in Public Works I will have succeeded in shrinking the current gap.

Could the minister give us the time frame within which he is working to achieve that objective?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** With respect to fairness, openness and transparency, I would like to think of Public Works as a department that works for all Canadians. I have looked at this brief and this work that I am doing on behalf of the government in a bipartisan way as much I can. I have spoken with my critics. Perhaps I am naïve, but I look at this department as being essential to running Ottawa in the sense of providing services to other departments. At the end of the day, it is important to be fair, open and transparent. That is all I will say on that subject.

With respect to the 75/25 ratio, as I indicated to Senator Fox, the issue is significant because of the denominator. In order to move the needle back to 75/25, there needs to be some considerable move towards the Gatineau side of the river. It is my intention to continue to work towards that objective. I wish I could tell honourable senators that I did it yesterday, but unfortunately it will take some time. Hopefully I will still be around when that is achieved.

**Senator Fraser:** In the Senate?

#### LOCATION OF MUSEUM OF SCIENCE AND TECHNOLOGY

**Hon. Jack Austin:** On May 10, Senator Fox noted that the JDS Uniphase complex on the Ottawa side might be acquired without public tender, which would have had the consequence of further imbalancing the ratio quite substantially.

I noticed that federal Transport Minister Lawrence Cannon had promised his constituents in the Outaouais Region of Quebec that he would deliver a new museum of science and technology, along with hundreds of millions of dollars to be spent on that project, and of course hundreds of jobs.

As the current museum has been in its present location since 1967 — the previous use of that building I believe was a bakery — would it not be a win-win situation for Minister Fortier and Minister Cannon if they proceeded with this project? I wish to ask the minister whether he is considering proceeding with the project. Has any funding been given towards the planning of that project?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for his question. Minister Cannon has spoken about the museum. The honourable senator is quite right; it is located on St. Laurent Boulevard. It was a bakery. It helps to have lived in Ottawa all your life. At the present time there are no plans to relocate that particular museum.

• (1435)

**Senator Austin:** That will help Senator Fortier with his agenda of rebalancing the ratios.

#### ORGANIZATION OF NATIONAL CAPITAL REGION

**Hon. Jack Austin:** Honourable senators, to help Senator Fortier out, there has been a debate for some long time in this community about the way in which the National Capital Region can be organized. In the past there have been suggestions that the Province of Quebec, along with the Province of Ontario and

the federal government could constitute a legislative national capital region to which real estate and other properties from the Quebec side and the Ontario side could be dedicated to a trilateral commission.

Does the minister support that idea and will he work toward it, particularly since official bilingualism would be one aspect included in such an entity?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** Honourable senators, I cannot speak to that specific suggestion as I am not aware of its details.

I will work toward getting the real estate imbalance back to a balanced level. We will find ways to do that. I made an announcement last week with respect to the real estate study and the advice we are seeking from third parties. As we said in the RFP, the National Capital Region has an acute need for additional real estate space to house our employees. One solution out of all this could be that there will be additional space on the Quebec side of the river.

## OFFICIAL LANGUAGES

### BILINGUALISM IN OTTAWA REGION

**Hon. Jack Austin:** Honourable senators, would the minister agree to work toward a policy of official bilingualism in the National Capital Region?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** Honourable senators, as the first fluently bilingual francophone Minister of Public Works and Government Services in quite some time, I am obviously in favour of bilingualism. Commissioner Adam's report was quite negative on how the department has conducted business over the past several years. As a result I have instructed my department to do whatever is necessary to get a better report card next year. I am all in favour of more bilingualism.

In terms of whether the Ottawa region should be designated this or that, that is a debate that should be had with another person.

## INTERNATIONAL TRADE

### SOFTWOOD LUMBER AGREEMENT— PROGRESS OF NEGOTIATIONS

**Hon. Jack Austin:** Honourable senators, my question is for the Leader of the Government in the Senate with respect to softwood lumber.

The Minister of International Trade, Mr. Emerson, is reported as having said there is no likelihood of an agreement being reached before Parliament rises in this particular part of the session. Therefore, it is clear that negotiations have stalled.

Can the Leader of the Government enlighten us as to the area of disagreement in these negotiations between Canada and the United States?

[ Senator Austin ]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, the talks have not stalled, they are continuing. As the honourable senator is from British Columbia and since he is a former cabinet minister, he would know that this is a very detailed process. Canada is working with all of the stakeholders in the United States to finalize the text of the agreement.

In that regard, I refer the honourable senator to comments made by the British Columbia Minister of Forests and Range, Mr. Rich Coleman, who said, as reported in today's *Vancouver Sun*, that negotiations are ongoing. He also expressed confidence that they will reach a successful end.

**Senator Austin:** Honourable senators, the Leader of the Government will also have noticed in the statement that Minister Coleman announced with respect to the beetle-damaged wood in British Columbia that there is a disagreement between British Columbia and the negotiators for the American side, with British Columbia having accepted an earlier American position that this wood should be priced according to market.

The story says that the American side is not prepared to accept market pricing for B.C. wood, but that they are prepared to negotiate levels that protect American producers. There is no free market. If that turns out to be something acceptable to the Government of Canada, the result would be control of the B.C. forest industry policy by the lumber producers' so-called fair trade group in the United States.

• (1440)

Can the minister assure us that B.C. will retain control over its forest policies according to market-based principles?

**Senator LeBreton:** I heard the word "if" in the honourable senator's question. I will not attempt to answer a hypothetical question. I will refer the question to Minister Emerson and respond via a delayed answer.

[Translation]

## OFFICIAL LANGUAGES COMMISSIONER

### APPOINTMENT OF REPLACEMENT

**Hon. Claudette Tardif:** Honourable senators, my question is for the Leader of the Government in the Senate. The current Commissioner of Official Languages' term expires at the end of July. We still do not know who will replace Ms. Adam. This is worrying. According to the President of the Fédération des communautés francophones et acadienne, Jean-Guy Rioux, this is, and I quote:

...an urgent matter, and very troubling. There must not be any lack of continuity with these issues.

Can the minister tell us whether the government will respect the Official Languages Act by introducing a motion in the House of Commons and the Senate to confirm the appointment of a new commissioner?

**Some Hon. Senators:** Hear, hear!



[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, there is no doubt about the support of this government for the Official Languages Act. I am confident that the position to which Senator Tardif referred will be filled at an appropriate time. This government would not do anything to cause difficulty for a new commissioner. As honourable senators know, the act is fully supported by this government and, first and foremost, by the Prime Minister.

[Translation]

**Senator Tardif:** Thank you, minister. There is some urgency, however, given all of the changes resulting from Bill S-3. The government must name a Commissioner of Official Languages as soon as possible. There are only a few weeks left.

Can the minister tell us whether this appointment will be made before we break for the summer? If not, why not?

[English]

**Senator LeBreton:** Honourable senators, Bill S-3 was important legislation that was brought before this chamber in the last Parliament. It received support from both sides of the chamber, including the Conservative Party, which was then in opposition.

I will make inquiries about the status of the appointments process. Having been in that position at one time myself, as was Senator Downe, I know that the consultation process can take time. I will consult with those people responsible and determine, hopefully before we rise for the summer, when we can expect someone to be named.

**Hon. Marcel Prud'homme:** Honourable senators, if an appointment is made soon, is it possible for the appointee to appear on the floor of the Senate, as has previously occurred? The good suggestion was made by our current Speaker to have officers of Parliament appear before us to satisfy ourselves that the person chosen is of top quality. It would be good for the Senate to have the opportunity to meet and question the person chosen.

**Senator LeBreton:** I totally agree with the honourable senator. The practice of having officers of Parliament appear before a Committee of the Whole in order that the Senate has an opportunity to question them is important. I remember that not long ago this practice was followed with the then Privacy Commissioner.

• (1445)

**Senator Prud'homme:** I voted against it.

**Senator LeBreton:** As did I. There were about 17 of us who undertook to vote against that position. It is a very important role. In this particular case, it will depend on when we announce this particular individual and whether that person can appear before we rise for the summer. Suffice it to say that this is a practice we should apply each time we appoint a new person as an officer of Parliament.

[Translation]

**Hon. Maria Chaput:** Honourable senators, this matter is urgent because the term expires at the end of July, and we are worried. The appointment of the next Commissioner of Official Languages has to be approved by the House of Commons and the Senate before the appointee can take over. If we do not receive this person's name until the end of June, and the current Commissioner of Official Languages' term expires at the end of July, is there not a possibility that there would be no commissioner for all of August and maybe even for September, until both Houses resume sitting?

[English]

**Senator LeBreton:** Honourable senators, I will certainly attempt to determine this after our sitting today. I do not think we are in danger of having the position vacant, although I am not sure. I should be careful when I speculate. When I leave this place today, I will certainly determine the status of that particular appointment.

**Hon. Percy Downe:** Could the minister advise if the government is considering whether to ask the incumbent to stay in office until the government appoints a new commissioner?

**Senator LeBreton:** Honourable senators, I was questioning in my mind whether this is one of those positions where, in fact, you could ask the incumbent to stay on until a suitable replacement is found. As the honourable senator knows, there are some instances where that procedure is unacceptable. I will take that question as notice and get back to the honourable senator.

## PUBLIC SAFETY

### FIREARMS CENTRE—REPEAL OF LONG-GUN REGISTRY—LIFETIME LICENSING SYSTEM

**Hon. Joan Fraser (Deputy Leader of the Opposition):** My question is for the Leader of the Government in the Senate and deals with a subject that concerns all Canadians, even more particularly, Canadian women, and specifically, Montreal women.

The Minister of Public Safety has tabled his proposal in the other place to eliminate the long-gun registry. Of the 176 homicides committed with firearms in Canada in 1995, 61 were committed with non-restricted rifles and shotguns. In 2004, there were 172 gun homicides, including 37 committed with rifles or shotguns. In addition, eight Ontario coroner's inquest juries examining firearm-related deaths recommended gun licensing and registration. The inquest juries did not make the distinction between restricted and non-restricted weapons.

Bearing all of this in mind, can the Leader of the Government in the Senate tell us how allowing the purchase or transfer of these weapons without registration serves Canadians?

**Hon. Marjory LeBreton (Leader of the Government):** On this particular issue, I have seldom seen an occasion as we have today, when both national newspapers, *The Globe and Mail* and the *National Post*, both congratulated the government for the legislation on the long-gun registry.

The fact is that people who wish to acquire a hunting rifle still must go through the same procedures as before. They still must apply for a licence. The only difference is the registry's attempt to track every long gun in Canada has been ineffective and costly to taxpayers. In addition, as is pointed out in both editorials, the long-gun registry per se has not been a useful tool for the police.

• (1450)

As a woman, I well remember the horrific tragedy in Montreal. I was working in the Prime Minister's office at the time. As a result of that horrific act, the most stringent and tough gun control laws were brought in by the previous government. The long-gun registry was introduced in 1995, I believe. The tough gun laws brought in as a response to the unfortunately named "Montreal massacre" were brought in by the previous government and the then justice minister, the Right Honourable Kim Campbell.

**Senator Fraser:** With respect, I may be better placed than anyone in this chamber to acknowledge that editorial writers can frequently be wrong.

**Some Hon. Senators:** Oh, oh!

**Senator Fraser:** Never is that more likely than when they leap into instantaneous agreement on something. I would take the word of the police who say they want this registry preserved ahead of any editorial writer.

**Some Hon. Senators:** Hear, hear!

**Senator Fraser:** The Leader of the Government in her answer reminded us that the gun licensing requirements will still be enforced. However, the government says it wants to move to a lifetime licensing system instead of having licences renewable every five years. That seems to me to be yet another weakening of the control that helps to ensure that inappropriate persons do not have firearms in this country. Could the minister explain how moving to a lifetime licensing system would serve Canadians?

**Senator LeBreton:** I am glad that the honourable senator acknowledges that editorial writers are not always right. I used to write her many letters when she was an editor and often she did not respond. It is nice to get an acknowledgment at this late date that perhaps she was wrong.

I cannot speak specifically to this idea of a lifetime registration. This government is committed to tough gun control laws. The toughest gun control laws in this country were brought in by the Right Honourable R.B. Bennett, in 1934, and then by the Mulroney government in the early 1990s.

The issue is simply the long-gun registry. All other strict licensing applies. Anyone who has been watching what has been going on in this country will be aware that the crimes being committed are often by guns that have been smuggled into the country illegally. When this issue was before the Senate in the mid-1990s, I asked if it would be better to spend this money on border security and homes for battered women.

[ Senator LeBreton ]

This government is taking the whole issue of gun crimes very seriously. That is why in the other place we have introduced legislation for mandatory minimum sentences for crimes committed with a gun.

**Senator Fraser:** The Conservative Party, when it was not the people now forming the government, used to talk a good line about restoring faith in Parliament and accountability and all those good things in which we all believe.

Last week in the other place, members of the Standing Committee on Public Safety and National Security passed a motion to keep the gun registry in its present form. What does that say about proper respect and the democratic process if the government, within a week, turns around and says, "We do not care what you say, this is what we want to do, anyway"? I do not see how the public interest is being served in all this.

• (1455)

**Senator LeBreton:** The way to resolve this issue is for Parliament to have a look at the legislation and discuss it with our constituents over the summer. It is clear there are members in all parties that favour the abolition of the long-gun registry — certainly, its abolition is favoured by people that represent rural areas, who deal with farmers and duck hunters.

The best way to deal with the issue of open, democratic accountability is to have a debate in Parliament and a vote on the actual bill. Then we will see a true reflection of the democratic process working in Parliament.

[Translation]

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to table in the Senate a response to a question raised in the Senate on June 7, 2006, by the Honourable Dan Hays regarding farm income — support programs.

## AGRICULTURE AND AGRI-FOOD

### FARM INCOME—SUPPORT PROGRAMS

*(Response to question raised by Hon. Daniel Hays on June 7, 2006)*

Senator Hays asked for time lines for several previously announced initiatives coming out of the 2006 Federal Budget, specifically the Enhanced Spring Credit Advance Program (ESCAP), the CAIS Inventory Transition Initiative (CITI) and the Cover Crop Protection Program (CCPP). ESCAP, together with the existing SCAP program, is now in place to provide our producers with increased levels of government-sponsored advances. ESCAP is an interim measure until amendments can be made to the *Agricultural Marketing Programs Act* (AMPA). Bill C-15 has now passed through the House of Commons and we are hopeful that all parties in the Senate will cooperate in order to have it ratified by the end of June.

Federal officials are working to implement the \$900 million CITI, which will provide Canadian Agricultural Income Stabilization (CAIS) program participants with a retroactive inventory calculation for the 2003 and 2004 starting this fall and the 2005 program year starting early in the new year. Changes to CAIS to modify the criteria for negative margin coverage for the 2005 and 2006 program years are also included. As soon as the agreement with the provinces is ratified, 2005 CAIS files will be processed with the new negative margin rules. An additional \$50 million in federal funding has been made available for this initiative.

Over 500 CCPP applications have already been sent and we expect that 2005 payments will begin in August.

In regard to Senator Hays' second question on basing government payments on producers' gross rather than net income, federal officials are currently looking at options for separate income stabilization and disaster programs. Within this context, several options are being looked at. Federal officials are currently working with their provincial counterparts and consulting with industry groups across the country. These industry consultations are key to ensure any resulting programs are responsive, transparent and bankable for all involved.

Finally, Senator Hays also asked about the availability of programs to help producers manage serious financial problems, including, if necessary, transitioning out of agriculture. The federal government is aware of the unfortunate reality that producers do find themselves in these types of situations. As such, we have programs under the Renewal component of the Agricultural Policy Framework (APF) to help these producers, including the Canadian Farm Business Assessment Services, which provides professional consultation services for financial planning and follow ups, the Specialized Business Planning Services, which helps producers develop business plans, the Farm Debt Mediation Services, which assists insolvent farmers reach agreement with their creditors, and the Canadian Agricultural Skills Service (CASS) program, which helps farmers and their spouses develop skills needed to improve their on-farm and off-farm prospects.

#### ANSWERS TO ORDER PAPER QUESTIONS TABLED

##### HUMAN RESOURCES AND SOCIAL DEVELOPMENT— EMPLOYMENT INSURANCE ACT— COMPASSIONATE CARE LEAVE BENEFIT

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** tabled the answer to Question No. 8 on the Order Paper—by Senator Carstairs.

##### HERITAGE— FEDERAL MUSEUMS ASSISTANCE PROGRAM

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** tabled the answer to Question No. 9 on the Order Paper—by Senator Carstairs.

[English]

#### THE SENATE

##### TRIBUTE TO DEPARTING PAGES

**The Hon. the Speaker:** Before proceeding to Orders of the Day, from today until the end of the week, we will be saying farewell to departing pages and wishing them good luck for the upcoming year.

[Translation]

After spending a very rewarding first year in the Senate page program, Joannie Jacob, from Maniwaki, Quebec, will be leaving us when this session of Parliament adjourns. In September she is headed for the University of Grenada, in Spain, to study for a year.

[English]

Christian Dicks, our representative from St. John's, Newfoundland and Labrador, is honoured to have served as a page in the Senate of Canada during the last two years. He will continue his studies at the University of Ottawa in the Bachelor of Commerce program.

Third, Bhreagh Dabbs is proud and honoured to have had the opportunity to work as a Senate page for the past year. She looks forward to spending the summer at her home in Whitehorse, Yukon, and then will be off to study at the University of Dar Es Salaam in Tanzania next year. We wish these pages well.

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#### ORDERS OF THE DAY

##### AGRICULTURAL MARKETING PROGRAMS ACT

##### BILL TO AMEND—THIRD READING

**Hon. Leonard J. Gustafson** moved third reading of Bill C-15, to amend the Agricultural Marketing Programs Act.

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

**Hon. Senators:** Agreed.

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

Motion agreed to and bill read third time and passed.

• (1500)

[Translation]

## CONSTITUTION ACT, 1867

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator LeBreton, P.C., seconded by the Honourable Senator Comeau, for the second reading of Bill S-4, An Act to amend the Constitution Act, 1867 (Senate tenure).

**Hon. Maria Chaput:** Honourable senators, with Bill S-4 the government wishes to limit the parliamentary tenure of senators to eight years. Although I do not object to this principle, I do have some concerns regarding the intentions of the current government to diminish the role of the Senate in the legislative process of the federal government. In the *Reference re: Authority of Parliament in Relation to the Upper House*, known as the *Senate Reference* of 1980, the Supreme Court of Canada stated that reducing the length of tenure could hinder the proper functioning of the Senate which, in the words of Sir John A. Macdonald, provides a “sober second thought” to legislation.

On June 8, the Leader of the Opposition in the Senate, the Honourable Daniel Hays, reminded honourable senators that, in 1980, the Supreme Court clearly stated that, if tenure was decreased, one of the Senate’s essential characteristics, namely providing sober second thought to legislation, could be impaired. Is that what we want for the Upper House of the Canadian Parliament?

Let us also not forget that the expertise, life experience and professional background of senators play a vital role in the operation of the Senate of Canada. In the work of our colleague, Senator Joyal, *Protecting Canadian Democracy*, former Quebec minister Gil Rémillard reminds us of the essential characteristics and fundamental features of the Senate: independence, long-term perspective, continuity, professional and life experience, and regional equality in accordance with the principles of federalism.

Mr. Rémillard said:

These five attribute were central to the analysis that the Supreme Court conducted of the Senate in the 1980 Reference, and they still constitute the very basis of the Senate’s existence.

Even if there is room for improvement in the operation and composition of the Senate, the fact remains that it is a vital organ in the machinery of federal government in the context of the Canadian federation. It is a house whose role and representation are different and distinct from those of the House of Commons. It is a house that represents the regions and the minorities. In other words, as Senator Joyal said so well, compromising the role and functions of the Senate and the principles of federalism and a responsible government would be equivalent to violating a fundamental principle of the Constitution.

On June 8, our colleague Senator Claudette Tardif said:

...to change the length of terms without considering other aspects of Senate reform and without a clear understanding of reforms to come could be prejudicial to the functioning of the Senate and of Parliament as a whole.

Our colleague was concerned about the representation of the regions and minorities, as am I. How can we move forward with the bill before us when we still do not know what other changes the current government is considering? Let us not forget that the Upper House has a distinct role from the House of Commons.

As I just mentioned, two aspects of representation in the Senate are crucial: regions and minorities. Nearly all modern western democracies have a bicameral legislative system, and in these democracies, the upper chamber commonly provides independent regional representation. Also, what will happen to the representation of women, official-language minorities and Aboriginal people?

[English]

Also, one cannot talk about the Senate in isolation; the Senate is only a small part of the governance structure of the Canadian federation. In February 2004, the Honourable Senator John Lynch-Staunton, in an address to the Halifax Club, reminded his audience that the Senate was created with a great national purpose: to give regions equal representation at the federal level and to protect the rights of the minority.

In a recent article, Canadian journalist Peter Worthington stated that Confederation needs the Senate. He said, “The Senate is the only chamber in which the provinces have — or should have — equality.” He even goes on to commend the work of Senate committees.

In April of this year, the *Winnipeg Free Press* published an editorial in which it reminded Canadians that:

On a national level, however, the Senate supplies the first line of defence — as Georges-Etienne Cartier, one of the Fathers of Confederation said, it enables the “power of resistance to oppose the democratic element.” That is a more democratic thought than it sounds — the Senate offers a defence against the absolute power of the majority that governs a democracy.

[Translation]

Like our leader in the Senate, the Honourable Dan Hays, who, in his remarks in the Senate on June 8, said that he had many questions about this bill, I think that this bill raises numerous questions and concerns.

[English]

What worries me in Bill S-4 is not what is mentioned but what is not mentioned — the government’s other intents and future amendments. Prime Minister Harper says this bill is just the beginning of his plan, but we need to see the full plan before an informed decision can be taken. In a recent editorial, *The Globe and Mail* called Mr. Harper’s attempt at Senate reform “piecemeal fiddling.”

Honourable senators, many questions need to be addressed. What does the government really wish to accomplish with Senate reform? Has it thought the process through? Has the government given due consideration to the members of the federation — the provinces and territories — to women, to Canada's native peoples, to official-language minorities, to our nation's cultural mosaic? If elections were held for Senate seats, how would these various groups succeed in being represented?

Would elections in the Senate in some way undermine the role and responsibility of the House of Commons, since we would then have two Houses with elected representatives? If not, what measures will be taken to ascertain that both chambers have complementary roles? Bill S-4 is the prelude to what other amendments intended by this government?

[Translation]

When we eventually address the issue of representation in the Senate, what mechanisms does the government plan to use to ensure that Aboriginal people, official-language minorities, women and ethnocultural communities are equitably represented?

Will the mechanisms that are adopted fit better with an electoral process or with the system of appointments that we have at present? These questions are unanswered at present.

Canadians want change, but not at any cost. Generally speaking, they are unfamiliar with the purpose of the Senate. We all have a responsibility to help them gain a better understanding of the upper chamber, what it represents in Canada's parliamentary system, what it accomplishes, and what the members of this chamber do.

Our former colleague, Senator Gérald Beaudoin, recently told me that the beauty of the Senate is what is not seen. How true! In an article our constitutionalist former senator published in the June 15 issue of the newspaper *Le Droit*, he said this:

It would be a mistake to abolish the Senate. The Senate provides an opportunity to improve legislation. That alone is a huge benefit! The Senate committees are very effective and very useful.

[English]

Honourable senators, Canadians want change but not at any price. Canadians want change that will make the Senate stronger and a better representative of Canada's provinces and territories, and a more efficient mouthpiece of the various interests of Canada's many peoples.

Young Canadians too are taking interest in what might happen to the Senate. A University of Manitoba student, Miss Linnea Ingebrigtsen, presented me with a paper she wrote entitled, "The Canadian Senate: Is reform the answer?" In her introduction she states:

This paper will submit the argument that the Canadian Senate should not be reformed until a credible and effective proposal is identified, which is either compatible with the Senate's current role and mandate or addresses and appropriately implements the altering of the Senate's role through reform.

Her paper addresses the current state of the Senate, gives historical background, considers the advantages and disadvantages of the Canadian Senate's present structure and functioning and examines the various reforms proposed for the Senate. Ms. Ingebrigtsen addresses the question of why the Senate works. She states,

The Senate is very good at studying and amending proposed legislation. On the whole, senators have more experience, hold their seats for lengthy time periods/continuity and there is better quality of representation. These are all reasons why committees and committee investigations are often better than those of the House of Commons.

• (1510)

In her conclusion, Ms. Ingebrigtsen states the following:

When attacking the Canadian political system, critics often strike the Senate first. Thus, when something is not accomplished, many mistakenly attack the Senate when the House of Commons is the primary problem. The intent of the Fathers of Confederation was not to have the Senate treated like a punching bag but a house of reflection that helps keep the House of Commons in check.

[Translation]

Honourable senators, Canadians and our young people have shown a lot of interest in Bill S-4. Let us once again take advantage of this opportunity to explain the important work the Senate of Canada does and the concerns raised by this debate on Senate reform.

If the eight-year term is adopted, will an elected Senate be the next step? I think that we should always avoid simply transplanting formulas without taking the context into account. It is always good to share ideas and find new solutions. It may be useful to compare how other countries have solved certain problems and to examine a variety of possible solutions. However, no universal formula can apply to all countries. We have to find our own.

The Senate of Canada is a place of work and tradition. It plays a special role in legislation. Senate committees are often considered to be the heart and soul of the Senate. Time and time again, women, Aboriginals, and minorities have played an important role in the Senate. Their contributions to changing the Government of Canada's policies and amending bills show that the Senate is a useful forum in which Canada's various regional, linguistic, cultural and socioeconomic interests are represented.

Honourable senators, I am ready to consider change, but not change at any cost.

[English]

**Hon. David Tkachuk:** Will the honourable senator take a question?

**Senator Chaput:** Yes.

**Senator Tkachuk:** I am trying to understand the Liberal position, and I am not sure whether the honourable senator's position is the Liberal position or her own. I have heard much talk and a number of speeches that have been given about Senate reform and elections.

This bill calls for an eight-year appointment rather than an appointment to age 75. Is the honourable senator opposed to the eight years rather than age 75, or is she opposed to the number "eight," and perhaps it could be "12" or "10"? In other words, in principle, is she opposed to having a senator appointed for a number of years rather than to age 75, no matter the number of years? Perhaps she could answer that.

[Translation]

**Senator Chaput:** My speech today was from a very personal perspective. In principle, I do not oppose an eight-year term per se; however, I have many questions. Before agreeing to this change, I would like answers to other questions. For example, if we go ahead with an eight-year term, what will happen to this house? If you had been offered an eight-year term in the Senate of Canada, how many of you would have accepted? Would it have got in the way of an existing career that we could not, or would not, have left? Would you have agreed to sit in the Senate for eight years, instead of until the age of 75, because that would have been fine with you? I ask myself these questions. It is not the term of eight years that is making me hesitate most. My biggest problem will be with an elected Senate and what this would mean in terms of the composition of the Senate and the work we must do.

[English]

**Senator Tkachuk:** In other words, on the principle of the bill, with respect to the number of years being eight or maybe ten, the honourable senator seems to be generally satisfied. She might be concerned that we might not have enough applicants for the job. My view would be that if we did a survey of Canadians asking whether they would accept an eight-year appointment, millions of them would ask how fast they could send in their application.

If we take away the question of suitability of applicants, the bill does not say much more than that. It limits a senator's appointment to eight years rather than age 75 when he or she could be 35, 50 or 72. We have many who have accepted appointments at a later age.

[Translation]

**Senator Chaput:** Honourable senators, one of my concerns regarding the length of term, whether it is eight years or ten, has to do with the continuity and life experience in the Senate.

Here is a concrete example. We had a constitutionalist. As you all know, they are few and far between. If he were elected, would he agree to sit in the Senate for a period of eight years? Would eight years be enough in such a case? I do not have the answer. I do not know. Would ten years be better? I do not have the answer.

I have many more questions than answers. This is why we must consult and talk with the people around us. However, I would like to point out that the young university student and other youth

I have met are seriously questioning the notion of an eight-year term. Some of them asked me if eight years in the Senate is long enough to accomplish our work and to ensure the continuity that we currently enjoy.

[English]

I said to them that I do not know. We will find that out.

**Hon. Jack Austin:** Honourable senators, I congratulate my colleague Senator Chaput for her contribution to this debate. I wish to tell Senator Tkachuk that the question he asks might be relevant if we were dealing with a constitutional amendment that took into account the provinces because then we would have the policy question before us. However, as he will shortly learn, that question is not relevant to debate under Bill S-4.

Honourable senators, Bill S-4 raises several critical issues that go to the core of the *raison d'être* of this chamber. Constitution-making is a seductive business. Many of us in this chamber, particularly Senator Murray, will well recall previous attempts to amend the Canadian Constitution, including changing the way the Senate is constituted. Many Canadian statesmen and women, academics, journalists and so-called ordinary Canadians have scars from the attempts of the last Conservative government to amend the Constitution in the late 1980s. I have some sympathy with Prime Minister Harper's desire to do an end run around the Constitution by trying to effect changes to this chamber without opening discussions with the provinces. However, honourable senators, the Prime Minister's wish cannot be our command. We answer to the Constitution. I am very concerned that Bill S-4 does not meet the first and foremost test, namely, that of constitutionality.

The Leader of the Government told us that Parliament can proceed with this proposed amendment to the Constitution relying on the powers under section 44 of that Constitution. I am far from convinced that she is correct.

• (1520)

Before proceeding with Bill C-60, the government of Prime Minister Trudeau in 1978 asked the Supreme Court of Canada whether any or all of a series of changes to the Senate could be effected by the Parliament of Canada enacting legislation alone. Among the queried changes was "to change the tenure of members of that House." The Supreme Court said:

At present, a senator, when appointed, has tenure until he attains the age of seventy-five. At some point, a reduction of the term of office might impair the functioning of the Senate in providing what Sir John A. Macdonald described as "the sober second thought in legislation." The Act contemplated a Constitution similar in principle to that of the United Kingdom, where members of the House of Lords hold office for life. The imposition of compulsory retirement at age seventy-five did not change the essential character of the Senate. However, to answer this question we need to know what change of tenure is proposed.

The citation is *The Upper House Reference*, [1980] 1 S.C.R. 54, and the quotation is from pages 76-77.

As a general summary of the law and what changes may or may not be made by the Parliament of Canada on its own, the Supreme Court said:

Dealing generally with Question 2, it is our opinion that while s. 91(1) would permit some changes to be made by Parliament in respect of the Senate as now constituted, it is not open to Parliament to make alterations...

— and I want to emphasize the following words —

...which would affect the fundamental features, or essential characteristics...

— I will repeat —

...which would affect the fundamental features, or essential characteristics, given to the Senate as a means of ensuring regional and provincial representation in the federal legislative process. The character of the Senate was determined by the British Parliament in response to the proposals submitted by the three provinces in order to meet the requirement of the proposed federal system. It was that Senate, created by the Act, to which a legislative role was given by section 91. In our opinion, its fundamental character cannot be altered by unilateral action by the Parliament of Canada and s. 91(1) does not give that power.

That appears at pages 77 and 78 of the report.

Honourable senators, opinions may differ as to whether an eight-year term would affect the fundamental features or essential characteristics given to the Senate, but how will an eight-year term preserve the fundamental features and essential characteristics? We were told by the Leader of the Government that the intention is for this term to be renewable; that is, each senator could be reappointed by the Prime Minister of the day at the end of the eight-year term.

The Leader of the Government was careful to link the reappointment possibility to the government having established a procedure to appoint only senators who have been elected in a specific jurisdiction. Honourable senators, we must reject such considerations as they are not in fact before us or anywhere near to being a reality. Notwithstanding the statements by the Prime Minister and the Leader of the Government in this place that the bill before us is but “an important first step in a longer process of reform” of the Senate — implicit in this being that the next step will be further progress towards the election of senators — the proposal before us relates only to limiting the term, and that is all that should be discussed on its merits.

We must avoid any temptation to muddy the waters with talk of “assuming a senator has been re-elected.” We now address only the constitutional validity and conceptual desirability of an eight-year term for the Senate as it is in the bill before us, which we are told includes the possibility of reappointment.

I think a strong case can be made that the fundamental features or essential characteristics given to the Senate would indeed be affected by this proposal. Certainly, a senator’s independence would seem to be affected by the reappointment possibility. This

is something we would never accept for judges, on the ground that it would undermine their independence and impartiality. How could the same principle not apply here?

Interestingly, Roger Gibbons, president of the Canada West Foundation, of Calgary, Alberta, and one of the strongest proponents of Senate reform back in the 1980s and 1990s, wrote an article this past February entitled, “Let’s not rush Senate reform,” in which he argued that “the world has changed since the early days of the Senate reform movement.” He wrote:

...the most compelling case for Senate reform today may be one based on democratic principles rather than on the need for better regional representation. The need to check excessive concentration of political power in the hands of the prime minister and cabinet will remain even if the saliency of regional identifications begins to fade.

I put in emphasis that last sentence.

Yet, to the contrary, the proposal before us would enhance and increase the Prime Minister’s concentration of power, as the Prime Minister would have the power to appoint and reappoint senators after every eight years.

Numerous articles have been written over the years commenting on the value added by members of this chamber to both our legislative work and our investigative studies, based on the years of experience in this chamber and the historic memory that those years provide. In the article he contributed to Senator Joyal’s excellent book on the Senate, Professor Emeritus C.E.S. Franks wrote specifically about the benefits of the long tenure for the investigative work conducted in the Senate, especially as contrasted to that of the other place.

Of course, the Fathers of Confederation were explicit in drafting the Constitution that the Constitution of Canada was “similar in principle to that of the United Kingdom.” As the Supreme Court noted in the 1980 *Upper House Reference*, under the Constitution of the United Kingdom, “members of the House of Lords hold office for life.”

That contrasts with the statement made by Prime Minister Harper shortly after this bill was introduced that there is no legislature that holds its term by appointment. He had forgotten, of course, about the Constitution and the House of Lords.

I am not arguing, as I have said, the merits of an eight-year term versus a 12-year term or any other term versus tenure to the age of 75. My point is that the proposed change before us would appear to affect “the fundamental features or essential characteristics given to the Senate.” As a consequence, there is a real question whether or not this proposal is constitutional.

Honourable senators, when proposing to tamper with the Constitution in an area that one alleges is within Parliament’s exclusive authority to amend, we cannot make a mistake. It would be egregious to pass this bill to go to an eight-year term and then later find it is unconstitutional. This would create confusion, disruption and antagonism. It would be a mess.

Before this bill proceeds, if it is to proceed, we must have a reference to the Supreme Court of Canada on the constitutionality of the proposed amendment.

Honourable senators, the provinces have a substantial interest in this bill as well. From the beginning, the Senate was established to represent the regions, or "sections," as they were termed back then. Sir John A. Macdonald said during the debates on Confederation:

To the Upper House is to be confided the protection of sectional interests: therefore is it that the three great divisions are there equally represented for the purpose of defending such interests against the combinations of majorities in the Assembly."

That is a useful phrase, bearing in mind other legislation that may come before us.

The Supreme Court in the 1980 case reviewed the history of the Confederation debates and concluded:

A primary purpose of the creation of the Senate, as part of the federal legislative process, was, therefore, to afford protection to the various sectional interests in Canada in relation to the enactment of federal legislation.

What impact would reducing our term to eight years have on our representation of our regions? In particular, what impact would the carrot of possible appointment by the Prime Minister of the day have on this representational role and its independence? Would we still be protecting provincial and territorial interests primarily, or would other personal and political considerations arguably then come into play?

Certainly, honourable senators, there is no unanimity among provincial premiers of what is to be done — if anything — with the Senate. Some are adamantly opposed to senatorial elections. Others are ready now to conduct elections. We heard from Senator Ringuette that New Brunswick Premier Lord has announced his intention to hold senatorial elections at the same time as municipal elections. However, Senator Ringuette told us, only 72 per cent of the population lives in incorporated areas and would be allowed to vote in this process.

Honourable senators, it seems to me this is an excellent example of a member of this chamber defending the interests of minorities within her region against the decision of the majority-elected body. It reminds us that premiers — perhaps like our Prime Minister — do not speak with the Constitution in mind.

• (1530)

I believe that the position of the previous two governments, led by Prime Minister Chrétien and Prime Minister Martin, is the correct position to take. That position is to tell the provinces to come with a unanimous recommendation on Senate reform.

Honourable senators, a precondition of any Senate reform for British Columbia, as expressed by Premier Gordon Campbell, is a Senate membership which would closely represent B.C.'s role in Canada's federalism. B.C. is a formal fifth region of Canada, and, it would be argued, is entitled to a representation of 24 senators.

My key point, honourable senators, to be clear, is that the Senate is not an urgent, pressing issue; it is not a burning issue for Canada or for most Canadians. As I mentioned earlier, one of the

strongest proponents for years of Senate reform is now urging this government to go slow. Roger Gibbons of the Canada West Foundation wrote in February:

The firestorm that erupted when Prime Minister Stephen Harper appointed Michael Fortier to the Senate, and to the cabinet as Minister of Public Works and Government Services, may be a blessing in disguise.

With luck, Harper will pause before making any more moves on the Senate front. This pause is critically important because Canadians lack a coherent roadmap for Senate reform. We need time to regroup before trying to move forward on this difficult policy file.

I agree that we need a coherent road map before proceeding with piecemeal amendments such as the one before us now. I pay close attention to concerns expressed about the Senate. I have heard calls for an elected Senate; I have heard many calls for changes in the regional representation, to increase the representation in particular of British Columbia and Alberta and recognize both their significant population size and economic contribution to Canada. Honourable senators, I have not noticed a growing fury across the land demanding eight-year terms for senators.

Senator LeBreton noted with approval earlier today editorials in *The Globe and Mail* and *National Post* on the new long-gun registration and said they were a justification for that legislation. Both those papers and *The Vancouver Sun* have said that this bill is tampering only and should be dropped. No doubt, that is persuasive for Honourable Senator LeBreton.

The facts are that during the recent election campaign, now-Prime Minister Harper promised to reform the Senate. He is now seeking to fulfill that promise. However, just as he promised to lower taxes and then proceeded to raise them — using carefully chosen words to persuade Canadians that in fact he was fulfilling his promise — so here he is promising one thing and doing quite another.

Senator Hays described in detail the Conservative platform promise to create a process for choosing elected senators from each province and territory. I do not see in Bill S-4 the promise to "propose further reforms to make the Senate an elected body that equitably represents all regions." I do not see any of that in Bill S-4.

I do not recall any rallying cries from Mr. Harper for eight-year terms for senators. This, like so many other of his election commitments, is a non-policy designed to enable the Conservatives to place a check mark next to a promise, but it fails utterly to tackle the real issues of concern.

**The Hon. the Speaker:** Senator Austin seeks an extension of five minutes.

**Hon. Senators:** Agreed.

**Senator Austin:** Thank you, honourable senators. I have so much more I want to say. I will put it together in five minutes.

[ Senator Austin ]



I want to say that this bill makes no real improvements to this place. What is presented in Bill S-4 is simply illusionary. I do not believe the proposal to be a serious proposal for Senate reform. However, that is not to say that I reject the idea of Senate reform; to the contrary, I believe this country needs a thoughtful discussion in this country of our political institutions — this chamber and the other place, as well — so that we can make Parliament itself work more effectively for Canadians.

The central criticism with which we are all familiar, that the Senate does not reflect contemporary democratic principles, in my view, fails to confront the critical principle on which the Senate was founded; namely, the principle of indirect representation. The concept was, in the House of Commons, you have “democracy fast;” in the Senate, you have “democracy slow.” Based very much on the British House of Lords, the Senate was formed as a “council of elders” to act as a check and balance on the popular mandate. The Fathers of Confederation were very much aware of the concepts adopted in the United States with respect to checks and balances.

I must tell you, honourable senators, I believe that we need a stronger center in this country politically, and I find it worrisome to see this Prime Minister, on one hand, paradoxically seeking to divest Ottawa of economic power over national policy, while at the same time, in proposing the election of senators, shifting political power to the center. In the long run, that political power will recall any economic transfers that may be given to the provinces.

Honourable senators, the proposal in the bill today before us is not serious and should be recognized for what it is; a proposal thrown together so that the Prime Minister can tell the Canadian electorate he has fulfilled an election promise. We know better. He promised to “begin reform of the Senate by creating a national process for choosing elected senators from each province and territory.” As I said, nothing in this bill addresses that promise. As drafted, the bill strengthens the Prime Minister’s power of appointment of senators by ensuring it will be exercised every eight years for each senatorial position. It tightens the Prime Minister’s control over senators beyond any that currently exists or has ever existed in this country by embedding the possibility of reappointment.

Let us be clear. There is no transparency about the proposed appointment process, and certainly no accountability to Canadians with respect to appointments — only, as I say, accountability to the Prime Minister of the day.

Honourable senators, I say to you that a debate on the reform of Senate and of Parliament is waiting, and Canadians would seek it. They seek to understand our process much better than they do today. Honourable senators, this bill does nothing, contributes nothing, and should be dismissed.

**Hon. Lowell Murray:** Honourable senators, there have been some very good speeches in this debate. I regret that I have very little, if anything, new to add. I am on the record in media reports as saying the government should refer this bill to the Supreme Court of Canada to determine whether the federal Parliament, acting under section 44 of the Constitution Act 1982, can set a fixed term of eight years for future senators.

A number of honourable senators, myself included, who were ministers in or otherwise associated with previous governments have indicated that those governments were dissuaded from going down this road because of concerns that such amendment would require the consent of two thirds of the provinces having at least 50 per cent of the population of Canada. In other words, the proposed change could only be made under section 38, the general amending formula.

I acknowledge that the present government may be proceeding on the basis of different advice and/or of different advisors. The Leader of the Government in the Senate, when she opened the debate on June 1, indicated that the government had taken counsel with at least two outside advisors whom she identified as former Senator Gérard Beaudoin and Professor Patrick Monahan. If this bill goes to committee, we will no doubt hear other experts on both sides of the question. However, the definitive word must come from the Supreme Court of Canada, and I agree with Senator Austin that it is better that a determination be sought now rather than later.

• (1540)

The tenure of senators is not among the specific matters enumerated in section 42 as requiring the consent of provinces for amendment. However, amendment of “the method of selecting senators” does require provincial consent. One of the issues is whether “the method of selecting senators” implicitly includes the mission for which they are selected, that is, to hold office until the age of 75.

A larger and more profound issue is whether a change to an eight-year fixed term is mere housekeeping and therefore within the exclusive powers of Parliament. I use the term “housekeeping” advisably. It is a quotation from the 1980 judgment of the Supreme Court of Canada to which Senator Austin and others have referred. The life tenure established in 1867 was for the purpose of ensuring the independence of the Senate and the change to a retirement age of 75 in 1965 was not seen to have undermined that principle.

The Supreme Court in 1980 described our independence as a “fundamental feature” of the Senate. If the imposition of an eight-year term is not “housekeeping” but a major change that would also possibly compromise our independence then, following the reasoning of the 1980 judgment, the change is beyond the power of Parliament acting alone.

My objection to this bill is not solely that it may be unconstitutional. Even if the proposed change to a fixed term of eight years was found to be within the exclusive power of Parliament, I would still have serious reservations about it and about the manner in which the government is proceeding.

We have a bicameral Parliament in a federal country. Those institutions — and we must never forget this — Crown, Senate, Commons and federalism — are intimately related. A substantive change to one will most often affect one or more of the others and therefore the whole structure directly or indirectly.

It seems to me the government is trying to advance two mutually contradictory arguments for this bill. One is that a fixed eight-year term for senators is a modest and discrete institutional change worthy of support on its own merits. The second

contradictory argument is that this is a first step, part of an overall Senate reform, the rest of which will be revealed to us in the fullness of time.

The Prime Minister has referred to it as a first step and has indicated that the next step to be undertaken before the end of this mandate will be election of senators. The Leader of the Government in the Senate has confirmed this. In answer to questions following her speech on June 1 as to whether the proposed eight-year term will be renewable, the minister repeated several times that the eight-year term is predicated upon election of senators and therefore would be renewable.

Under what authority will these senatorial elections be held? How and by whom will senators be elected? Will the elected Senate have the same powers, more power, less power or different powers than the present Senate? What is to be done about the glaring geographical imbalance in representation, in particular the under-representation of Western Canada in this place?

We must not pretend, as the government would have us do, that these questions of selection, of powers and of regional representation are irrelevant to the major change in future senators' tenure that is proposed in this bill.

I have no doubt that there is significant support among Canadians for some kind of reform of the Senate. However, the country should not be asked to swallow, and Parliament should not force upon the country and upon our federal parliamentary democracy, a piecemeal initiative which may or may not add to the legitimacy and effectiveness of the Senate, depending upon whether and what other changes are made to the institution.

Four years ago I was part of a committee that succeeded in persuading the political party to which I then belonged to approve a resolution calling for recognition of British Columbia as a distinct Senate Division and to redefine the Western Division as Alberta, Saskatchewan and Manitoba. I even suggested I might take the initiative and bring forward a motion in the Senate to begin the process of amending the Constitution to this effect.

Last month, on May 3, in reply to a question from Senator Gustafson during the Throne Speech debate, I agreed with him about the under-representation of Western Canada in this chamber and indicated again that I was prepared to bring in a motion for a constitutional amendment to help redress that imbalance.

Later this week, I hope to be in a position to table a notice of motion to amend the Constitution Act, 1867 in this respect. If the Senate passes such an amendment, it will have the effect of reopening consideration of Senate reform in general and will focus the attention of the other players in the amending process, the provincial legislatures and the House of Commons, on the intimately related matters of election of senators and powers of the Senate.

Honourable senators, we tend to be somewhat hesitant, even diffident, when we have to criticize initiatives that touch the Senate. Even though Bill S-4 does not change the tenure of senators now in office, we are sure to have some kind of selfish

motives attributed to us by the numerous commentators and practitioners of the cheap shot who never come near this place or have the slightest idea of the role the Senate plays in our parliamentary democracy today. None of us should be intimidated by this.

**Some Hon. Senators:** Hear, hear!

**Senator Murray:** All of us understand the pressures and, indeed, the urgency that the present Prime Minister and government may feel to be seen to be "doing something" about reforming the Senate. There is an awful lot of history to this. They have a lot of history and they cannot be reasonably expected to turn their backs on it. However, we have no right to try to amend the Constitution of Canada in response to some popular impulse alone.

We who are for the time being the trustees of this chamber and of Parliament have the duty to consider these matters in a wider and longer context. In that respect, I welcome the initiative taken by the Deputy Leader of the Opposition today to strike a special committee of this place to consider Senate reform in general, if I understood the motion properly. I hope that before the Senate is asked to pronounce on this bill at second reading that the subject matter of the bill be referred to that special committee.

**Hon. Hugh Segal:** Honourable senators, would the Honourable Senator Murray take a question?

**Senator Murray:** Yes.

**Senator Segal:** I noted the modesty with which the honourable senator referenced his own distinguished efforts around constitutional reform both as it related to the Meech Lake Accord and the Charlottetown accord in which there were specific references to the reform of this place. Honourable senators, I am sure, will have noted that despite the good faith on most sides of that debate progress was almost impossible.

The notion, therefore, that one cannot proceed with any reform until one can proceed with an entire reform, including the variety that would require provincial agreement under the Constitution implies, in essence, that we can make no changes, we should endeavour to make no changes, no duly elected government in the other place should make any changes, and that as such we should be prepared to accept whatever the insufficiencies, which have to be weighed against the great strengths and other contributions of this place, and that this particular part of our democratic framework cannot be changed. Is that a fair reflection of what Senator Murray just said?

**Senator Murray:** My honourable friend has mentioned both the Meech Lake Accord and the Charlottetown accord, both of which I was associated with as a member of the Mulroney government. Let me return the compliment by reminding the honourable senator of his important role as an adviser to the Ontario government of Premier Davis at the time in bringing in the Constitution Act, 1982. I say that for a very good reason. I am sure there are measures that we can take on our own to improve the functioning of the Senate. In 1982, the new Fathers of Confederation, in their wisdom, decided that major changes to the Senate could only be made on the basis of a general amending

formula involving the House of Commons, the Senate with a suspensive veto, and seven provinces with 50 per cent of the population, or truly major change, that is, abolition, that would require unanimous consent of the provinces.

• (1550)

They did that for a reason, and I suggest that the reason is that they had the opportunity and responsibility to look at our parliamentary democracy as a whole and they decided that to proceed with any important change should require a national consensus and should not be the subject of tinkering.

**Hon. Senators:** Hear, hear!

**Hon. Anne C. Cools:** Honourable senators, I wonder whether Senator Murray has given any thought to the fact that this purported constitutional amendment, which is actually a simple bill, has arisen out of nowhere but someone's head. My understanding is that attempts to amend the Constitution should arise only after long and vigorous public debate and expression of opinion in proper fora. I was always under the impression that constitutions should not be amended on the whim or fancy of any individual.

**Senator Murray:** That would be my position also. However, in fairness, I must say that the issue of a fixed term for senators has come up before on numerous occasions, and I alluded to this in my speech.

In 1988, our colleague Senator Joyce Fairbairn suggested in a speech in Alberta a number of changes that she thought may be made using section 44. One of those changes was a six-year term for senators.

As I have said to the media, and I must be careful about how far I go on this, I looked into the matter when I returned from Edmonton where Senator Fairbairn and I spoke and found that such a change would require the consent of seven provinces with at least 50 per cent of the population of Canada; in order words, the general amending formula, section 48.

**Senator Cools:** Since Senator Murray was at the time a minister of the Crown, perhaps he could formally share some of those legal opinions with us in the future. If that is possible, it would be interesting.

My question for the honourable senator relates to the fact that we seem to be in an era where our history has been ruptured and we have been severed from it instantaneously. We use words in simplistic ways which words are supposed to have profound, measured and practised constitutional meanings over centuries.

Senator LeBreton referred to tenure of senators, and the bill itself, in its short title, uses the term "Senate tenure." My understanding of the word "tenure," used in a constitutional sense, is that it does not and cannot mean eight years or four years. "Tenure," in a constitutional sense, means longevity of time and also imports into it a peculiar kind of independence and separateness from control by the executive, the ministry. There was a point in time when tenure was viewed as something like a land grant, an estate for life. It bothers me deeply, honourable senators, to see what we are doing.

**The Hon. the Speaker:** Order. I am advised by the table that the 15 minutes allotted to Senator Murray has expired. If he were to request an extension of five minutes, Senator Cools could continue.

**Senator Comeau:** We agree to no more than five minutes, as usual.

**Senator Cools:** Senator Murray is a former minister and former leader in this place. We could be generous, in my view, and give him more time.

We are now in an era where definitions and comprehensions that were crystal clear ten years ago are no longer understood by large numbers of people. My understanding is that the constitutional meaning of "tenure" cannot be three, four or five years. Even in the universities, when a professor got tenure, it meant something.

In the years that Senator Murray served as minister and leader here, he was put through a significant amount of grief, particularly on the issue of the GST.

Notwithstanding all of that, in Senator Murray's research in response to Senator Fairbairn's concerns, did he encounter or deal with the real and significant constitutional meaning of "tenure"?

**Senator Murray:** No, I did not. The only tenure with which I am familiar, and not very closely, is academic tenure. Perhaps the Speaker of the Senate and others could instruct us on the longevity involved there.

As for legal opinions, what I could not do as a minister I certainly cannot do as a former minister. I made one exception, and that concerned the Alberta Senate selection bill. Questions were raised here by Senator Grafstein in 1988 or 1989 as to the government's view on its legality. On advice, I felt I had to state what the government's view was because I had already shared it with the Government of Alberta. That opinion was that the Alberta bill was *ultra vires*.

**Hon. George Baker:** Honourable senators, we just heard two excellent speeches. Both of them pointed out that it would be unconstitutional for a bill like this to suggest an elected Senate or a system of provincial selection, because these matters have been adjudicated by the Supreme Court of Canada, to a certain degree, but they refused to address the question of tenure and said it might, as Senator Austin pointed out.

The words "fundamental features" and "essential characteristics" are used quite often in addressing this matter.

• (1600)

Does Senator Murray believe that those two phrases, "fundamental features" and "essential characteristics" as contained in the Supreme Court judgment, refer only to regional representation — as the remainder of the sentence reads as Senator Austin read it — or whether he thinks these two matters stand on their own in addressing any piece of legislation concerning this matter?

**Senator Murray:** I think I can answer that question by referring to the judgment itself. I hope I can find it.

**Senator Baker:** It is paragraph 49.

**Senator Murray:** It seems to me that “fundamental features” and “essential characteristics” refer explicitly not just to regional representation, but also to the independence of the Senate. The bedrock of the Senate’s independence is the tenure that was for life in 1867 and since 1965 has been until the age of 75. This layman is inclined to think that the change is major and does affect a fundamental feature of the Senate and, therefore, would require the general amending formula. However, that is a layman’s opinion and I believe that the government would be wise to seek a decision of the Supreme Court of Canada on that matter before proceeding too far. Again, as I indicated in my speech, because of the other aspects, it is not my only objection to the bill.

On the question of the election, the reason I mentioned the Alberta Senate bill, I think it is clear — I said as much to Senator Grafstein in answer to a question at the time — that aspects of the Alberta Senate bill were not only ultra vires of that legislature, but would be beyond the powers of the federal Parliament acting alone. This issue points up the complexity of trying so-called consultative elections that the Prime Minister and others have been talking about.

**Senator Austin:** Well said.

On motion of Senator Fraser, debate adjourned.

## PUBLIC HEALTH AGENCY OF CANADA BILL

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-5, respecting the establishment of the Public Health Agency of Canada and amending certain acts, to which they desire the concurrence of the Senate.

Bill read first time.

**The Hon. the Speaker:** When shall this bill be read the second time?

On motion of Senator Keon, bill placed on the Orders of the Day for second reading two days hence.

## 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, 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 Johnson)

**Hon. Janis G. Johnson:** Honourable senators, I should like to thank Senator Grafstein for his legislative initiatives to preserve and protect Canada’s water. His commitment to this issue is long and storied and it stands before us today in the form of Bill S-208, which would require the Minister of the Environment to establish, in cooperation the provinces, an agency with the power to identify and protect Canada’s watersheds that will constitute sources of drinking water in the future.

As Senator Grafstein has informed this chamber, the purpose of this bill is to establish a way to map, measure and consequently create a national inventory of our most precious resource: water.

This inventory would ensure that the water resource is developed in a fair, equitable and careful way to be shared among all sectors of our society. I share Senator Grafstein’s as well as Senator Adams’ concern about the quality of our drinking water that comes out of community drinking systems, especially those of Aboriginal communities across our nation. It is a sorry state of affairs that tap water poses a significant risk in three quarters of the water systems on Canada’s reserves.

Almost 500 drinking water systems are at risk, despite the fact that nearly \$2 billion has been spent on improvements in Canada’s First Nations communities. I am encouraged that the cleanup of these drinking water systems is a priority for the new Minister of Indian Affairs and Northern Development. He has said that he wants the communities identified and a proactive plan in place for each community. It is my hope that the government’s plan will address the need for water operator training and certification, as well as regulatory standards for drinking water on reserves.

There is no question that our country has issues with our freshwater supply. Senator Grafstein is right to be concerned and while I support the need to ensure clean drinking water in our country, I am not thoroughly convinced that Bill S-208 is the best way to address this issue. By requiring the Minister of the Environment to conclude an agreement to establish a federal-provincial agency to administer lands in a designated watershed, Bill S-208 does not demonstrate an appreciation of the division of power between federal, provincial, municipal and Aboriginal governments with respect to water. I am concerned this bill could further dilute our current water management regime in Canada by adding to it an extra and unnecessary layer of governance.

Canada’s Constitution does not specifically address the issue of water management, but it is clear that jurisdiction over water is shared between Canada and the provinces. The provinces have broad authority over the waters and drinking water within their boundaries. The authority of the provinces involves power over the management and sale of provincial lands, including water, and over all matters that are a local or private concern, such as local bodies of water and groundwater.

Provincial governments, honourable senators, are also responsible for many aspects of land use planning and development, which can impact water quality and availability. Provincial, municipal and Aboriginal governments could justifiably object to the idea of centralizing administrative responsibilities for water regulations.

Most provinces delegate the responsibility for the day-to-day delivery of drinking water to their municipalities, subject to provincial regulations. Municipalities are the primary operators of community water systems in Canada and the proposed extra layer of governance could render their operations more difficult.

Our government recognizes the responsibility and role of the provinces with respect to water delivery. It has often stated that it favours a cooperative and integrated approach. Is the need for an integrated approach to water management not already met by existing regulations, particularly the Canada Water Act?

• (1610)

This act gives the federal government broad powers, similar to those in this proposed bill, for federal-provincial consultative mechanisms, joint establishment of incorporated agencies to plan and implement cleanup programs and the creation of public advisory and informational bodies. Does not the Canada Water Act already provide the federal government a basis to work with the provinces?

The Canada Water Act is used largely for collaborative agreements. Many of these agreements are of a technical nature, engaging many parties in research, monitoring and data collection. Other agreements are designed to facilitate federal participation in interprovincial mechanisms, to apportion water, as in the cases of the Prairie Provinces Water Board and the Mackenzie River Basin Board.

It is my understanding that the kind of interprovincial coordination embodied in Bill S-208 is already encompassed under the Canada Water Act. Collaborative water management is a cornerstone of the Integrated Watershed Management Program, which requires that stakeholders be actively involved, represented in and supportive of water management decisions. Inclusive and transparent water governance and coordination mechanisms such as water boards are needed in order to facilitate and ensure this broad principle is implemented effectively.

In Canada, the need for a collaborative and integrated approach to water management is being increasingly recognized within and across federal and provincial jurisdictions. At the federal level, the 1987 federal water policy called for integrated water management planning; and the federal government works to achieve this through its involvement with binational and transboundary boards across Canada.

Honourable senators, while I second Senator Grafstein's commitment to clean and accessible water for all Canadians, I believe Bill S-208 would place Canada in a position of creating duplicate layers of legislation aimed at the same outcome. It would have to address these issues as well as or better than the current system in order to protect Canadians more than they are already protected, and to justify the expense and effort of creating a new regulatory regime.

Perhaps the real issue surrounding this bill will not be resolved by creating powers for managing water quality, but in choosing when, where and how the federal government engages in water management. In this respect, I hope our government will continue

to play a role in facilitating interprovincial dialogue and cooperation toward adequate watershed management in important Canadian watersheds.

Honourable senators, I look forward to exploring these and other issues at committee and thank Senator Grafstein again for bringing this issue before the chamber.

**Hon. Jeremiah S. Grafstein:** Would the honourable senator allow two questions?

**Senator Johnson:** Yes, honourable senator.

**Senator Grafstein:** Since the establishment of the Canada Water Act, has the supply of fresh water gone down or up?

**Senator Johnson:** What does the honourable senator think?

**Some Hon. Senators:** Hear, hear!

**Senator Grafstein:** I welcome the senator's support for my bill.

On motion of Senator Watt, debate adjourned.

[Translation]

## NATIONAL PHILANTHROPY DAY BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-204, An Act respecting a National Philanthropy Day.—(*Honourable Senator Champagne, P.C.*)

**Hon. Andrée Champagne:** Honourable senators, philanthropy, volunteerism, charitable work — these are three of the most heartwarming words in the dictionary. Our communities, our artists, our political parties, all facets of our society count on those who give unreservedly without expecting anything in return. Their contribution to our economy and to the well-being of our society is immeasurable. That is why today we are discussing the relevance of adopting Bill S-204 and, thus, instituting a national philanthropy day.

[English]

The idea of a national philanthropy day is one that has been circulating for quite some time. Senator Grafstein introduced a bill near the end of the Thirty-eighth Parliament but it died on the Order Paper last November. Some jurisdictions, notably the United States in 1986, have issued proclamations to mark the importance of philanthropy. However, no government has permanently recognized the day.

It is my understanding that several organizations foresee tremendous benefits in formally recognizing philanthropy by creating a special day on which to honour it. Unfortunately, no information is provided on what those benefits might be, and history shows us that it would be difficult to expect Canadians to be more generous than they already are.

[Translation]

For example, the faculty of music at McGill University, in Montreal, is called the Schulich School of Music in recognition of an extraordinary philanthropic gesture, a gift of \$20 million.

[English]

Canadians are very generous people. Statistics Canada reported that almost 5.8 million Canadian tax filers claimed more than \$6.9 billion in charitable contributions in 2004. Both of these figures — the number of Canadians who gave and the amount of money they gave — set new records. As well, the amount of donations increased in all provinces and territories. For tax filers who reported contributions, the median donation was \$230, up from \$220 in 2003. Nunavut had the largest median donation of all the provinces and territories, with \$390, followed by Prince Edward Island, with \$340, and Newfoundland and Labrador, with a median of \$310. The median donation has increased every year since 1999.

Honourable senators, those are very dry statistics. They somewhat mask the human tragedies that motivated Canadians to respond so generously. At the beginning of 2005, Canadians were called upon to help with the aftermath of a devastating tsunami off the coast of the Indian Ocean. Later, Hurricane Katrina brought forth yet more compassion and generosity on the part of Canadians. As 2005 approached its conclusion, the world was rocked by a major earthquake in Pakistan and Canadians responded yet again.

Canadians are really generous when the need is closer to home. Honourable senators are well aware of the generous community support in cities and towns right across this country.

[Translation]

Charitable organizations play a major role and contribute to a sense of belonging as well as to significant projects in the cultural, social and educational sectors.

[English]

All of this suggests that there is really not an urgent need to further encourage Canadians to give to charity. Unofficial celebrations to recognize the contribution that philanthropy makes to our communities are held in every province and territory and involve thousands of people.

[Translation]

In Quebec, every year, in every municipality, events are held to recognize the contributions that philanthropy and the volunteer sector make to our communities. Thousands of people take part in these events.

[ Senator Champagne ]

The federal government also does its part in encouraging philanthropy. Budget 2006 introduces a tax credit for charitable donations. It provides for the immediate exemption from capital gains tax of donations of publicly listed securities to public charities. In future, these organizations will be able to rely on a set of valuable tools to raise the necessary funds to meet the needs of Canadians.

On the one hand, the intention of this official day would not be to ask Canadians to give more, and neither would that be the result, while, on the other hand, the Government of Canada seal of approval would not translate into more honours or benefits for those who make donations.

[English]

Honourable senators, while I have the highest regard for the spirit in which this bill was introduced, I cannot support the bill itself. I wish to thank Senator Grafstein for seeing merit in the idea of celebrating philanthropy. Indeed, the government encourages Canadians to make charitable donations while filing their income tax. However, I do not believe Bill S-204 is the most appropriate mechanism for achieving these goals.

• (1620)

[Translation]

Honourable senators, for the aforementioned reasons, I urge you to defeat Bill S-204.

[English]

**Hon. Jeremiah S. Grafstein:** I agree with many of the honourable senator's sentiments, although I do not agree with her conclusion. Could the honourable senator tell the house the comparative in her analysis of the per capita giving in Canada versus the United States?

[Translation]

**Senator Champagne:** I was able to answer the honourable senator as far as donations across Canada are concerned.

[English]

In the United States, I do not believe that they give any more than we do. The senator likely knows that I did not study that side of the issue.

**Senator Grafstein:** I would take the adjournment.

**The Hon. the Speaker:** Does any other honourable senator wish to speak to Bill S-204?

**Hon. Marcel Prud'homme:** Honourable senators, I would support the bill before I take the adjournment. The last time this bill was before the Senate I was extremely poorly treated by email from across Canada. It was a well-organized, vicious campaign against something that I support, and I was unsure where I stood on the matter.

I support Bill S-204 because the intent is good. I hesitated to lend my support the last time because the date suggested had passed. Today, we have time to reflect. I want the honourable senator to know that I would take the adjournment if I were to find support. I would be more than honoured not only to speak to it, but also to correct some of the emails that I received on the occasion of the previous introduction of the bill.

On motion of Senator Prud'homme, debate adjourned.

[Translation]

## CRIMINAL CODE

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Baker, P.C., for the second reading of Bill S-213, An Act to amend the Criminal Code (cruelty to animals).—  
(Honourable Senator Stratton)

**Hon. Pierre Claude Nolin:** Honourable senators, today I would like to share with you my comments on Bill S-213, to amend the Criminal Code (cruelty to animals), which proposes increasing maximum penalties for animal cruelty offences.

I think that this bill is based on three premises: first, that animal cruelty is morally repugnant and socially destructive, so it makes sense to impose harsh penalties as a deterrent; second, that experts have shown there is a link between cruelty toward animals and violence toward humans and by increasing applicable penalties, we can help break the cycle of violence that leads to aggression toward others; third, that we can do a better job of fighting violence by building awareness of the deep-seated realities that manifest as cruelty toward animals.

Before expanding on these points, I would like to describe this bill in more detail.

It is relatively simple in that it amends the four sections of the Criminal Code that list the various offences constituting cruelty toward animals and describes the maximum applicable penalties. The amendments have to do with the sentencing provisions.

In my opinion, an important aspect of the proposed legislation is that it does not create any new offences or redefine the current offences. Bill S-213 proposes significant increases in the maximum penalties for acts of cruelty to animals. For example, convicted offenders face a maximum penalty of five years in prison, compared to six months at present. The courts would have the power to prolong indefinitely an order prohibiting the offender from owning animals.

The bill also provides for a new penalty: the court could order that the offender pay for the mistreated animal's care. The new penalty thresholds reflect a feeling often expressed about current cruelty to animals laws. These laws clearly and effectively define the indictable offences but call for far too lenient penalties.

Offenders have the feeling that they can act with impunity. We have all heard stories of puppy mill owners or dog fight organizers, for example, who look on the paltry fines imposed on them as just another business expense.

According to the experts who work in Canada's humane societies, the current penalties have absolutely no deterrent effect on the sadistic brutes — for that is what they must be called — who torture and mutilate animals.

Canadians have sent a clear message that they would like stiffer penalties for acts of cruelty to animals. As many members of this chamber will recall, previous legislative efforts in this area included public consultations, and the sponsor of the bill, Senator Bryden, recited the litany of bills that have occupied this chamber in the past four years.

The truth is that violence against a pet endangers all the members of the family and threatens other members of the community. Mounting evidence shows a dangerous connection between cruelty to animals and violence against people.

A number of studies reveal that people who commit acts of cruelty to animals are more likely to be violent toward the members of their own family.

Three researchers — Deviney, Dickert and Lockwood — carried out a study in this regard in 1983. They interviewed members of 53 families who had pets and who had experienced violence in their childhood. About 60 per cent stated that their pets had also been brutalized. Of those who had been mistreated in childhood, over 88 per cent stated that their pets had been brutalized or killed.

Ten years later, researchers at the University of Utah conducted a series of studies to more closely examine this correlation. For one project, they interviewed workers at 48 shelters for battered women in the United States. The respondents stated that over 85 per cent of the women and 63 per cent of the children that they had taken in had mentioned ill-treatment of their pets.

A few years later, the same researchers interviewed two groups of women. One group lived in shelters for battered women, the other lived at home. The researchers discovered that acts of cruelty towards animals were much more frequent among the group of women living in the shelter than in the control group. Half of the women living in shelters, or 52 per cent, stated that their children had witnessed acts of violence towards their pets compared to just 3 per cent in the control group.

In 1999, other researchers showed that individuals found guilty of acts of cruelty towards animals are much more likely than others to commit crimes against property or people.

Other studies confirm that there is a high correlation between cruelty towards animals and family violence, and researchers continue to study the matter.

Unfortunately, few such studies have been conducted in Canada, but there is no reason to doubt that this correlation applies here as well.

In 1998, the Ontario Humane Society interviewed a group of women who had left violent partners. Sixty-one per cent stated that their partners had brutalized or killed a pet.

• (1630)

There was also another important finding: close to half of all women asked, or 48 per cent, said that fear for the safety of their pet delayed their decision to leave their abusive partner.

This result is a good indication of the complex and disturbing role of the presence of cruelty to animals in homes where family violence exists. To understand this role we must look at the psychology of violence. According to researchers and other specialists, people who abuse members of their family are generally trying to achieve one of the following objectives: showing and confirming their power and control over their family; preventing the victims from leaving, or punishing them if they try to leave. Acts of cruelty to pets are intended to produce the same effects.

In other words, the aggressor abuses the pet to control the other members of the family. This type of physical and psychological violence can have long-term effects on the family. The other family members often feel responsible for the aggressor's acts of cruelty. The aggressor takes advantage of this unjustified feeling of guilt to reinforce his control over the other members of the family and to humiliate them even more.

Honourable senators, cruelty to animals can indicate the existence of violence towards children, but parents are not always the only ones who abuse pets. Children can mistreat their animals as well, especially if they themselves are victims of violence. They repeat what they learn from the parents by reacting to violence, anger and frustration with violence. Like the violent parent, the child is violent toward the animal, who is often the only member of the family more vulnerable than he or she.

Children who mistreat wild and domestic animals are not all victims of violence, but the facts show that children who systematically abuse or torture animals are more likely to commit serious crimes when they become adults.

In fact, cruelty to animals is one of the components of the MacDonald triad, the behaviours in children and adolescents common to most psychopaths and serial killers.

Many psychologists and criminologists believe that children who display this kind of behaviour will unfortunately have serious social problems later in life.

We know that victims of violence and those who have witnessed domestic violence as children are more likely to become violent themselves. In the end, abusers are dependent on their victims and, often, the victims are incapable of avoiding abusive relationships. This is known as the domestic violence cycle, and this helps to explain how violence is passed from one generation to the next.

Any measures that might break this terrible vicious circle would be beneficial to Canadians. The proponents of Bill S-213 believe that this is a means to break the correlation between cruelty to animals and domestic violence.

By making cruelty to animals an offence, we can help break this correlation in several ways. First, adapted sentences could serve as a deterrent; second, adapted maximum sentences could also make all Canadians understand how serious such crimes are; third, increased awareness will encourage Canadians to report cruelty to animals more frequently. The resulting interventions in terms of enforcing the legislation will prevent more serious acts committed against family members.

Honourable senators, Bill S-213 invites us to consider a new tool: restitution orders. In a public consultation conducted in 1998, this measure was determined to be extremely beneficial. This provision would allow the court to order offenders to pay the costs associated with treating animals that have been abused.

To measure the impact of this provision, one must first better understand how our criminal justice system deals with cruelty to animals. Through legislation, most provinces and territories delegate the responsibility of conducting an investigation into alleged cases of cruelty to animals, and of laying charges if necessary, to organizations which are often humane societies.

These organizations are usually registered charities that rely on private donations to function, although some of them receive regional or municipal funding to take care of stray animals, for example.

Under provincial legislation, these organizations can receive funding set aside for costs incurred in caring for neglected animals.

One of the questions raised by this bill is whether the restitution element of fines imposed for animal cruelty convictions should be given to these organizations. We will have plenty of time to study this aspect.

We all have an unfortunate tendency to downplay the role of humane societies. We know that they offer animals for adoption and applaud their efforts to control stray cat and dog populations. We are less aware, honourable senators, that these organizations are important allies in fighting violence against children, women and the elderly. In fact, people working at humane societies are often the ones to spot violent family situations.

As I explained earlier, there is a definite correlation between animal cruelty and family violence. If I may, I would like to describe a situation that humane societies encounter frequently. Someone calls the humane society to report a possible case of animal cruelty. An agent goes to the home to investigate and finds proof of other forms of violence, such as a child with fresh bruises or a woman with a black eye. These findings prompt the agent to file a report with the local child protection agency, which begins its own investigation.

This kind of cooperation often helps break the cycle of family violence. Honourable senators, family violence rarely happens in public. People who suspect it is going on always hesitate to intervene or alert the authorities. Cruelty to animals is often more visible.



The fact that we are debating this issue in the Senate will help build awareness of the problem. It may help people recognize that animal cruelty is a criminal offence and may encourage them to report it.

Before concluding my presentation, I have just another two pages to go. May I have your leave to go on for another five minutes?

**Some Hon. Senators:** Agreed.

[English]

**The Hon. the Speaker:** You do not have to ask because you have 45 minutes by virtue of a previous house order.

[Translation]

**Senator Nolin:** I will limit my remarks to two minutes, but if my colleagues want to ask me questions for 45 minutes, I will be pleased to answer.

Making the public aware of the correlation between cruelty to animals and human violence will help promote cooperation among agencies that investigate family and community violence.

As a result, child and family service agencies will be able to take more appropriate action. In introducing this bill, our colleague, the Honourable Senator Bryden, has given rise to a discussion that will send a clear message to Canadians, especially those who feel that acts of cruelty to animals are relatively minor crimes.

Mistreatment of animals is not only repugnant in itself, but it can also be a sign of terrible crimes to come.

Today, we have an opportunity to share our views on this issue with Canadians. Together, we can demonstrate that we are aware of the work done by the men and women who care for mistreated animals and investigate suspected cases of animal cruelty.

I would like to make one final remark of a political nature about the bill.

• (1640)

As we all know, minority governments have, for all intents and purposes, become the norm in recent years. Consequently, all parliamentarians must guarantee that they have multi-party support for proposed legislation.

I think that the objective of dealing with the issue of cruelty to animals is, in my view, shared by my colleagues in this chamber as well as by our parliamentary colleagues in the other place. Those of us who, over the years, have participated in the work of the Senate Standing Committee on Legal and Constitutional Affairs will remember the tens of thousands of emails received from all over Canada urging us to adopt measures to eliminate cruelty to animals.

We were right not to accept all the proposals made, but the one before us has the merit of having gained the approval of almost all segments of our society. For this reason, I encourage you, honourable senators, to support this new legislative measure. I wish to thank Senator Bryden for reintroducing it.

On motion of Senator Tkachuk, for Senator Stratton, debate adjourned.

[English]

## STATUTES REPEAL BILL

### REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-202, to repeal legislation that has not come into force within ten years of receiving royal assent, with an amendment) presented in the Senate on June 15, 2006.—(*Honourable Senator Oliver*)

**Hon. Donald H. Oliver** moved the adoption of the report.

He said: Honourable senators, Bill S-202, the short title of which is the “Statutes Repeal Act,” is an example of how perseverance can pay. Senator Banks has been persistent with this bill through three Parliaments, and it should, with a bit of luck, pass here soon and be sent to the other place. Senator Banks has shown what perseverance can do.

**Hon. Senators:** Hear, hear!

**Senator Oliver:** The goal of Bill S-202 is to prevent legislation that has received Royal Assent but not been brought into force from sitting on the books indefinitely. The bill would not apply to acts that come into force upon Royal Assent or acts that come into force on a day or days specified within the legislation.

In many cases, however, acts or provisions within acts come into force on a day to be fixed by the Governor-in-Council. Unless either the Senate or the House of Commons takes action, Bill S-202 would cause these acts to be automatically repealed if they have not been brought into force within 10 years of receiving Royal Assent.

There is an exception for provisions that have been amended before this bill comes into force.

[Translation]

The repeal process envisaged by Bill S-202 begins on any of the first five days on which each House of Parliament sits in every calendar year. The Minister of Justice will have tabled, in the Senate and in the House of Commons, a report listing every act of Parliament or provision of an act of Parliament that was assented to before the December 31 preceding and that had not come into force.

[English]

Any act or provision that was listed in the annual report and that has still not come into force by the end of that year would be repealed as of December 31 unless either chamber adopts a resolution that the act or provision not be repealed. A transitional clause provides that any provision that was not in force and that would have been repealed under the preceding procedure will

not be repealed if it has been amended in the intervening nine years. Any provision necessary for the amended provision to have effect will also not be repealed. This applies only to amendments made before this bill comes into force.

In order to provide transparency, this bill requires the Minister of Justice to publish a list each year in the *Canada Gazette* of all acts or provisions of acts that were repealed on the previous December 31.

Finally, an order to allow the government the time it perhaps needs and considers necessary to anticipate the consequences of a bill such as this and to be prepared for it, Bill S-202 will not come into force for two years after it receives Royal Assent. Thus, the first acts or provisions within acts will not be repealed for over three years following Royal Assent of Bill S-202.

Over time, the Standing Senate Committee on Legal and Constitutional Affairs has studied this bill in depth. The committee is satisfied that the bill accomplishes its goal and that it does so in a manner both efficient and flexible.

An important aspect of parliamentary democracy is reflected in Bill S-202. As legislators, we pass numerous bills. We understand that many, perhaps the vast majority of these, cannot come into force immediately because regulations need to be drafted, procedures developed, training carried out, and so on. However, as parliamentarians, we expect that these bills that we have carefully studied and passed will eventually come into force in due course. When the executive, however, fails to bring them into force, parliamentarians are entitled to be told the reason or to assume that the laws are no longer required. The bill implements this particular philosophy.

Honourable senators, following the presentation in Parliament each year of the list containing the acts or provisions that have not been brought into force in the previous nine years, the government has a number of ways of proceeding. It may bring the statute or provisions into force. It may amend the legislation and bring the amended version into force. It may introduce new legislation that would be similar but more reflective of events that may have taken place in the ensuing decade, or a member of Parliament or any parliamentarian may introduce a resolution deleting an act or a provision from the list. If the resolution is passed by either House of Parliament, repeal is forestalled until the following year.

Honourable senators, we believe this bill strengthens the accountability of the government to Parliament. The options open to the government give it the flexibility it needs to cover the various bona fide reasons that may exist for not repealing the acts or provisions on the list, while at the same time the bill asserts the principle that Parliament passes laws intending that they be implemented.

If the government fails to bring legislation into force and does not take action or present a cogent reason for its inaction, then the act or provision will be repealed as no longer representing the will of Parliament.

Honourable senators, one tiny amendment was made in committee which was strictly technical in nature. It was the word "it." "It" was replaced by the words "the amended provision" to clarify the application of clause 5.

I urge all honourable senators to support this amendment and this bill.

**The Hon. the Speaker:** Honourable senators, is it your pleasure to adopt the report?

**Hon. Senators:** Agreed.

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

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

• (1650)

## STUDY ON ISSUES DEALING WITH DEMOGRAPHIC CHANGE

### REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Banking, Trade and Commerce, entitled: *The Demographic Time Bomb: Mitigating the effects of Demographic Change in Canada*, tabled in the Senate on June 13, 2006.—(Honourable Senator Grafstein)

**Hon. Jeremiah S. Grafstein** moved the adoption of the report.

He said: Honourable senators, I will begin by saying how crucial and timely this report of the Standing Senate Committee on Banking, Trade, and Commerce, *The Demographic Time Bomb: Mitigating the effects of Demographic Change for Canada* was considered by all members of the committee to the future welfare of all Canadians. This report addresses the looming damage and impact to the Canadian economy because of our aging population. There is little time to turn around the ship of state. If we have learned anything in the Senate, it is that it takes time to change entrenched government policies and private sector practices. There are 10 comprehensive recommendations based on the startling evidence we heard from witnesses from both Canada and the United States. I thank the witnesses for taking the time to come to Ottawa to share their thoughts and expertise with the committee. Their testimony was a wakeup call to our committee and hopefully all governments, businesses, unions and institutions. This future is virtually upon us, we were told.

I want to thank as well the large number of honourable senators, 20 in all, who participated in aspects of this report and, in particular, those who currently sit on the committee and actively debated its final recommendations. I want to commend our former clerk, Gérald Lafrenière, our present clerk, Line Gravel, and our research staff led by June Dewetering, who once again did a creative job of knitting together this coherent panorama of recommendations.

I would like to pay special tribute to and thank the Deputy Chairman of the Standing Senate Committee on Banking, Trade and Commerce, my friend Senator Angus, for his tireless efforts and support as we undertook these concise yet complex hearings.

Honourable senators, this is an important slice of public policy — how to protect Canada from the looming negative impact of aging. We must act now to remediate the obvious problems looming in the near future if we are to continue to grow individual household incomes.

As I said, the report contains 10 recommendations that we hope will help ameliorate the undesired effects of demographic change that lies ahead. It is an economic time bomb, and everyone — governments, private sector unions, the educational community and all institutions — needs to agree to the facts as they relate to their organizations and then undertake to do their part in helping to defuse this bomb.

I will give only a few facts and figures to provide some context of the committee's report and the reasons we believe it is critically important that action be taken now.

Fact 1: Canada's birthrate is about 40 per cent lower than the level needed to avoid long-term depopulation.

Fact 2: By 2031, about 25 per cent of Canadians will be 65 years or older, about double the current 13 per cent.

Fact 3: Since 2002, immigration has represented more than 60 per cent of the population growth in Canada. To say the least, it will be more difficult for Canada to attract qualified immigrants in the future.

Fact 4: It is predicted that by 2030 there will be 40 retirees for every 100 working persons, up from 21 for every 100 in 2003.

This report is replete with revelations. I think you get the gist of what I am talking about; we are facing a demographic time bomb. We need to wake up to that reality and take actions now.

There are a couple of areas I would like to bring to the attention of the Senate. A number of the committee's recommendations are directed to the need to provide incentives and remove disincentives for people to work and to work longer hours if they so choose. I am referring not only to the notion that we need to give older workers the opportunity to work beyond what is considered the normal age of retirement without penalty, if that is what they want. I am referring as well to the need to give everyone a full opportunity to participate in the labour force in the manner and level of their choosing — Aboriginal Canadians, persons with disabilities, immigrants, and especially women. Our employers will face labour shortages in the years ahead. Increased labour force participation is but one means by which employers can be assisted in meeting their needs for their employees. We need plans now to increase our workforce in the future.

We must pay particular attention to women, and examine the difference between Canada and the United States in terms of participation of women in the work force and the differences in fertility rates. These issues are begging for more detailed policy

analysis. Why is there such a variance in fertility rates between our two countries? Why the variances between regions in Canada as pointed out only last week by Statistics Canada in their report?

It is this desire to provide incentives, and remove disincentives, to work that form the very basis of a number of the committee's recommendations, specifically those that involve amendments to the Income Tax Act, the Canada Pension Plan, the Old Age Security Act and the Canadian Human Rights Act.

We considered personal tax changes; allowing people to get pension income and employment income simultaneously; allowing deferral of retirement benefits with appropriate actuarial adjustments; and ensuring that those covered by the Canadian Human Rights Act who want to work beyond the normal age do not face the discrimination they do now.

Gender discrimination within all segments of the workforce needs more careful microanalysis if we are to increase our productivity, participation in the workforce and increase household incomes.

This has led to a repeated call for action that we think is critical. It builds upon the work of the committee that we completed last year when we tabled a report on productivity. In this report we recommend once again that the federal government implement the recommendations contained in our June 2004 productivity report.

Honourable senators, I agree with the OECD when it says that a key challenge presented by Canada's aging population is maintaining steady improvements in living standards despite increases in old age dependency ratio.

Like a number of our witnesses, I believe that productivity improvements are a critical tool in seeking to raise living standards for all Canadians that Canadian families want and deserve. That is the recommendation of one year ago, and it continues to be valid and will continue to provide a plan for action now.

This is not a topic, honourable senators, that will grab media attention. I want to commend *The Globe and Mail* for their lead editorial yesterday, which focused on the essence of our report. The rest of the media is preoccupied, unfortunately, with the present. It requires diligence to think these changes through and to make these complex changes to the way our society thinks about our workforce. The conventional wisdom of muddling through just will not work. It will take leadership and intelligence to make these necessary changes now. Our committee is dedicated to follow-up, to prod until the ingrained habits in the workforce and worker participation and productivity work in a much more appropriate direction.

Finally, but not least, let me take this opportunity to thank Senator Massicotte, who urged the committee to study this very important topic of demographic change in Canada and who worked to enhance the clarity of our report and, more important, how we avert this looming time bomb and what we can do now to manage these negative side effects.

I urge all senators and all chairs of committees to read the report — it is not very long — and consider our recommendations and consider more detailed follow-up recommendations in their future reports. We need a coordinated approach of all Senate committees to advance these vital goals that affect each and every committee of the Senate.

Few in this Parliament will benefit from our reforms, but our children and their children will not enjoy even our current standards of living unless we move now and we move together.

[Translation]

**Hon. W. David Angus:** Honourable senators, I would like to add a word following the remarks of our colleague, the Honourable Senator Grafstein, concerning our report tabled last week, entitled *The Demographic Time Bomb: Mitigating the Effects of Demographic Change in Canada*.

• (1700)

[English]

This report, as the honourable senator stated, is not to be taken lightly. I do not know whether the leading editorial in *The Globe and Mail* yesterday was included by accident but allow me to read the first few lines. It states:

Despite its suitably alarmist title, *The Demographic Time Bomb*, the recent Senate report on Canada's aging work force, has received virtually no public attention. And that is a shame. Grappling with the challenge of how to keep aging baby boomers in the work force, the Senate banking committee has sensibly urged governments to reduce financial incentives to retire early, and to substitute inducements to retire later.

The report of the committee, which contains 10 clear and specific recommendations, is the result of round table discussions held on October 19 and 20, 2005. The round table was convened by the committee for two reasons: first, to try to highlight the dramatic demographic change that soon will face Canadians; and, second, to identify various specific actions that we feel might be taken now to mitigate the economic, social and financial consequences that will surely accompany this change.

Honourable senators, to put the matter into better perspective, I cite the following statement by the Auditor General of Canada, Ms. Sheila Fraser, when she wrote to the committee underlining the importance of the problem. She stated:

[Translation]

The demographic die is cast: there is little we can do to reverse or even slow the aging of Canada's population over the coming decades. But it is certainly within our power to plan better for it. And better planning begins with better information concerning the long-term fiscal implications of the coming demographic shift.

[English]

Honourable senators, the evidence received from the various witnesses clearly confirms the Auditor General's observations: We are living longer and our families are having

fewer children. That is the simple fact. Statistics Canada told the committee that the life expectancy for males born in Canada in 2005 is 77 years and for females approximately 82 years. A fertility level of 2.1 children per woman is required for population replacement. However, Canada has not had this level since 1971. Currently, the fertility level in Canada is 1.5. According to the New America Foundation, Canada's birthrate is about 40 per cent below the level needed to avoid long-term population loss.

Dr. Jacques Henripin, Professor Emeritus at the University of Montreal, testified before the committee that Canada is in the process of becoming one of the least fertile nations.

[Translation]

Canada is in the process of becoming one of the least fertile countries. ... I think we should be every bit as worried about the rate at which fertility is plummeting, as we would be were the same trend suddenly to appear amongst the animal population.

[English]

If we were to notice a sudden decrease in the population in the animal kingdom, we would be damned worried, and it is happening to us.

Interestingly enough, the proportion of so-called elderly persons, age 65 and over, was 8 per cent in 1971 and is 13 per cent currently. By 2031, about 25 per cent of Canadians will be aged 65 or older. By 2024, deaths will exceed births, although immigration might sustain low levels of population growth until 2040. In the view of the Chief Actuary of Canada, after 2030 any and all projected population growth will be the result of net immigration. Statistics Canada has a similar view. It noted that since the early 1990s, international migration has been the main source of population increase in Canada. Since 2000, it has represented more than 60 per cent of the observed population growth and might soon account for all growth if fertility rates continue to remain low.

In approximately 10 years, one in five Canadians will be a visible minority. The committee was told that increasingly, Canadian immigrants are from Asia and Middle Eastern countries, although Chinese and South Asian immigrants remain the largest minority groups.

A number of witnesses also indicated that immigration will not solve all the challenges that are likely to be experienced with this demographic change in our country. Fertility rates are plunging throughout the developing world so that the supply of potential immigrants to Canada will be more constrained than in the past. Competition from other aging societies for qualified immigrants will increase significantly.

Although immigration can contribute to population growth, it has a marginal impact on population aging. Typically, immigrants arrive on our shores not as infants but as adults, which means that immigrants do far less to rejuvenate our Canadian society. Also, statistics demonstrate that immigrants

[ Senator Grafstein ]

are having fewer children than in the past and among those who have lived in Canada for more than 10 to 14 years, the average fertility rate is the same as our national average of 1.5 children per family.

Now, let me turn my attention to the baby boom generation, generally thought to be Canadians born between 1946 and 1966. This generation is likely to be the most influential age cohort with respect to future demographic change. The retirement of this generation will have significant labour market consequences. Today, the majority of baby boomers are of working age but, beginning in 2011, the baby boomers will reach retirement age. Over the next two decades, successive cohorts of this generation will become 65 and over. The Chief Actuary of Canada indicated that by 2030 most baby boomers will be retired.

Some demographic change will have an impact on the “dependency ratio.” Changes in the relative size of the working-age and non-working-age populations will have implications for economic growth, federal finances and spending, as well as financial and labour markets, just to name a few. Canada’s regions will also be affected, both urban and rural sectors, but in different ways. According to the Chief Actuary, the dependency ratio is expected to increase. In 2003 there were 21 retirees for every 100 persons of working age. By 2030, it is predicted there will be 40 retirees for every 100 working-age persons.

Honourable senators, we hope that our report and our comments here today have succeeded in sensitizing you to the nature and extent of Canada’s ticking demographic time bomb. That is why, to mitigate this threat, we have made the following recommendations:

[Translation]

Incentives for individuals to engage in labour market activity are needed, and institutional and financial disincentives to work must be removed; incentives for businesses to invest in productivity-enhancing tools must be enhanced; the integration of immigrants into Canadian society must be facilitated; incentives to save must be improved; federal fiscal management must remain sound; federal financing of health care and public pensions must be sustainable; and productivity growth must be enhanced.

[English]

Honourable senators, the recommendations in our report are reasonable and doable. I invite all to make time to review this important report. I have no doubt that the demographic change issue, and issues around it, will become more and more critical for all during the next decade.

**Hon. Wilbert J. Keon:** Would the Honourable Senator Angus entertain a question?

**Senator Angus:** Yes.

**Senator Keon:** I read the report of the committee and it seems to deal with a tremendous anachronism. Planet Earth cannot

support the population on it. People in many nations are starving and so are searching for some method of population control.

• (1710)

In the developed world, which is the majority of countries — I believe it is 40-some out of 60-some — they all share this same problem. However, it seems dangerous that people have been advocating increasing reproduction. I think there are natural forces here that are at work trying to control the global population.

Looking at the global scene, would honourable senators think it is a great idea for us to encourage Canadians — and, in particular, people in certain provinces in Canada — to try to reproduce at a higher rate?

**Senator Angus:** I have too much respect for Senator Keon to be induced into discussing the “F” word here. My friend Senator Grafstein and I debated long and hard about how much we should go into “fertility” in the report.

I want the honourable senator to know that fertility is an issue, but it is not the only issue. Senator Keon has raised many moral and ethical issues. The problem and the challenge is the natural evolution, socio-economically or geopolitically, of our society. The baby boom brings the issue into perspective because events happen quickly.

What is happening is that we are living much longer, as these numbers show. When we were children, we were worried about our parents putting their parents in homes at age 65. In many cases now, our mothers and fathers are still alive and we have to care for them at our age. The number of people on the rolls that need to be looked after is increasing while the number of those working is going down fast.

What is the solution? We are not saying that we know the solution. We are suggesting a series of things, based on what the witnesses told us, of ways to mitigate the problem. Maybe we should not have mandatory retirement at age 65 or 60. Maybe we should work four-day weeks but work longer. Maybe we should ignore the people who say we are a bunch of old sleepy senators and we should get out at 75; maybe we should go to 90. When I speak on Bill S-4, I will recommend that we get back to no limit on the age.

This is the kind of world in which we find ourselves. We are trying to sensitize ourselves, honourable senators, before we make a big mistake on Bill S-4 and other related laws, to a real problem. We have to look at our pension laws and all of the measures that are in place, such as caring for the aged and the health care system; it is all in play here and it is in play big time. The witnesses were quite scary in what they said. We have tried to keep the tone very moderate.

**Hon. Lowell Murray:** I wonder if Senator Angus would take a question.

**Senator Angus:** Yes.

**Senator Murray:** After Senator Keon gave his rather Malthusian analysis of overpopulation of the world, and in reference to the fact that there was a danger in encouraging

fertility in this country, he added, “especially in some provinces.” I wonder if Senator Angus happens to know in which provinces Senator Keon would encourage people to procreate and in which provinces he would discourage them from doing so.

**Senator Angus:** Senator Murray is too smart to try to deflect from Senator Keon to Senator Angus on that one.

The business of child care came up. The government has a new program that is controversial. It is enshrined in the budget and there are different ways we can look after children today.

The Minister of Finance was pretty interesting last night. He said, “I have three sons, all aged 15.” You are thinking, how can they all be aged 15? He has triplets. Then Senator Rompkey — I am not sure if he is in the chamber now — raised the question of the social challenges with children. His thesis was that children should get out into daycare centres where they will have interaction with other children and learn some social skills.

However, in the good old days in “la belle province,” where I grew up, there were 18 kids in a family. They did not need to go to daycare to learn how to interact and get along with their fellow men and women. That is interesting, though.

[Translation]

**The Hon. the Speaker:** Are honourable senators ready for the question? Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

[English]

## POST-SECONDARY EDUCATION

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Tardif calling the attention of the Senate to questions concerning post-secondary education in Canada.  
—(Honourable Senator Segal)

**Hon. Wilfred P. Moore:** Honourable senators, it is my distinct privilege to rise today to speak to Senator Tardif’s inquiry on the state of post-secondary education in Canada. This has been an issue which I have been championing in this chamber over the years and I am pleased to see that the importance of this issue is shared by Senator Tardif and other colleagues.

It is clear that we must now address the post-secondary education system in Canada. The evidence shows that a university educated workforce accounts for up to 20 per cent of the growth in total output in G7 countries. Investment in OECD countries positively correlates with the extent of post-secondary education in the workforce, such that each additional year of education raises output per capita by 6 per cent.

[ Senator Murray ]

The fact that Canada has no immediate plan to address this issue is staggering indeed. The phrase “post-secondary education” did not make its way into Budget Plan 2006. Should this fact alarm us? After reading Senator Tardif’s speech, I would say that we should be more than alarmed at this moment. A call for leadership has gone ignored.

As I stated earlier, we in this chamber have been discussing this situation for decades, and it is always disappointing when the priorities in the other place do not include post-secondary education. This should be a constant and annual policy priority, and it should always rank in this country’s top five policy priorities.

In Atlantic Canada, we have been emphasizing the importance of the knowledge-based economy, and our place in it, over the past decade. In my time in Ottawa, our Atlantic Liberal caucus authored two papers detailing what should be done to provide funding to knowledge-driven industries in our region. I must say that our recommendations, which were contained in “Catching Tomorrow’s Wave” and “The Rising Tide,” have been a great success. Those papers spawned the Atlantic Innovation Fund, which has been a force in federal investment in research in Atlantic Canada. Work has been done; much more is required.

I recently attended a meeting of the Association of Atlantic Universities, where a report entitled *Smarter Together: The Economic Impact of Universities in the Atlantic Provinces*, was released. I have a copy of that report, one in each of our official languages, and I should like to have the permission of the Senate to table it.

**The Hon. the Speaker:** Is leave granted for the document to be tabled?

**Hon. Senators:** Agreed.

**Senator Moore:** This culmination of six months of study details the importance of the university community to the Atlantic region. This study illuminates the economic and social impact of universities in Atlantic Canada.

• (1720)

I would like to share with you some of the findings of the report. The impact of our 17 universities on the lives of the people of the Atlantic region goes beyond what I expected, so much so that I submit our universities, as the drivers of our knowledge-based economy, may be our largest industry — to the tune of \$4.4 billion per year, based on direct and indirect expenditures. I wish to emphasize the significance of some elements of this fact.

According to the report, universities in Atlantic Canada employ 16,655 faculty and staff. Also 3,000 to 4,000 students work as researchers. This number of employees can add up to 15 per cent to 30 per cent of the workforce in smaller university towns in the region. This number is huge.

The study also puts these numbers in the context of other industries that exist in each particular town. For example, Memorial University of Newfoundland in St. John’s is the second largest employer behind the provincial government. The University of Prince Edward Island employs the same number as

such sectors as finance and insurance. These universities can represent up to 50 per cent of the income generated in smaller towns. The jobs are stable and well paying. These numbers combined with the money spent by universities in their communities and the money spent by students add up to \$2 billion in direct spending — more than any single industry.

The report echoes numbers mentioned by Senator Tardif as well. For example, a university degree in Atlantic Canada translates into earnings of 60 per cent more than those of a high school graduate. Atlantic Canada, as I have mentioned in previous speeches, does not possess the financial backing from the private sector as far as investing in research and development. We simply do not have a large corporate community to call upon. Nor does the private sector provide a great deal of research in the region. The universities are the prime generators of research.

The main source of investment in this research and development comes from the federal government in the form of research council grants, the Atlantic Innovation Fund or the research foundations. These projects are primarily peer-reviewed and approved. Thus, it is incredibly important for Atlantic Canada that all levels of government have a commitment to investing in universities in the region as well as a plan as to how to best direct this investment.

I have a few thoughts of my own on this subject. The importance of the matter at the federal level should be demonstrated with changes in how we treat post-secondary education. In the realm of post-secondary education, there exist no conditions associated with federal cash transfers to the provinces. Witness the Government of Nova Scotia, my province, cutting its post-secondary funding upon students receiving federal millennium scholarship grants. That is shameful!

This problem still exists today. We have no means for accounting for the federal dollars that are transferred to the provinces for education purposes via block funding. This is precisely the time for the federal government to take the lead in this area. While we often hear that education is a provincial responsibility, it has been proven in the past that when it is to the benefit of each province and territory, and the nation as a whole, agreements between the two levels of government have been entered into. Witness the 2003 health accord, whereby the health component was separate from the Canadian Health and Social Transfer to provide greater transparency and accountability for how federal funds for health care are spent by the provinces. I urge the federal government to separate the educational component from the Canada Social Transfer to create the Canadian education transfer, thereby providing greater transparency and accountability for how federal funds for education are spent by the provinces.

The federal government spends approximately \$9 billion per year on education and research under all its funding programs. With such a substantial expenditure in this area, there should be a dedicated portfolio to administer this national wealth.

I again urge that a ministry of post-secondary education and research be created to provide the leadership that is desperately needed. That ministry could ensure a stable and predictable level of funding for post-secondary education so that our universities

can budget and plan with certainty. Only the federal government has the ability to establish and protect such national funding standards.

There needs to be a sea change in the manner in which we perceive the benefits of a post-secondary education. The trend lately has been to isolate the student as the major recipient of these benefits and, as the policy of the 1990s demonstrated, to shift the weight of financial burden to those students as well. This precedent is very dangerous and we are reaping the negative benefits of this policy today. Leaving the funding up to students will see annual tuition rate increases, and inevitably a lower participation rate as these fees become unmanageable debts upon graduation.

The result of the natural extension of this situation will be that a post-secondary education will be available to only the rich rather than to those qualified academically.

That, honourable senators, is not the system that Canadians want or deserve, nor does it, in any way, benefit this country. As we have heard over and over again, the more educated we are, the more productive, competitive and well off we will be as a nation.

I am reminded of a report from the Caledon Institute, a local think-tank, entitled, *Education and the Public Good*. Does anyone here remember or recall the term “public good”? You do not hear it around here much these days. Terms such as “asymmetrical federalism,” “fiscal imbalance” or is it “fiscal balance,” seem to be the catchphrases. While that report dealt more with public schools, I think the lesson can be applied to our post-secondary education system as well.

“Education should be treated as an asset” is the title of one section. We have fallen into the trap of regarding the university system as a burden but we cannot afford to do so. The report quotes John Ralston Saul who states:

From a book keeping point of view it is a clear liability. A golf ball, by contrast, is considered an asset and the sale of it is a measurable factor of growth.

I believe the transfer of knowledge to be the ultimate virtue. We must do more to assist and encourage our university students and their teachers who labour in the love of learning.

The aforementioned report of the Association of Atlantic Universities clearly demonstrates the dollars and economic impact involved. It really is time to think of the money that we appropriate to our post-secondary education system as an investment in the future of Canada — our citizens, environment, science and technology, industry and health. That investment will reap dividends that we are just beginning to comprehend. We cannot continue to put off addressing this most fundamental national policy, that of post-secondary education. In the words of Senator Tardif:

...waiting for one year or more might be the difference between Canada being a global player and a global pretender.

Let us get at it now.

On motion of Senator Segal, debate adjourned.

## HUMAN RIGHTS

### MOTION TO AUTHORIZE COMMITTEE TO STUDY ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE 2005 DECLARATION ON ANTI-SEMITISM AND INTOLERANCE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Stollery:

That the following Resolution on Combating Anti-Semitism which was adopted unanimously at the 14th Annual Session of the OSCE Parliamentary Association, in which Canada participated in Washington on July 5, 2005, be referred to the Standing Senate Committee on Human Rights for consideration and that the Committee table its final report no later than October 30, 2006:

#### RESOLUTION ON COMBATING ANTI-SEMITISM

Recalling the resolutions on anti-Semitism by the OSCE Parliamentary Assembly, which were unanimously passed at the annual meetings in Berlin in 2002, in Rotterdam in 2003 and in Edinburgh in 2004,

1. Referring to the commitments made by the participating states emerging from the OSCE conferences in Vienna (June 2003), Berlin (April 2004) and Brussels (September 2004) regarding legal, political and educational efforts to fight anti-Semitism, ensuring “that Jews in the OSCE region can live their lives free of discrimination, harassment and violence”;
2. Welcoming the convening of the Conference on Anti-Semitism and on Other Forms of Intolerance in Cordoba, Spain in June 2005,
3. Commending the appointment and continuing role of the three Personal Representatives of the Chairman-in-Office of the OSCE on Combating Anti-Semitism, on Combating Intolerance and Discrimination against Muslims, and on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions, reflecting the distinct role of each in addressing these separate issues in the OSCE region,
4. Reaffirming the view expressed in earlier resolutions that anti-Semitism constitutes a threat to fundamental human rights and to democratic values and hence to the security in the OSCE region,
5. Emphasizing the importance of permanent monitoring mechanisms of incidents of anti-Semitism at a national level, as well as the need for public condemnations, energetic police work and vigorous prosecutions,

The Parliamentary Assembly of the OSCE:

6. Urges OSCE participating states to adopt national uniform definitions for monitoring and collecting information about anti-Semitism and hate crimes along the lines of the January 2005 EUMC Working Definition of Anti-Semitism and to familiarize officials, civil servants and others working in the public sphere with these definitions so that incidents can be quickly identified and recorded;
7. Recommends that OSCE participating states establish national data collection and monitoring mechanisms and improve information-sharing among national government authorities, local officials, and civil society representatives, as well as exchange data and best practices with other OSCE participating states;
8. Urges OSCE participating states to publicize data on anti-Semitic incidents in a timely manner as well as report the information to the OSCE Office for Democratic Institutions and Human Rights (ODIHR);
9. Recommends that ODIHR publicize its data on anti-Semitic crimes and hate crimes on a regular basis, highlight best practices, as well as initiate programs with a particular focus in the areas of police, law enforcement, and education;
10. Calls upon national governments to allot adequate resources to the monitoring of anti-Semitism, including the appointment of national ombudspersons or special representatives;
11. Emphasizes the need to broaden the involvement of civil society representatives in the collection, analysis and publication of data on anti-Semitism and related violence;
12. Calls on the national delegations of the OSCE Parliamentary Assembly to ensure that regular debates on the subject of anti-Semitism are conducted in their parliaments and furthermore to support public awareness campaigns on the threat to democracy posed by acts of anti-Semitic hatred, detailing best practices to combat this threat;
13. Calls on the national delegations of the OSCE Parliamentary Assembly to submit written reports at the 2006 Annual Session on the activities of their parliaments with regard to combating anti-Semitism;
14. Calls on the OSCE participating states to develop educational material and teacher training methods to counter contemporary forms of anti-Semitism, as well as update programs on Holocaust education;
15. Urges both the national parliaments and governments of OSCE participating states to review their national laws;
16. Urges the OSCE participating states to improve security at Jewish sites and other locations that are potential targets of anti-Semitic attacks in coordination with the representatives of these communities.—(*Honourable Senator Grafstein*)



**Hon. Jeremiah S. Grafstein:** Honourable senators, I rise to speak briefly, once again, on this motion respecting the rising spiral of anti-Semitism, the oldest of all prejudices, in Canada and elsewhere around the world. The alarming statistics simply cry out for redress. The largest number of recorded hate incidents across Canada and Toronto continue to be anti-Semitic in nature. This year the number of incidents has ebbed slightly but they remain in historic high numbers since the information was tracked first by B'nai Brith and more recently by some police authorities.

The substance of this motion has been on the Order Paper in the Senate for almost five years. It was briefly considered by the Standing Senate Committee on Human Rights for a few hours, but for some unexplained reason, a report was never completed.

• (1730)

Honourable senators will recall that this resolution was unanimously adopted by 55 states, including Canada, at the OSCE parliamentary assembly in Washington on July 5, 2005, and before that for over five years. The pith and substance of this motion will be revisited once again at the OSCE annual parliamentary assembly to be held this July in Brussels. This issue is not fading away; regrettably it is intensifying. I will table in the Senate any resulting resolution dealing with action to be taken by other member states across the OSCE space that ranges from Vancouver to Vladivostok.

All 55 member states of the OSCE fully recognize the ominous re-emergence of the dark and miserable throwback to the dark recesses of history. From the numerous voices that have advocated ideas that can bring redress and, hopefully, a retreat to this rising menace, the following five approaches have been advocated. These approaches are considered results-oriented. Education: Urge teachers, school boards and school officials to develop effective core curricula at all levels of education to remediate the roots of this historic hate. As Elie Wiesel, the Nobel Prize winner, cogently argued in Berlin some years ago, "You can teach a child to love or you can teach a child to hate." Statistics: Most democratic republics do not understand the depth and nature of this problem. Governments are urged to track and publish hate incidences regularly, when and where they occur. The available statistics stem from non-governmental sources and are serious enough to warrant Statistic Canada's annual and regular attention. Policing: Urge more sophisticated policing of hate crimes. Toronto Police Service has led the way internationally and, in conjunction with the OSCE, now trains police forces across the OSCE space on how to investigate, prosecute and deal with hate crimes within their communities. Review our domestic laws to strengthen the rule of law against invidious and hateful conduct and incitement to hate or violence. The last approach is to expose the explosion of websites on the Internet that promote hate and discrimination. On this latter point, pioneering work has been done on child porn and missing children in partnership with the Toronto police department and Microsoft. There are solutions to curbing hate on the Internet without reducing free speech.

I hope that the Standing Senate Committee on Human Rights, if this motion is adopted, will explore these five elements, which can only dilute the impact of hate. We cannot hope to eradicate the roots of these odious prejudices of anti-Semitism, but we can hopefully make a difference.

Some may wonder about my persistence on this topic. Honourable senators, I take this subject very personally. I take anti-Semitism up close and personal since this dismal subject matter is directed to me, my family and my co-religionists personally, right here in Canada.

Honourable senators, I wonder why there is reluctance, in light of the clear evidence of this growing problem in Canada, on the part of the Senate Human Rights Committee to study the problem that goes to the heart of the Canadian idea of equality before the law, equality of our civic society and above all, the freedom from fear. I urge honourable senators to support this motion.

On motion of Senator Segal, debate adjourned.

## BANKING, TRADE AND COMMERCE

### MOTION TO AUTHORIZE COMMITTEE TO STUDY SOFTWOOD LUMBER AGREEMENT—MOTION IN AMENDMENT TO REFER MOTION TO FOREIGN AFFAIRS COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Milne:

That the Standing Senate Committee on Banking, Trade and Commerce study and report on the Canada-United States agreement on softwood lumber;

That the Committee analyse, among other things, the impact of Canada's resource management on sovereignty, the impact on the interpretation of NAFTA chapters 11 and 19, and provisions contained in the agreement with regard to financial support for the industry and its workers;

And on the motion in amendment of the Honourable Senator Milne, seconded by the Honourable Senator Ringuette, that the motion be amended by replacing the "," with a ";" after the word "workers" and by adding the following:

"That the committee submit its final report no later than October 2, 2006." (*Honourable Senator Tkachuk*)

**Hon. Peter A. Stollery:** Honourable senators, I am not certain of the situation. I had hoped the amendment to the motion would be dealt with today because I wanted to move an amendment to the main motion, which is that the subject be sent to the Standing Senate Committee on Foreign Affairs instead of the Standing Senate Committee on Banking, Trade, and Commerce.

As honourable senators are aware, the Standing Senate Committee on Foreign Affairs also deals with foreign trade. It is an important procedural question because we do not want to set precedents that are going to cause this kind of situation.

As I understood this, honourable senators, there is an amendment to the main motion. We have to deal with the amendment to the motion before I can move the amendment that I have just outlined. I am not clear where that leaves me.

**The Hon. the Speaker:** It is in order to have a subamendment, which is the one to which the honourable senator refers. The present debate is on the amendment. If the honourable senator wants to speak to the amendment, having the floor, the honourable senator may move his subamendment and then we will deal with them all together.

**Senator Stollery:** I will read the amendment. My amendment is that the motion be amended by replacing the words "Banking, Trade and Commerce" in the second paragraph with "Foreign Affairs."

**The Hon. the Speaker:** That is really not a subamendment. I think we had better deal with the motion and the amendment.

Honourable senators, are you ready for the question on the motion as amended?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Honourable senators, the motion in amendment was the motion of Senator Milne, seconded by Senator Ringuette,

that the motion be amended by replacing the "." with a ";" after the word "workers" and by adding the following:

That the committee submit its final report no later than October 2, 2006.

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

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

Motion as amended adopted, on division.

**The Hon. the Speaker:** The motion as amended is now before us. Senator Stollery, I believe, wants to change the name of the committee to which the matter would be referred.

#### MOTION IN AMENDMENT

**Hon. Peter A. Stollery:** Honourable senators, I would like to amend the main motion as follows:

That the motion, as amended, be amended by replacing the words "Banking, Trade and Commerce" in the first paragraph with "Foreign Affairs."

**The Hon. the Speaker:** It has been moved in amendment by the Honourable Senator Stollery, seconded by the Honourable Senator Corbin, that the motion, as amended, be amended by replacing the words "Banking, Trade and Commerce" in the first paragraph with "Foreign Affairs."

Is that clear, honourable senators?

**Hon. David Tkachuk:** Is the person who made the amendment speaking to the motion? If he is not speaking on the motion, I would like to move adjournment of the debate.

**Senator Stollery:** Honourable senators, I apologize for the confusion.

As I have just said, the Standing Senate Committee on Foreign Affairs has spent some time on the issue of settlement mechanisms and softwood lumber. It is a subject that is meant to go to the Foreign Affairs Committee because it is external trade. The Standing Senate Committee on Banking, Trade and Commerce deals with internal trade. That is the explanation.

• (1740)

**Senator Segal:** I move the adjournment of the debate.

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

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

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

#### THE SENATE

##### MOTION TO URGE GOVERNMENT TO STUDY IMPACT OF LEGISLATION ON REGIONS AND MINORITIES—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Cordy:

That the Senate urge the government to accompany all government bills by a social and economical impact study on regions and minorities in accordance to the Senate's role of representation and protection of minorities and regions.—(*Honourable Senator Comeau*)

**Hon. J. Trevor Eyton:** Honourable senators, I am pleased to enter the debate on Senator Ringuette's motion. The intent behind the motion is laudable, namely, to ensure that no disadvantaged group or no place in Canada is inadvertently affected by any proposed government legislation without Parliament first being well informed. It sounds simple, and there have been cases where a law was passed that had an untoward impact on regions and minorities. Normally, however, we can count on those people likely to be impacted to let Parliament know their views and opinions.

Consider, for example, the National Energy Program. It did not take an economic impact study to inform us that that program did no favours for the West. The impact was obvious and the provinces and the oil patch were vocal in telling us that the Liberal government of the day had undertaken a destructive, putative and confiscatory policy, all based on questionable assumptions that were soon proved wrong.

The only possible benefit to the West of a study along the lines proposed may have been an extensive delay while the ministers of finance and energy waited for the public service to prepare an in-depth socioeconomic impact analysis. While delayed, the government of the day would have acted no differently in the end.

Unfortunately, my first concern is that there are times when critical laws must be passed in good time. One example is back-to-work legislation. Imagine the costs to our economy of waiting a week, two weeks or three weeks before passing legislation to end a rail strike while someone hastily cobbles together a pro forma socioeconomic impact study. Such a study also runs the risk of forcing a private business to make public the details of its operations. I worry about that.

My second concern is what is meant by a “social and economical” impact study. A social and economic impact study would require an assessment of how proposed legislation will affect both people and related factors such as employment income and economic growth. However, this motion asks for a “social and economical” impact study. While it can mean “pertaining to the economy,” the term “economical” more generally means thrifty, careful in the use of resources, not wasteful or expensive. Does the motion ask that the government be economical in preparing a social impact study, or does it seek a social and economic impact study? I wonder.

A proper economic impact study is a quantifiable number-crunching econometric exercise carried out by economists who may themselves require extensive use of external consultants. That large task is compounded by the need to create or collect raw data that may not exist. Factor in a social impact study and the analysis has the potential to balloon way out of shape and common sense quickly.

Nor is it clear what is to be included in a social impact study. Would it deal with matters of sociology, psychology, anthropology or linguistics? Would it be necessary to conduct interviews of people who could be affected by a bill, or could we simply rely upon information already tucked away in various data banks? With no parameters limiting the scope of work, there is a real potential for a doctoral-type thesis for every single bill that is introduced.

Honourable senators, a study is only as good as the data and assumptions that go into it, and assumptions are always subjective. When Paul Martin cut transfers to the provinces for health, education and social services by a third in the mid-1990s, he gave Parliament a province-by-province summary of expected fiscal impacts. To take this any further would have required assumptions about how the provinces would respond. Would those assumptions, and thus the social and economic impact assessment, be anything other than optimistic?

Moreover, this motion is too vague to provide meaningful direction to those preparing the assessments. For example, the text of the motion simply says “minorities” without providing clarification about which minorities. To go back to the traditional role of the Senate, at the time of Confederation the only minorities of concern were defined in terms of English and French, Catholic and Protestant. Presumably the intent of the motion is much broader than that.

Over time we have gone beyond the protection of only the minorities envisioned at Confederation. Through the Employment Equity Act, the Canadian Human Rights Act and the Canadian Charter of Rights and Freedoms, we offer needed

protection to a range of Canadians who are either disadvantaged or potentially subject to discrimination, including women, visible minorities, Aboriginals and those with disabilities.

However, this motion offers no guidance as to which minorities it includes and, significantly, it does not include women, who are in the majority compared to men. However, presumably it includes me with my English-Welsh background since I am a part of that distinct minority in my home city of Toronto.

Simply, those who would be called upon to prepare these reports are left without any meaningful direction on who is covered, with the result that they will cover everyone. I worry about that.

What does the motion mean by “regions”? Regions could refer to groups of provinces, areas within provinces, areas that overlap provinces or even, for example, a senatorial region or division. For instance, the proposed Federal Accountability Act will end the right that ministers’ assistants currently enjoy to enter the public service without competition. Most of these assistants are located in Ottawa or across the river in Gatineau, with a few located in regional ministers’ offices. Would the regional assessment of the bill indicate the impact on the National Capital Region; would the sub-provincial region of Eastern Ontario be shown separately, along with Ontario and Quebec outside of the National Capital Region; or would the data be presented relative to a Senate region?

Might a regional impact assessment include a line that says that a couple of jobs in Atlantic Canada that would have gone to political assistants now will go instead to public servants through competition?

The motion asks for such an impact study to accompany all bills, but what is the value of this study relative to the cost of preparing the analysis? Indeed, as the motion stands there is a huge risk that expenses could spiral out of control. Consider, for example, the business of supply. Four times each year we are presented with an appropriation act to authorize spending set out in the Main Estimates and the supplementary estimates. The votes outlined in those estimates documents become part of the appropriation act. Many of the votes, and thus many of the clauses of the appropriation act, refer to “the grants listed in the estimates.” Exactly how does one subject a supply bill to the kind of impact analysis suggested without hiring an army of public servants and consultants to assess such matters as the location of every grant recipient and the spending patterns of, for example, the Inmate Welfare Fund?

Many grants are provided to non-profit organizations. These organizations, while headquartered in Ottawa or Toronto, operate throughout the country, with funds from the federal government mixed in with their other revenue sources. The organizations have spending patterns that will change throughout the year based on unexpected needs or on the quantity of project applications.

Does the proposed analysis extend to a comparison of who is likely to receive grants this year as opposed to last year, or the regional impact of changes in departmental spending patterns? If so, how is the proposed analysis to be completed in advance of a supply bill without a major and costly change in the way

departments prepare their estimates? How meaningful is it when departments find they must shift their own spending plans in response to needs that may arise in the course of a given year?

In her remarks, Senator Ringuette referred to internal studies sometimes prepared within a department as part of a policy process that eventually leads to a bill. Parliament is now obliged to back that kind of information when it pertains to matters such as the regional impact of Employment Insurance changes, and that information can be requested readily in committee if it has not been made public previously. However, the motion does not ask to have such analyses tabled when the department has one, but rather asks that an impact study accompany every single bill, regardless of cost or relevance. That procedure, honourable senators, is simply not practical and in some cases would yield little more than superfluous information.

• (1750)

Therefore, we ask ourselves what is the value relative to the costs of a social and economic analysis of Bill C-5, a bill simply confirming through legislation the legal structure of the Public Health Agency, a government entity that the previous government set up through an Order-in-Council as part of a reorganization of existing departments.

Honourable senators, the objectives of the motion are laudable, but I submit it would be a mistake to require social and economic, or, for that matter, economical, impact studies for each and every bill. The likely costs would far outweigh the benefits and would do little toward achieving Senator Ringuette's laudable objectives.

**Hon. Pierrette Ringuette:** Would the honourable senator please answer questions on his statement?

**Senator Eyton:** Yes, honourable senators, I would be pleased to do so.

**Senator Ringuette:** The honourable senator reads an interesting speech on the motion that I put forth. I noticed he said that a study is only as good as the data that goes into it. Could he explain to me why the government would not use good data to study an issue? When he was talking, I picked that up, and I do not understand why he would say that. I find that the government has on hand all pertinent data to do an analysis of legislation.

**Senator Eyton:** Obviously the government or anyone looking at this would want to look at and assemble the best possible data. The point of the motion is to require a profound study, both an economic and socio-economic study, of the bill. It is the idea of having to prepare that kind of study for each bill. All of that requires research.

The honourable senator refers to data. Of course people want the best possible data, but there are volumes of data on every subject. Selecting that data, assembling, and assessing it is a very difficult process. It is very time-consuming. My remarks suggest that this process is not cost effective. It is just too much work with respect to every bill that may be tabled.

[ Senator Eyton ]

**Senator Ringuette:** I believe that any responsible government and any minister within government, before tabling any kind of legislation, would certainly require the department to supply an analysis and study on the issue. If that analysis is not performed, Canadian taxpayers should question the value of that government.

The honourable senator is a businessperson and before any businessperson makes a decision, he or she makes an analysis. Most of the time, the minimum cost of the analysis is worth the gain that you get in your decision.

I would also like to highlight to my honourable colleague that last night, the Minister of Finance attended the Standing Senate Committee on National Finance. I asked him and the very high-ranking official, the Assistant Deputy Minister, if there had been regional economic impact studies done on the budget prior to tabling it. I will quote from the evidence: "We do a lot of studies on economic impact." Then the Assistant Deputy Minister continued in French:

[Translation]

We generally look at the budget's overall impact on the regions. Sometimes measures are specific, but others are very general and have impacts on all the regions. No regions are targeted. Yes, we look at that when we prepare a budget. We don't have any studies on the regional impact of a specific measure. We look at the overall picture.

I then said: "That's what I thought — that is what all Canadian taxpayers expect from a responsible government."

I continued:

That's what I thought. I could not imagine that our senior bureaucracy, with the quality of its staff, could not provide those kinds of studies. Since we have a regional responsibility, would it be possible for you to submit the economic impact studies that accompany the budget so that we in the Senate can conduct a much fuller analysis in order to provide you with comments accordingly?

[English]

Honourable senators, it is done because it must be done so that a responsible government can live up to its commitment. We have a responsibility as senators towards regions and minorities and this motion simply asks that we have access to the relevant economic and social impact studies to every government bill. I have the proof.

**The Hon. the Speaker:** Senator Eyton, your time is up. If you ask for a few moments, I am sure it would be granted.

**Senator Eyton:** I will simply reply; it is clear we disagree. There is no question at all that when legislation is tabled, there are valid and good reasons for it. I am not sure they fall into the very generous wording in your motion where you require:

That the Senate urge the government to accompany all government bills by a social and economical impact study on regions and minorities in accordance to the Senate's role of representation and protection of minorities and regions.

That is a far different exercise, much more difficult and complicated, as I tried to point out, than a government, for good reasons, as it sees them, tabling legislation. As well, I am not aware of any precedent for the type of embracing, all-time requirement that has been suggested. I do not know of any precedent anywhere where this kind of practice is followed. I just have to say that I think we will disagree on this.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Question!

**Hon. David Tkachuk:** I move adjournment of the debate.

**Senator Fraser:** Before we vote on Senator Tkachuk's motion, might I observe that this item has been on the Order Paper for some time now?

**Senator Ringuette:** Honourable senator, it has been on the Order Paper for 54 days.

**Senator Fraser:** Might I ask when the honourable senator would intend to speak to it if we do adjourn?

**Senator Tkachuk:** I was so moved by Senator Eyton's comments that it may take me a while. I would like to do a lot more work on this motion. The honourable senator across raised some interesting issues as well. With all these new issues being brought to the table, I will answer as soon as possible.

**Senator Fraser:** I would suggest that "as soon as possible" should be before we leave this place for the summer.

**The Hon. the Speaker:** Honourable senators, I probably have just enough time to put this motion, and then I have to find out whether we see the clock or not. Perhaps the government leader and the Leader of the Opposition could advise if we will be seeing the clock at six o'clock.

• (1800)

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** We will not see the clock if the other side is agreeable.

**The Hon. the Speaker:** Is it agreeable, honourable senators, to not see the clock?

**Senator Fraser:** I agree that committees could sit while we not see the clock. I believe on our side we have one speech remaining to be delivered. We will not keep the Senate here for a great deal of time, but I appreciate that committees that have work to do should do it.

**Senator Comeau:** This side agrees with that proposal.

**The Hon. the Speaker:** Honourable senators, it is the unanimous decision of this house that we do not see the clock. Those committees that are scheduled to sit at six o'clock have the authorization of the Senate to do so.

Is it your pleasure, honourable senators, not to see the clock?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt Senator Tkachuk's motion to adjourn the debate?

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

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

The Senate adjourned until Wednesday, June 21, 2006, at 1:30 p.m.

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