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Tuesday, October 31, 2006

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Tuesday, October 31, 2006

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

Prayers.

SENATORS' STATEMENTS

JUVENILE (TYPE 1) DIABETES

SIXTH ANNIVERSARY OF UNITED NATIONS SECURITY COUNCIL RESOLUTION 1325

Hon. Nancy Ruth: Honourable senators, tonight we celebrate the dead and some of those dead are children who died of juvenile diabetes. Today, 45 kids travelled from all over Canada to be here with us. They have juvenile (type 1) diabetes, an autoimmune disease that can lead to life-threatening complications.

These kids are here to take part in the Juvenile Diabetes Research Foundation's "Kids for a Cure" event. They will meet MPs and senators, attend a VIP luncheon and testify before the Health Committee of the other place today.

The theme this year is "Mission Possible" and speaks to the message they have for us that a cure is possible, it is close to realization and it can happen right here in Canada.

Over 200,000 people in Canada have juvenile (type 1) diabetes. Type 1 diabetes is an autoimmune disease and is the most severe form of diabetes. It strikes infants, children and young adults leaving them insulin-dependent for life.

Juvenile diabetes causes kidney failure, amputations, blindness, nerve damage, heart disease and stroke. Diabetes is a costly chronic disease with a price tag of $13 billion a year in health care costs.

• (1405)

Promising research is taking place right here and around the world, and it can lead to a cure for these kids. I want to congratulate the Juvenile Diabetes Research Foundation and all those who work to raise awareness. All of us can expand awareness and, together, we can find a cure.

Honourable senators, this is also the sixth anniversary of the United Nations Security Council Resolution 1325. The resolution on women, peace and security calls for the involvement of women in all peace and security processes.

Despite this resolution and other calls for action, women's needs, priorities and voices are all too often neglected by international assistance initiatives. The ongoing violence in the Sudan, the Democratic Republic of the Congo and Afghanistan are only a few examples that demonstrate that the rights of girls and women continue to be violated in times of conflict and state fragility. On Halloween and All Saints Day, we should remember all these violations of rights.

NAVY APPRECIATION DAY

Hon. Terry M. Mercer: Honourable senators, yesterday we celebrated Navy Appreciation Day here on Parliament Hill, a day set aside by the Navy League of Canada to show our respect to those who serve our country at sea. I was pleased, along with Senator Segal, to co-sponsor this event, along with several colleagues from all parties in the other place.

Born and raised in Halifax, I have always had a special place in my heart for the navy, especially since both my father and my son have worn the naval uniform. It was an honour to meet many of our sailors yesterday and to say thank you for all they do for us.

Honourable senators, the navy, in terms of numbers, is the smallest element of the Canadian Forces. In terms of ships and submarines, when you compare our navy with the navies of other countries, ours is relatively small. This fact is often discomforting when you realize that Canada has the longest coastline in the world and that we border on three oceans.

In fact, our navy is comprised of only three destroyers, 12 frigates, 12 coastal defence vessels, two supply ships, four submarines and some auxiliary vessels. However, when it comes to performance, honourable senators, our navy is anything but small. It is a giant amongst the much larger nations in both performance and capability.

Our sailors are professional and well trained. Even as I speak, Commodore Denis Rouleau and his ship HMCS *Iroquois* are in command of a NATO task force in the Mediterranean Sea. In recent years, our navy has led multiple coalition operations, and remains the only navy that can integrate seamlessly into an American carrier battle group.

Whether deployed around the world, or protecting Canadians in home waters, our navy provides an invaluable service to our country. I ask you all, honourable senators, to join me in thanking all of our naval and coast guard sailors for keeping us safe, free and prosperous.

We also remember their past sacrifices and those who have given their lives in the service of their country. In my toast last night, I toasted to absent friends, and I am sure you will join me in doing so today.

Hon. Hugh Segal: Honourable senators, I want to associate myself with my colleague, Senator Mercer, in paying tribute to the Canadian navy for a series of reasons, most significantly because of the role that the Canadian navy plays in defence of our national security.

At a time when drug interdiction, environmental protection, fishery protection, humanitarian deployment and the projection of power have never been more important in terms of our diplomatic development and defence activities, the navy is an absolutely vital resource fundamental to our flexibility and options as a major world participant.

The men and women of the Canadian navy require and have a mix of skills, background and training that make them the absolute envy of the world. As Senator Mercer said, despite the relatively small size of the fleet, the expertise and hard work of the men and women in our navy makes up for that lack in a way that provides a measure of leverage for which we all should be respectful and grateful.

• (1410)

The men and women of the Canadian navy reflect a base of skills, professionalism, courage and technical adeptness that is the envy of the world. In peace and war they have sacrificed so that we may live in peace and freedom. They are a vital cog in our national security, diplomatic, defence and humanitarian arsenal. Navy Day is an occasion for all Canadians to affirm that we not only appreciate the sacrifices and service of our men and women in the navy, past and present, but also, and most important, that we do not take the service, professionalism, courage and sacrifice in any way for granted.

NATIONAL DEFENCE CEREMONY BESTOWING MILITARY DECORATIONS AND HONOURS

Hon. Gerry St. Germain: Honourable senators, last Friday, 40 Canadian heroes were decorated with prestigious Canadian military decorations and honours. Most of these courageous men and women were members of the First Battalion Princess Patricia's Canadian Light Infantry or were from the support and reserve units attached to the battalion. They served in Afghanistan last year from January and February through to the end of August. Two of the awards were made posthumously: Captain Nichola Goddard, from the First Royal Canadian Horse Artillery in Shilo, Manitoba, received the Meritorious Service Medal. Captain Goddard was killed in action on May 17. Private Kevin Dallaire, mentioned in dispatches, was killed in action on August 3. For the first time since they were created in 1993, when Canada created its own honours distinct from the British awards, four soldiers were honoured with Military Valour Decorations. These are awarded to recognize acts of valour, self-sacrifice or devotion to duty in the presence of the enemy.

Sergeant Patrick Tower of Victoria, British Columbia, received a Star of Military Valour, second only to the Victoria Cross in prestige. He also received the Medal of Military Valour. Sergeant Tower was recognized for valiant action taken on August 2 in Afghanistan. Sergeant Power's citation reads:

> Following an enemy strike against an outlying friendly position that resulted in numerous casualties, Sergeant Tower assembled the platoon medic and a third soldier and led them across 150 metres of open terrain, under heavy enemy fire, to render assistance. On learning that the acting platoon commander had perished, Sergeant Tower assumed command and led the successful extraction of the force under continuous small arms and rocket-propelled grenade fire.

Sergeant Michael Thomas Victor Denine of Edmonton, Alberta, received the Medal of Military Valour for his actions on May 17 in Afghanistan. Sergeant Denine's citation reads:

> Under intense enemy fire, he recognized the immediate need to suppress the enemy fire and exited the air sentry hatch to man the pintle-mounted machine gun. Completely exposed to enemy fire, he laid down a high volume of suppressive fire, forcing the enemy to withdraw.

Master Corporal Colin Ryan Fitzgerald of Morrisburg, Ontario, received the Medal of Military Valour for action taken on May 24 in Afghanistan. Master Corporal Fitzgerald's citation reads:

> Master Corporal Fitzgerald repeatedly exposed himself to enemy fire by entering and re-entering a burning platoon vehicle and successfully driving it off the roadway, permitting the remaining vehicles trapped in the enemy zone to break free.

Private Jason Lamont of Greenwood, Nova Scotia, received the Medal of Military Valour for action taken on July 13. Private Lamont's citation reads:

> During the firefight, another soldier was shot while attempting to withdraw back the firing line and was unable to continue. Without regard for his personal safety, Private Lamont, under the concentrated enemy fire and with no organized suppression by friendly forces, sprinted through the open terrain to administer first aid.

General Rick Hillier, Chief of the Defence Staff, stated on October 27:

> You need only to read the citations for these soldiers to understand the meaning of true heroism: running across open terrain under heavy enemy fire to give aid to wounded and stranded comrades; clearing burning vehicles from a roadway under fire to allow others to get to safety; taking exceptional and resourceful measures under the worst possible pressure to suppress enemy fire and save the lives of fellow soldiers.
>
> These actions reinforce my personal belief that the men and women of the Canadian Forces are among the best, the brightest and the bravest this country has to offer.

Honourable senators, these are the real heroes, the freedom fighters, our friends. Thank you and God bless.

• (1415)

GLOBAL CENTRE FOR PLURALISM

Hon. Mobina S. B. Jaffer: Honourable senators, last week, His Highness the Aga Khan, the spiritual leader of the Shi'a Imami Ismaili Muslims, and Prime Minister Stephen Harper signed a funding agreement for the Global Centre for Pluralism.

His Highness the Aga Khan set out the reason why the partnership between Canada and the Aga Khan Development Network is so important. He stated:

> The successful collaboration is deeply rooted in a remarkable convergence of values — our strong mutual dedication to the concept and practice of pluralism... for pluralism, in essence, is a deliberate set of choices that a society must make if it is to avoid costly conflict and harness the power of diversity in solving problems.

He continued by stating:

> It will not surprise you that I am fascinated by Canada's experience as a successful pluralistic society. My active engagement with Canada began in the 1970s when many Ismailies found a welcoming refuge here in Canada from East African ethnic strife. Since that time, the Ismaili community has planted deep roots here, become self-sufficient and can now make its own contributions to Canada's pluralistic model. That model, in turn, is one which can help to teach and inspire the entire world.
>
> Indeed, our agreement itself exemplifies pluralism at work. It brings together people, ideas and resources from different continents and cultures, from religions and secular traditions, and from the public and the private sectors. And it continues in that spirit today ...
>
> Our hope and expectation is that the Global Centre for Pluralism will become a vital source in our world for research, learning and dialogue, engaging Canadians from all walks of life and joining hands with a widening array of partners.

The Aga Khan further stated:

> I am grateful that the Government of Canada has contributed so generously to its material and intellectual resources. Making available the Old War Museum is a particularly generous and symbolic gesture. Our own commitment is to invest in this building so it becomes a worthy testimony to Canada's global leadership in the cause of peace.

He then went on to speak about the clash of civilizations:

> Those who talk about an inevitable "clash of civilizations" can point today to an accumulating array of symptoms that sometimes seems to reflect their diagnosis. I believe, however, that this diagnosis is wrong — that its symptoms are more dramatic than they are representative — and that these symptoms are rooted in human ignorance rather than human character.
>
> The problem of ignorance is a problem that can be addressed. Perhaps it can even be ameliorated — but only if we go to work on our educational tasks with sustained energy, creativity and intelligence.

Honourable senators, today I am able to be a member of this auspicious chamber with all of you because we in Canada believe in pluralism. With the help of the new Global Centre for Pluralism, we will be able to export our Canadian vision of pluralism to the rest of the world.

[*Translation*]

FIRST NATIONS SOCIO-ECONOMIC FORUM

Hon. Aurélien Gill: Honourable senators, I had the privilege of attending the First Nations Socio-Economic Forum held last week in my community of Mashteuiatsh, Quebec. The forum was attended by the chiefs of 11 Aboriginal and Inuit nations of Quebec communities, civil society stakeholders and representatives of the federal and provincial governments.

The hope of the Assembly of First Nations of Quebec and Labrador in organizing the forum was that it would lead to the creation of 10,000 jobs, the building of 10,000 housing units and bringing 10,000 dropouts back to school.

Three days of work have seen several projects being tabled, in accordance with the initial goal. At the end of the forum, a number of chiefs stated that they had made progress towards improving life in their communities. In his closing speech, Regional Chief of the Assembly of First Nations, Ghislain Picard, confirmed that the meeting was the first step towards improving the condition of 70,000 Quebec Aboriginals.

This meeting was without precedent in the history of the First Nations in Quebec. It was quite refreshing to see that the participants' comments were geared to the future. The Aboriginal chiefs reaffirmed their determination to help their people out of their underdevelopment and their social slump. They also reiterated the need for assistance for the growing number of young people within our communities who are losing hope.

The will of the chiefs to take charge was well-received by the governments, that of Quebec in particular. Premier Charest described this forum as "a unique moment in our common history" and "a turning point in relations between Quebec and the First Nations". The constant presence of Premier Charest and 15 of his ministers for the duration of the forum is a good sign.

Something new is happening in Quebec, which will surely allow Aboriginals to escape their dependency. Our hope is that this sense of urgency to act for the future is shared by the federal government, whose attitude was harshly criticized at the end of the forum.

• (1420)

Ottawa did not demonstrate as much enthusiasm as Quebec during the forum. Not only was the federal cabinet poorly represented in terms of numbers, but its contribution was well below expectations.

I have said this before and I will say it again. Honourable senators, Minister Prentice needs your support and that of his cabinet colleagues to meet First Nations' expectations.

This forum made it clear that the Third World exists right here in Canada. Ten years ago, the Royal Commission on Aboriginal Peoples reached the same conclusion.

There is still a huge amount of work to do, but today there is a glimmer of hope. It would be a shame to let it die. A lot of opportunities have been missed. Let us hope that the Government of Canada will make a concrete commitment to making the most of this opportunity. The First Nations, like all Canadians, are tired of having the problems on their reserves recognized and condemned, but then ignored.

ROUTINE PROCEEDINGS

CITIZENSHIP AND IMMIGRATION

2006 ANNUAL REPORT TABLED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Annual Report to Parliament on Immigration for the year 2006.

[*English*]

THE SENATE

BOOK ENTITLED *PAGES OF REFLECTION* TABLED

Hon. Sharon Carstairs: Honourable senators, pursuant to rule 28(4), I request leave to table a document entitled *Pages of Reflection*.

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

Hon. Senators: Agreed.

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

MIDWESTERN LEGISLATIVE CONFERENCE OF COUNCIL OF STATE GOVERNMENTS ANNUAL MEETING, AUGUST 20-23, 2006—REPORT TABLED

Hon. Jerahmiel 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 Canadian delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Midwestern Legislative Conference of the Council of State Governments' sixty-first annual meeting, held in Chicago, Illinois, from August 20 to 23, 2006.

NATIONAL GOVERNORS' ASSOCIATION ANNUAL MEETING, AUGUST 4-7, 2006—REPORT TABLED

Hon. Jerahmiel S. Grafstein: Honourable senators, with your indulgence, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the 2006 National Governors' Association: Healthy America, annual meeting held in Charleston, South Carolina, from August 4 to 7, 2006.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

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

> That one week from today, the Standing Senate Committee on Energy, the Environment and Natural Resources should have the power to sit at 5 p.m. on Tuesday, November 7, 2006, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

• (1425)

THE SENATE

NOTICE OF MOTION TO STRIKE SPECIAL COMMITTEE ON AGING

Hon. Sharon Carstairs: Honourable senators, with leave the Senate and notwithstanding rule 57(1)(d), I move:

> That later this day a special committee of the Senate be appointed to examine and report upon the implications of an aging society in Canada;
>
> That notwithstanding rule 85(1)(b), the Committee comprise seven members, namely, the Honourable Senators Carstairs, P.C., Chaput, Cordy, Johnson, Keon, Mercer and Murray, P.C., and that three members constitute a quorum;
>
> That the committee exam the issues of aging in our society in relation to, but not limited to:
>
> - promoting active living and well-being;
> - housing and transportation needs; financial security and retirement;
> - abuse and neglect;
> - health promotion and prevention;
> - and health care needs, including chronic diseases, medication use, mental health, palliative care, home care and caregiving;
>
> That the Committee review public programs and services for seniors, the gaps that exist in the needs of seniors, and the implications for future service delivery as the population ages;
>
> That the Committee review strategies on aging implemented in other countries;
>
> That the Committee review Canada's role and obligations in light of the 2002 Madrid International Plan of Action on Ageing;
>
> That the Committee consider the appropriate role of the federal government in helping Canadians age well;
>
> 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 that Committee;
>
> That the Committee have power to adjourn from place to place within Canada;

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

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 Order of Reference to the Standing Senate Committee on Social Affairs, Science and Technology concerning the aging of the population adopted by the Senate on June 28, 2006 be withdrawn;

That the Committee present its final report to the Senate no later than December 31, 2007; and

That the Committee retain all powers necessary to publicize the findings of its final report until March 31, 2008.

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

Some Hon. Senators: Agreed.

Hon. Terry Stratton: Before we agree, I have a question. Is it not normal for special committees or subcommittees to have about six members? How many members are on this proposed special committee?

Senator Carstairs: Honourable senators, it is a committee of seven.

Senator Stratton: Can the honourable senator tell us how the number of four Liberals, two Tories and an independent was arrived at? Normally, a subcommittee or special committee has six members, and if there is an independent, the Liberals drop one of their members to allow the independent to sit, keeping the two Tories. Why was that not done in this case?

The Hon. the Speaker: At this point, the question is whether leave is granted. It may be more proper to pursue the honourable senator's question later today, if leave is granted.

Is it the will of the house that leave be granted?

Hon. Senators: Agreed.

QUESTION PERIOD

THE ENVIRONMENT

STATUS OF POLICY ON GLOBAL WARMING

Hon. Daniel Hays (Leader of the Opposition): Honourable senators, my question is to the Leader of the Government in the Senate. Earlier today, we heard on the news the reports from the pre-eminent British economist Nicholas Stern of the Royal Society that not fighting global warming could have catastrophic economic effects. He compared the potential economic effects to a world war or the Great Depression.

My question is on the status of Canadian environmental policy. We have seen the clean air bill introduced in the other place, but we know that in this minority Parliament the three opposition parties are not supporting it. Accordingly, that particular policy initiative is in question. We have seen a considerable time pass to develop that particular program. We are all anxious to know, minister, and hopefully you can help us, what the time frame is within which we will see a policy to deal with this important environmental issue?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I thank the senator for the question. Of course, we saw the report that came out of Great Britain.

• (1430)

Obviously, the government and the Minister of the Environment are having a close look at this report, but we do understand, as the honourable senator pointed out, that the report highlights a lack of progress over many years on the whole issue of climate change.

That is not news to our government. We have been saying for months that the previous government did nothing about air pollution and failed to deliver anything about climate change or, particularly, the Kyoto Protocol in 13 years of government. That is something with which we are seized. This report calls for strong, deliberate policy decisions from governments to motivate change, and that is exactly what the clean air act will do and will deliver.

As most Canadians know, the problems of smog, air pollution and greenhouse gases are serious issues. The proposed clean air act is a comprehensive plan to deal with reducing smog and greenhouse gases. This bill is a first because no other party in the country at the moment has a plan to address smog and greenhouse gas emissions.

Senator Hays: To the extent that the references of the minister are to the previous government, I understand that this is a new government, this new government has serious responsibilities and it is obviously having difficulty. What is the time frame within which we can expect to see a revised initiative? The proposed clean air act contains a provision for implementation by 2010 and would see greenhouse gas emissions reduced at a much later date, 2050. That is one of the reasons that the bill has not been accepted by a majority of parliamentarians in the other place.

I am not expecting a precise number from the Leader of the Government, but there is an indication that that must change. With respect to the previous government, there were good policies, for example, EnerGuide, the One-Tonne Challenge and wind power production. A whole series of programs have been cancelled. We do not have whatever limited benefit or great benefit that might have flowed from them. We are without a policy now and we are anxious to know when we will have one.

Senator LeBreton: I disagree with the last statement that we are without a policy. We are very committed to the proposed clean air act because, for the first time in this country, we are regulating every industry sector and have set achievable objectives, which will produce tangible results in improving the health of Canadians. We encourage industry, environmental NGOs, stakeholders and all parliamentarians to work collaboratively with us as we work on effecting these changes.

With regard to the programs that the honourable senator mentioned, as I pointed out at an earlier time, the Minister of the Environment and the Minister of Natural Resources have indicated that there will be a series of announcements in the next few months on other initiatives the government intends to take with regard to conserving energy and cleaning up the air we breathe. I would encourage all senators to await these. Despite the comments of the three opposition parties, we are not going back to the drafting board. We have the proposed clean air act, and we intend to promote and defend it, although it is interesting that not many questions are being asked by the opposition in the other place about the environment, which indicates to me that perhaps they do not want to shine too bright a light on the matter. I would simply say that in terms of the target mentioned, that is a misrepresentation of the intention of the minister. She was very clear on phased-in targets. At least one of the so-called leading candidates for the leadership of the Liberal Party had exactly the same date as a target for cuts to greenhouse gas emissions.

• (1435)

EXPO 2015

HOSTING BID BY TORONTO

Hon. Art Eggleton: My question is to the Leader of the Government in the Senate. There are three days to go for the Prime Minister to sign a letter to the Bureau of International Expositions to indicate that it is putting forward the Toronto bid for Expo 2015.

This bid is a winner for Toronto, for Ontario and for Canada. Over 200,000 jobs would be created; over $8 billion in wages would be paid out; the anticipated 40 million visitors would boost our country's tourism industry; it would contribute some $13.5 billion to the GDP for Canada and Ontario, as well as $5.3 billion in taxes. Critics speak about the government money that would be expended. Look at all the money that will come back in taxes, over $2 billion of which would come to the federal government.

Expo 2015 would be a great opportunity to create the kind of legacy that will benefit the entire country. Will the Prime Minister sign the letter to officially submit the application within the next three days?

Hon. Marjory LeBreton (Leader of the Government): As I mentioned to honourable senators in answer to a question last week, we received the final proposal on October 6. We know that in three days' time the government must respond. I will simply point out to my colleagues that the honourable senator is a vigorous ambassador promoting this cause, and we are well aware of the deadline of November 3.

Senator Eggleton: I am a little surprised, because I thought with three days to go, the answer might have been more definitive and hopefully more positive. Perhaps when the Leader of the Government speaks to her colleagues, she could mention the fact that we were able to get the different orders of government together for the Olympics in Vancouver, which will be a great event for this country. No one says it is just for Vancouver; everyone knows it is for Canada.

When I was mayor of Toronto, we put in a bid for Expo 2000. Unfortunately, we lost by one vote at that time. I remember full well that all orders of government came together. By coincidence, the political colour of the different orders of government was the same then as it is now. The Peterson government was in Ontario and the Mulroney government was in Ottawa. Michael Wilson, who was then the Finance Minister, came with me to Paris for the bid. I remember that the former mayor of Montreal, Jean Drapeau, also came over to support our bid.

Is the government prepared to put out extra energy to ensure that this bid happens, to show the leadership that it will act within the next three days, just as it has for Vancouver and in previous bids?

Senator LeBreton: I thank the honourable senator for his question. Toronto is a tremendous city. It happens to be the capital of the province in which I live. I am very proud of Toronto, although I do not like its hockey team.

In any event, I certainly did not intend for my answer to be a negative one. We are well aware that the deadline is November 3. The honourable senator should not take from my answer that this has anything to do against the City of Toronto. This is, as he mentioned, a Canadian bid.

I well remember the last effort, and I was very unhappy about the ultimate result. I had friends involved in the bid, and it was disappointing to lose it by one vote. I will be happy to report to Senator Eggleton the moment I know when the decision is made.

Senator Mercer: Stay close to the phone.

• (1440)

HUMAN RESOURCES AND SOCIAL DEVELOPMENT

WORKPLACE EQUITY OFFICE— CLOSURE OF SERVICES IN ATLANTIC REGION

Hon. Bill Rompkey: My question is for the Leader of the Government in Senate. The federal cuts in the Atlantic region continue to pile up. We have seen cuts in literacy, new radar stations have been cancelled, the government has not returned the weather office to Gander as it promised it would do during the election campaign, and now, in a decision that will have a negative impact on some of the country's most vulnerable people and regions, the federal government is closing the Workplace Equity Office in Newfoundland and Labrador, and the offices in Nova Scotia and New Brunswick, and moving the service to Montreal.

I want to quote to the minister the words of the Honourable Joan Burke, Minister Responsible for the Status of Women and Minister of Education for Newfoundland and Labrador:

> This latest salvo from the federal government tells me very clearly that this government appears to have little appreciation for the struggles of women, people with disabilities, visible minorities and Aboriginal people to gain an equal foothold in society.

Minister Burke does not think that is funny at all. She thinks it is pretty serious.

Senator Tkachuk: I think it is funny.

Senator Rompkey: The honourable senator thinks it is funny. She does not think it is funny; she disagrees with my friend on the other side.

> By the end of March, the federal government will close its regional sites and try to deliver this service from Montreal through a single workplace equity office...it will be impossible...

I know this is not the minister's idea and I know this is not in her heart and in her mind, but it has been done. I ask the Leader of the Government, will she be a champion in cabinet for these people and will she ask her colleagues to reverse this decision?

Some Hon. Senators: Hear, hear!

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, Senator Rompkey talked about the weather station. The government is committed to reinstating the weather station.

Senator Rompkey: The government has not reinstated it, though.

Senator LeBreton: I do not know what the procedures are in terms of undoing something that had been done by the previous government.

However, in terms of the expenditure review process that we went through to find savings in the government, I am not aware of the specific reference that the honourable senator made mention of, but the fact is that the government is expending many millions, indeed billions in some areas for the betterment of women, Aboriginals, and we have had many questions on the whole issue of literacy.

The fact is, as I have mentioned many times, $81 million, in addition to all of the money that is earmarked in other departments, with the ministers working in collaboration with their provincial and territorial ministers, will deliver services where they are needed for people actually on the ground who need these services.

People have assumed that somehow or other this money is not available to them, but they may simply apply for future funding. We have rearranged programs, especially with regard to literacy, to create savings and to put those savings in areas where they actually deliver a service to people who require these services.

Senator Rompkey: This question has nothing to do with money; it has to do with the enforcement of an act, and the workplace equity officers work with employers on their obligations under the federally legislated Employment Equity Act and the Federal Contractors Program. How can agents in Montreal work with Aboriginals in Newfoundland and Labrador, or Nova Scotia or New Brunswick? That does not make any sense at all. This is not a question of money, it is a question of effectiveness, and if the federal government is to work with its counterparts obviously the Government of Newfoundland and Labrador does not think it is working very well.

Therefore I ask the minister again: Will she be a champion for these people, Aboriginal people, people with disabilities and women? She is a shining example of equity and the ability of women to shine in this country. Will she be a champion for these people in cabinet?

Some Hon. Senators: Hear, hear!

• (1445)

Senator LeBreton: First, the honourable senator quoted a minister of the Newfoundland government. I would to have to read exactly what she said.

It is really a stretch for anyone, regardless of political stripe, to say that about this government, especially when one looks at the work being done by Minister Prentice in the area of Aboriginal affairs in terms of equity. Nevertheless, I shall take that one small portion of the honourable senator's question on the equity deliverable in Newfoundland and Labrador and attempt to ascertain an answer for him.

The government is seriously committed to programs in support of our Aboriginal communities and in support of people with disabilities. In fact, it was our government that decided to compensate hepatitis C victims after no action had been taken for quite a long time.

It is most unfair for anyone to characterize this government as not caring about women, Aboriginals or the disabled. It is just wrong.

INCREASE OF MINIMUM WAGE IN FEDERAL JURISDICTIONS

Hon. Jerahmiel S. Grafstein: Honourable senators, my question is for the Leader of Government in the Senate.

Professor Harry Arthurs, distinguished former Dean of Osgoode Hall, a former president of York University and a friend and classmate of mine from our University of Toronto law school days just completed and tabled a two-year inquiry for the federal government recommending an update of the 10-year minimum labour standards and other issues affecting workers within federal jurisdiction.

Last week, honourable senators may recall that I raised under Senators' Statements a concern when it was reported that the Province of Ontario — my region — had refused to increase the minimum wage for adult workers to $10 based on some economic studies that indicated that the economic trade-offs in job loss would offset the benefits to those poor, hard-working Canadians.

Would the federal government, in an act of leadership, re-establish a federal minimum wage — specifically, a federal minimum wage of $10 per hour — for adult workers in federal jurisdictions, to help those hard-working Canadian families to work their way across the poverty line? Will the government act as a leader, in the hope that the provincial governments might follow?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for his question. I am aware of the report by the honourable senator's former colleague. I shall take the question as notice and get back to Senator Grafstein with an answer.

Senator Grafstein: Does the Government of Canada realize that the number of working families at the poverty line is ballooning, including, especially, working single mothers, separated mothers, widowed mothers, like my own, the fastest growing group of workers working at the poverty line or below it? Could the government leader table in the Senate any economic studies that would allow us to determine whether an increase in the minimum wage across Canada would, in any way, enhance the economy or work against the economy? At least, it would help these hard-working Canadians pull across the poverty line. Would the government leader table those studies, if she has them?

Senator LeBreton: Honourable senators, I am not aware of any specific study related to that particular subject matter. I am certainly well aware of the difficulties many single women, and some single men, face. I do know a single father who faces a similar situation.

I shall certainly attempt to find out if any studies of that nature have been done and, if so, I shall be happy to table it in the Senate.

INCREASE OF GUARANTEED ANNUAL INCOME SUPPLEMENT

Hon. Hugh Segal: Honourable senators, when the Leader of the Government in the Senate is making those inquiries, will she also determine whether any work has been done on a guaranteed annual income supplement for working Canadians who, even though they are working very hard, are falling beneath the low income cut-off and for whom often a small amount on a universal basis could bring them over the poverty line, to recognize the fact that they are working hard and doing the very best they can? I know that colleagues from both sides would be very interested in any progress that might be made on that issue within the government.

• (1450)

Hon. Marjory LeBreton (Leader of the Government): I am not aware of any such study, but the honourable senator reminded me of a time, back in the days of Mr. Stanfield, when we did talk about a guaranteed annual income supplement and the notion was rejected by the opposition Liberals at the time.

In any event, I shall ascertain whether, in fact, any such studies have taken place and get back to the honourable senator.

FUNDING FOR LITERACY PROGRAMS

Hon. Joyce Fairbairn: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate. On Friday, I shall have the pleasure of taking part in the annual meeting of Literacy Alberta, which is a combination of keeping up with progress in new techniques and programs and the celebration of the outstanding and often ground-breaking work of our activists, coordinators, researchers, tutors and learners throughout the province. It almost did not happen this year because, for the first time, Literacy Alberta did not get federal support for this event, but they decided to go ahead as best they could.

Half of Literacy Alberta's funding is cut severely, compromising the Literacy Help Line, the delivery of practitioner certification programs, professional development and resources in support of practitioners, tutors and learners.

Alberta does not stand alone in this uncertainty. In recent days, however, there have been some encouraging signals — indeed, from the Leader of the Government in the Senate herself, along with others — that some kind of compromise is in the works so that programs will not go down throughout the country.

I would simply ask the Leader of the Government in the Senate if there is a plan on the way. We have all been talking about the $81 million, and it would be helpful to know if some of that money is going in the direction of those who actually take the teaching to the learners.

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I thank the honourable senator for her question. First, when Senator Fairbairn claims that the annual meeting of Alberta Literacy almost did not take place because the funding had been cut, I find that rather difficult to understand, since the government did not cut any existing literacy agreements. That in itself is a matter of some interest to me.

As I have said on many occasions, this government has earmarked a considerable sum of money, $81 million, and we are simply embarking on our own program of putting in place a policy whereby the federal minister, along with provincial counterparts, will be working to train people in the labour market. These interested people working in the literacy field, may apply under the programs that this government has put in place, rather than assuming that the literacy needs of Canadians will not be met under this program. I feel very confident that the literacy needs of Canadians will be met.

As I have said in a previous answer to a question by the honourable senator, if, in six months time, she can prove me wrong, I shall be happy to address the question again. I am very confident in the ability of our minister and our government to deliver a program that has a considerable amount of money, in addition to the ministers of other departments who have millions, if not billions, at their disposal, to deal with literacy problems and the problems of unskilled workers.

• (1455)

Senator Fairbairn: I have a brief supplementary. The honourable minister knows that no one would be happier than me to know that programs that will help these people will continue regardless of which government is in power. My only concern, and that of the people on the ground who have been doing this for a long time and have the skills to do it, is that those people, in the new process to go ahead, will not be cut out of the system, seeing as it is very tough to teach people who have not been able to read.

The ones who are there are darned good at it. I would hope that whatever province or territory they are in, they will have the opportunity to continue delivering something that neither the minister nor I would be able to deliver.

Senator LeBreton: We should not be going around alarming people that somehow or other they will be cut out of the system. There is no evidence to show that is the case. Saying to people that somehow or other they will not be able to work in this field is actually quite irresponsible.

The honourable senator is obviously a very prominent person in this field. Instead of saying these programs will not be available, she should encourage people to access, through their provincial governments and also the federal government, the considerable amount of money we have set aside for adult learning, literacy and essential skills.

Senator Fairbairn: Honourable senators, I am not going around alarming people; they are alarming me because they are the ones who are telling me that the conduits that they used in the past are no longer there.

We want to know that they will have the same opportunities to do a job that they can do well, as they have been. If these programs are continuing, that is great; but there is no question in my mind of alarming anyone who believes, as does the minister, in this particular part of our social programs in this country.

There is misunderstanding, but I am certainly not the one that is putting it forward. We need more information about how these programs will proceed. This may not be the time to do that yet, maybe there will be consultations; but there must be a good message sent out that these people are not left out because the system has changed. That is the basis of every question I ask in this Senate.

Senator LeBreton: Honourable senators, we have been trying to send the message that for people who need to access adult learning, literacy and skills training, there is a government program and there are people working in these areas.

That is exactly the message that I am trying to communicate, and I would hope everyone tries to communicate. There are, as I mentioned many times, significant sums of money for these programs.

If I refer back to the election campaign, we actually made the issue of tradespeople, skilled workers and tax credits for people who have to purchase tools a major plank in our platform. Far be it from me to be anything but positive about these programs. I feel very strongly that we have in place, through the minister and through the provincial and territorial governments and people who work in the field, a program that will deliver services directly to the people who need them.

• (1500)

POINT OF ORDER

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, be advised that the heading of the following ruling has a typographical error. It reads, "Question of Privilege" but it should read, "Point of Order." I will not waste paper reprinting the ruling.

On October 19, 2006, Senator Murray rose on a point of order to challenge the propriety of a question put to Senator Fortier during Question Period. Senator Murray believed that the question should not have been permitted. In his opinion, it was a question relating to Senator Fortier's political responsibility for Montreal and was outside his ministerial functions.

Let me begin by reviewing the event that prompted this point of order. During Question Period, Senator Fraser began her question by addressing it to the "minister for Montreal." The question dealt with a "new targeted initiative for older workers announced... by the Minister of Human Resources and Social Development Canada" and its relationship to metropolitan areas like Montreal. After Senator Fortier answered the first question, Senator Fraser then asked a supplementary question, to which the minister again provided a response.

In making his point, Senator Murray began by quoting rule 24(1) of the *Rules of the Senate*, which states:

> 24.(1) When the Speaker calls the Question Period, a Senator may, without notice, address an oral question to:
>
> (a) the Leader of the Government in the Senate, if it is a question relating to public affairs,
>
> (b) a Senator who is a Minister of the Crown, if it is a question relating to his ministerial responsibilities...

[*Translation*]

Senator Murray argued that, since Senator Fortier is the Minister of Public Works and Government Services, the question and supplemental question relating to Human Resources and Social Development Canada should not have been addressed to him. Senator Murray explained that, while Senator Fortier has political responsibilities on top of his duties as the head of a department, questions directed to him during Question Period must directly relate to his departmental duties and not to other responsibilities, including geographical representation.

A number of senators also contributed to the discussion. Senator Fraser stated that, when Senator Fortier was summoned to this chamber and appointed as a minister, he was "identified as being the minister to represent Montreal." Since the senator is publicly known to have this additional duty, it was Senator Fraser's contention that questions relating to Montreal fall within Senator Fortier's ministerial responsibilities.

Senator Comeau noted that, while some ministers have "special duties" assigned to them by the Prime Minister, these responsibilities do not relate to their departmental responsibilities. He argued that questions to ministers during Question Period must deal directly with their departments, and not with any other duties.

[*English*]

Finally, Senator Moore suggested that I consult the appropriate records to determine Senator Fortier's responsibilities as a minister in order to guide me as I prepare a ruling.

I wish to thank honourable senators who participated in the exchanges on this issue. I have looked into the matter and I am now prepared to rule on the point of order.

The history of rule 24 goes back to December 10, 1968, when a formal Question Period under Senate Rules was first organized as a feature of Senate sittings. Rule 20 was established, permitting

senators to ask questions to the Leader of the Government. On June 14, 1977, an amendment was passed resulting in the wording we now find in rule 24.

In developing our guidelines for Question Period, we have often followed some of the general practices of the House of Commons. That House has dealt with this type of issue before and has established principles to assist their Speaker in managing oral questions. In a decision relating to Question Period on October 16, 1968, Speaker Lamoureux ruled that:

> ...a minister may be asked questions relating to a department for which he has ministerial responsibility or acting ministerial responsibility, but a minister cannot be asked, nor can he answer questions in another capacity, such as being responsible for a province, or part of a province, or, again, as spokesman for a racial or religious group

[*Translation*]

This principle then found its way into the practices of that chamber, as reflected in *Beauchesne's Parliamentary Rules and Forms*, sixth edition. At paragraph 412, Beauchesne cites Speaker Lamoureux's ruling and repeats the wording of his decision.

Beauchesne's advice is also found in Marleau and Montpetit's *House of Commons Procedure and Practice*. At pages 426 and 427, it states that "a question should not... address... any other presumed functions, such as party or regional political responsibilities."

Therefore, it is clear to me that questions which are outside a minister's departmental responsibilities are out of order.

[*English*]

The question then becomes: "What are the ministerial responsibilities of Senator Fortier?"

In Senator Fortier's Commission of Appointment as a minister of the Crown, he is identified as the Minister of Public Works and Government Services. The commission does not mention any regional responsibility for the region of Montreal. I therefore conclude that duties assigned by the Prime Minister to Senator Fortier outside his department are political in nature and are outside his direct administrative responsibilities for Public Works and Government Services Canada.

During Question Period, the only questions put to Senator Fortier that will be in order are those that relate directly to his responsibilities as Minister of Public Works and Government Services Canada.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, pursuant to rule 27(1), I give notice that, when we proceed to Government Business, the Senate shall consider the business in the following order: item No. 1 under Reports of Committees, followed by the other items as they appear on the Order Paper.

[*English*]

FEDERAL ACCOUNTABILITY BILL

REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Comeau, for the adoption of the fourth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-2, providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability, with amendments and observations), presented in the Senate on October 26, 2006.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have had a discussion with the Deputy Leader of the Opposition concerning the amendments. She can correct me if I am wrong on the following proposal.

During the course of the debate on Bill C-2, amendments might be proposed by certain senators. If His Honour were to seek the view of the chamber, he might find that senators would agree to the proposal that when a senator moves an amendment, the subsequent senator need not speak to that amendment but can speak to the main motion, which is the report. As such, the subsequent speaker can move a motion and the motion on the floor does not need to be dealt with. I am not sure whether my explanation is clear but the intent is to move and stack amendments at the report stage of the bill to be dealt with at the end.

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, that is indeed the tenor of our discussions. We also discussed the possibility of the timing of the debate at report stage. I do not know whether the Deputy Leader of the Government wishes to continue that discussion. However, I confirm that he and I have discussed stacking the amendments at report stage, meaning there would be no votes on anything concerning the report stage until it became time to vote on the amendments.

Senator Comeau: That is absolutely correct. We would deal with all amendments at the wrap-up of the report stage.

However, I want to note that the question of having this all wrapped up by Thursday evening has not been concluded. There are ongoing discussions so we will come back to this chamber later and advise honourable senators of the agreement reached.

• (1510)

The Hon. the Speaker: Honourable senators, the consent of the house, given that the method of proceeding with debate on the motion concerning the report affecting Bill C-2, will be such that honourable senators rising to participate in the debate, if they wish to move a motion — which is their right — the senator following the senator who has moved a motion will not be limited

to the question, which would be the motion or subamendment to the motion to amend. When the debate has concluded, votes will be held on all the amendments that have been brought forward. The motion is only on the report. Agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: So ordered.

Hon. Serge Joyal: Honourable senators, it is a privilege to have the opportunity to address you this afternoon with respect to the report on Bill C-2 as prepared by the Standing Senate Committee on Legal and Constitutional Affairs, the fourth report of the committee.

This issue is serious, not only as a result of the wide variety of statutes that are effected in the bill — more than 40 — but because the bill raises important constitutional and institutional concerns.

In that respect, first I will address the comments made yesterday by Honourable Senator Nolin in his opening remarks, whereby he drew our attention to the role of the Senate while dealing with legislation coming from the other place.

Senator Nolin referred to the book we published about the Canadian Senate entitled *Protecting Canadian Democracy*, whereby many senators contributed to the book, not the least of whom was Senator Lowell Murray.

A chapter in the book entitled "The Legislative Independence of the Senate" begins at page 279. It is a chapter I authored. If you allow me the authority, I will quote the opening remarks. It stems from a statement made by the Right Honourable John A. Macdonald in the parliamentary debate on the subject of Confederation.

As Senator Nolin has mentioned, we are at the point whereby the principle of our institutions were being debated and spelled out among the founding fathers — if I can use a sexist term — the founders of our country.

Sir John A. Macdonald stated the following at page 279 of the book:

> There would be no use of an Upper House, if it did not exercise, when it thought proper, the right of opposing or amending or postponing the legislation of the Lower House. It would be of no value whatever were it a mere chamber for registering the decrees of the Lower House. It must be an independent House, having a free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill-considered legislation which may come from that body but will never set itself in opposition against the deliberate and understood wishes of the people.

This statement or conceptual idea that Sir John A. Macdonald held of the Senate has survived the centuries up to the present. Reflected in the statement are the wisdom and wealth of information and concept we must apply when dealing with difficult legislation as we all recognize Bill C-2 to be.

That statement of Sir John A. Macdonald was echoed in a committee of the Senate whereby our friend, Senator Austin, was in the chair when former Justice Willard Estey of the Supreme Court of Canada testified in the Nisga'a bill. The quote appears at page 300 of the above-mentioned chapter.

You may remember, honourable senators, former Justice Willard Estey of the Supreme Court stated the following in a Senate committee studying the important Nisga'a bill:

> You have a duty.

I thought hard about this before coming here.

> The Senate has a senior duty to perform. It has to perfect the process of legislation. That duty must clearly entail, on occasion, an amendment or a refusal or an automatic approval. All three are within your power. Not only are they within your power, they are within your duty. You have to scrutinize this thing and see what is good and bad and purify it. That is why you are here. The second house invariably, around the world, is set up as a break on the first level of legislation, while the executive branch tags along all the way up the ladder.

A question raised by Senator Nolin, as an additional dimension, was the following: When should the Senate oppose its will to the popular elected House? That question is a key constitutional question. When can we say no?

Honourable senators, in trying to answer that question some years ago, I went through the archives and discovered that in the old history of Canada there were 44 occasions whereby the Senate formally opposed the other place. I went through the studies of those various occasions to try to identify, as Senator Cools would say, trends. While looking into the 44 cases, you may wonder the types of conclusions one can draw from those various cases. It came to me there were at least five occasions when the Senate, in fact, decided to oppose.

The first occasion was when the issue was of great detriment to one or more regions. We understand that, of course, because we are a regional chamber.

The second occasion was when there was a breach of constitutionally protected human rights and freedoms. The Honourable Senator Nolin alluded to one such example in the case of the Pearson Airport bill.

The third occasion compromised collective, linguistic or minority rights. I do not need to give any example in relation to that. We have an ongoing debate with respect to the issue of linguistic rights. I think we are properly constituted to raise minority rights.

The fourth occasion was of such importance to the future of Canada as to require the government to seek a mandate from the electorate. Those senators who were present during the free trade debate will remember that issue as one instance where the Senate recommended seeking a mandate. The bill is passed as is only once a mandate is obtained. I think that particular bill passed within the following 30 days after the election. All those present at that time will remember the context.

The fifth occasion was so repugnant as to constitute a quasi-abuse of the legislative power of Parliament.

Those five instances I have been able to draw upon from the 44 bills or decisions involving a government initiating a decision that was sent to our house.

Honourable senators, I approached Bill C-2 with that question in mind. I asked myself, in relation to those constitutional principles, what aspect of the bill raises constitutional principles that are intimately rooted in the functioning of Parliament? What principles of the bill question the rights of Parliament? What aspects of the bill question minority rights? Honourable senators will understand that those come from the conclusions that we may draw from the precedents of this house.

• (1520)

Honourable senators, there are two elements of the bill that I wish to draw to your attention. The first one is the first part of the bill, the one dealing with ethics and conflict of interest. That part of the bill was a surprise to us all. We learned in the bill that the proposal was to create one ethics commissioner not only for both Houses, but also for the public officers appointed under the auspices of the Governor-in-Council. That is, there would be one single commissioner. That was a surprise to me and probably to a large majority of us. On three prior occasions in this place — that is, with Bill C-34, Bill C-4 and then with the implementation of the ethics code — we have addressed the issue of the separation of both chambers in the context of our parliamentary duty.

One of the parliamentary duties of this place is to keep the other place in check. We review what the other place is doing and balance the powers of the government that are concentrated with the majority in the other place. Our task is to calmly and dispassionately review government bills. There is no doubt that we must remain independent when we exercise the disciplinary functions of this place. Numerous decisions of the Supreme Court of Canada have confirmed that the disciplinary function of each House is autonomous to each House for a specific reason: If the other place would have to look into the conduct of senators, we would have to look into the conduct of MPs. Honourable senators will immediately understand the kind of chaos in which, sooner than later, we would find ourselves. Look at what happened last year with the ethics commissioner. I do not need to mention any cases. The ethics of the other place are much more politicized than ethics in this place. There is no mystery about the reasons: This place does not act with as many partisan objectives in mind in comparison to the other place. This is rooted not only at section 18 of our Constitution that provides that each House has the same privileges — I do not need to read it — but also in the other Westminster models. That is the case in the United Kingdom, in Australia and in the United States.

If one looks at the Constitution of the United States, one would read at section 5 that each house has its own responsibility in the discipline of its members.

The House of Lords has their own code and their own registrar. The House of Commons in London has a commissioner of public standards, a position that has nothing to do with the ethics of the public officer appointed by the Queen in council or with the ethics of the Lords. That is totally separated.

The same situation exists in Australia. Their Senate is elected and there is no way that the Senate of Australia is charged with the jurisdiction or the review of the ethics and discipline of members elected to their House of Commons. That, honourable senators, is a principle of constitutional autonomy needed for the two chambers to properly exercise their constitutional mandate.

I have not invented this principle, none of us have invented it; we have had hours and hours of debate and study on this subject. Therefore, I was quite surprised to see in the bill that, finally, we were returning, like a bad movie, to restate the reasons that position should remain. Those are the constitutional motives, but there are other reasons.

When we had the opportunity to listen to a group of witnesses, we heard from two commissioners — one in excise and one former commissioner — Mr. Howard Wilson and Mr. Bernard Shapiro; and we heard from two provincial commissioners, Mr. Oliver, the commissioner for British Columbia; and Mr. Osborne, the commissioner for Ontario. The President of the Treasury Board suggested the name of Mr. Osborne. We heard from these witnesses at length, with an opportunity to question them on the basis of their experience only. Forget about the constitutional division of powers and division of legislative responsibility, we questioned them about how they exercise their responsibility.

We wanted to know that because, according to the figures that were given to us, the single commissioner provided in the bill would have to oversee, check or monitor 1,500 Governor-in-Council appointees; 2,400 part-time Governor-in-Council appointees; 308 MPs; and 105 senators, for a total of 4,413 individuals under a single head. When we had the opportunity to question those witnesses I mentioned, persons with repute and with experience on the basis of implementation of ethics, we asked them how they would do that. All of them said to us, "It is impossible; you will not achieve the objective that you want, which is efficiency and which is trust of public, if you put so many people under one head." In the words of Mr. Oliver, the British Columbia commissioner:

> I do not know whether I would want to look after a couple of thousand people.

Later he continued:

> I do not see how you can possibly do this job effectively if you have all the thousands of others to look after.

Later in his testimony, he said that "In the course of the year, there are roughly —

The Hon. the Speaker: Honourable senators, the table has advised me that the 15 minutes for Senator Joyal has expired.

Senator Comeau: Could I ask Senator Joyal how much time he needs to finish?

Senator Joyal: I will try to wind up in five minutes. I know the rules and I want to abide by them. I have other arguments. I can speak maybe at third reading. I will conclude on this point and, with the consent of the house, in five minutes.

Hon. Senators: Agreed.

Senator Comeau: Five minutes.

Senator Joyal: Honourable senators, I will speak fast.

When the question was put to those two commissioners, namely, how would they do it and how are they successful in the performance of their duties, Mr. Osbourne said to us:

> ...one of the first things I did... was meet with each member. It takes some doing to schedule 103 appointments...

That is the number of provincial MLAs.

> ...but at the end of session five years ago I felt better about my relationship with them and my relationship with the position I occupy as well as about the proper workings of the act.

Mr. Osbourne continued:

> In the course of the year, there are, roughly speaking, 500 requests from members for advice and opinion. These are confidential unless the member himself or herself is willing to divulge the contents...

Later he said:

> I am not suggesting that that could be transplanted here, but I have only to deal with 103 members. That is enough... We know each other. That my independence is respected by all concerned is, to say the least, an advantage.

In other words, we heard essentially that when you deal with a reasonable number of persons, you establish a personal and trust relationship. It is like looking to Senator Keon, who is a doctor. It is like comparing a doctor who has 4,500 patients to look after with one who has 200 patients. As a human being, one cannot devote as much time and establish a personal link with 4,500 people in the course of a year. Do not fool yourselves. You must review the declaration each year, as we all did this fall. There are new appointees and the cases that are raised under the course of the management of the ethics.

Honourable senators, to conclude, we were convinced from the hearings that the system we have now is the proper one to be maintained. Moreover, the proposal as enshrined in the bill will put the ethics code of the public office-holder in a statute. Honourable senators know what it is to put something in a statute. I see senators nodding. You invite the court to look into it. You invite what some of you call judicial activism.

• (1530)

Given the principle of autonomy between the judicial and executive branches of government, judges are always reluctant to involve themselves in matters that pertain to Parliament. The commissioner was right when he said that, by putting what is now the code for public office-holders into statute, it becomes weakened. It also becomes more rigid. That is clearly the case. In effect, the legislation could be less effective in some areas than the ethics law that it is replacing.

Honourable senators, my time has expired, but it is necessary to pause for reflection. I know the bill is complex, but those are fundamental principles. As I stated earlier, if we are to do our duty responsibly, we must pay close attention to that testimony, because it was based on experience by people with the highest reputation for integrity and independence. It is up to us to act on their recommendations.

Hon. A. Raynell Andreychuk: Honourable senators, I rise to speak to the report, and I shall do so shortly.

I should, however, like to take the opportunity to indicate, as this is a place of dialogue and debate, that Senator Joyal said from time to time "we thought." I am not sure who "we" referred to. I would remind all senators that the report was brought back to this chamber on division. There were some unanimous areas with regard to some issues of the report, but by no means was it unanimous throughout. I, for one, would depart from some of Senator Joyal's comments. Hence, I would want the record to show that, while Senator Joyal used the word "we," I hope he did not intend to mean the entire committee. Perhaps he meant "we, the Liberal members of the committee," or perhaps they were his own comments. I am sure he did not intend to include us fully that way.

All senators so far have spoken about the elaborate nature of this bill. I would remind senators that this is not the first, nor will it be the last, elaborate bill. I think back on the anti-terrorism bill. Not only was that bill complex and affecting many pieces of legislation, it touched Canadians in a way that I think nothing else has.

I agree with honourable senators that this proposed legislation is a milestone. Attacking the issue of accountability is very important to Canadians, and the government was responding to an expectation of Canadians by introducing this bill.

I believe the government of the day, whether it is a minority or a majority government, has the right to respond to citizens and to choose the methodology by which it attempts to solve the problem that it is trying to address.

Accountability was raised by Justice Gomery. The Adscam scandal brought this issue to the attention of the public. However, there had been a growing fear by many people that Parliament had lost its way and that accountability, transparency and openness is important. In fact, we Canadians often demand that of other governments. We talk about openness, transparency and accountability. Many factors came together for the government to introduce the accountability bill. It chose certain methods to approach accountability. Bill C-2 is just one of what I believe will be a series of initiatives to address the issue of accountability.

The committee started work on this bill in June, hearing from a number of witnesses before adjourning for the summer. The committee did not sit in July, as it did with the same-sex marriage bill, where the government indicated urgency. The committee resumed its hearing on the bill in September, hearing from a number of witnesses in the fall, before going to the amendment stage.

Many of the amendments could be deemed to be technical, housekeeping or improving the administration of the bill and clarifying its language. I am pleased to see that the government

responded and agreed that certain amendments and initiatives should be taken. I compliment the law clerk, who was working on behalf of the Liberal senators, and the officials of many departments. They worked together and came to a resolution of the best practices on some amendments. I am pleased to see that members on both sides joined in to pass those amendments.

I want to speak to the substance of what I call fundamental amendments that were made in the committee at third reading. At this point, however, I want to talk about the process within the Standing Senate Committee on Legal and Constitutional Affairs. I could disagree with the amendments and could wish that things had happened otherwise, but I felt they were within the normal practices of the Senate. However, when we concluded our amendments, we were told about a 59-page report that we had not seen, were not alerted to its fundamental differences, and told that, if we wished the bill to pass, we would have to take the observations — or words to that effect.

We on our side looked at the observations. Clearly, 59 pages cannot be read quickly, but scanning it led me to believe that it was a justification of the amendments that the Liberal side had put forward. Members on our side asked for some time to read those pages. We were obliged with one hour. Some of us read faster than others; I did scan the material twice. I concluded that I could not support the observations, nor were they in line with what the Senate has done previously.

Clearly, the observation report was a partisan report. It was not a reflective addition for the benefit of the Senate, for the public or the government, which is what we had done in previous bills. In fact, the Standing Senate Committee on Legal and Constitutional Affairs had, in the past, put in observations, but we were mindful to tell each other in a very cautious way, alerting members, "I think I would like this in observations." We would signal when observations would come forward. We would then conclude our report and indicate whether we would put observations forward. We would discuss our points of view and then ask the clerk and the chair to put those observations together. The chair and the clerk would do so. They would then generally go to the steering committee and then to the whole committee.

When the committee would sit down, sometimes there were still issues and language we would talk about. Sometimes, we would turn it back and leave it to the discretion of either the chair or the steering committee to complete before filing, if we were worried about expeditious issues.

In this case, we were given the observations. We had no alerts. We had no idea what was in the 59 pages until the 59 pages came before us.

Honourable senators, the government side has four members on that committee; the Liberal side has eight members. There are no independents on the committee, to my recollection, but there may have been at some other point.

• (1540)

I could not support the observations that we saw. When we were put in the position of what to do, honourable senators, what could we do? We were the minority in that committee. Perhaps we could have insisted on putting a report forward, but what kind of report could we produce — a report that would be partisan, saying that the other side was partisan, and that we did not want to have any truck or trade with their observations? We would fall into the trap of changing what observations are for and historically, have been allowed, in this Senate. Therefore, we did not file a minority report.

Other things went to the issue of a minority in the committee, and one was naming senators on our side in the report without leave, indication or asking for consent. I do not believe that was correct.

I do not intend to continue to talk about this issue, but I want to put this Senate on notice that when we talk about independence, we have certain areas where we have restricted partisan activity, where we try to be collegial and somewhat independent of the parties we represent and the action on the other side. We cannot control what members on the other side do, whether they are ministers or prime minister, but we can control our own actions. I believe that the Standing Senate Committee on Legal and Constitutional Affairs displayed bad judgment in restricting the rights of minorities. We have said that we were the guarantors of minorities in so many cases. In own work, we had absolutely no respect for the rules of fair play from the opposition.

It is not the content of how the majority saw the bill. It is how they treated us as the minority in the committee at the observation stage.

Honourable senators, we filed the report and the signature is there. Observations are attached. They do not form part of the report. However, we have slowly allowed observations, even though our rules do not specifically state "observations," in a facilitating way to note something. I have been on the Standing Senate Committee on Legal and Constitutional Affairs for at least 10 years. When we could not achieve unanimity, we did not put them in the observations. We said rather that an independent senator or a group of senators could raise the issue in many ways, through the rules committee, through third reading or on the floor of the house. However, to impose observations in a partisan way and say, "Tough; take it or leave it," was not a high point of the Senate. As I said in the committee, it was one of the lowest days that I have ever had in the Senate of Canada.

I hope that we take a second sober thought, rethink our strategy, rethink our rules of fair play and ensure that this poor judgment never happens again.

Hon. James S. Cowan: Honourable senators, I am pleased to speak today on Bill C-2, the federal accountability act. I am proud to have been part of the Standing Senate Committee on Legal and Constitutional Affairs during the examination of this bill. I believe that the process we followed and the results we achieved demonstrate how the Senate can and should function to serve the interests of Canadians. The committee heard from a diverse array of witnesses, each of whom brought to bear unique perspectives on this legislation and its impact on Canadians.

We heard many suggestions to improve the bill, some of which we agreed with and some of which we did not. Taking into account these suggestions and the testimony of the witnesses we heard, we made amendments that we believe improve this bill and will strike a better balance between free and open access to information and protecting the privacy rights of Canadians. We

were also pleased to work with the government in supporting many of its important and substantive amendments to the act that improve this legislation.

As we heard yesterday, some 162 amendments were introduced, 156 passed and 42 of those were introduced by the government.

Honourable senators, we can all find common ground in the approach we have taken to accountability. All of us in public life recognize the need to restore faith and trust in our public institutions, and this bill represents an honourable attempt to do just that. Surely we can all support this premise and approach.

The committee heard compelling and often moving testimony on the subject of whistle-blowers. Senator Campbell rightly proposed that we should refer to whistle-blowers as "information patriots," given that they are acting in the best interests of our country and its taxpayers. Joanna Gualtieri of the Federal Accountability Initiative for Reform, and Allan Cutler, both of whom have personal experience with disclosing information and the consequences of the decision to do so, provided testimony that was persuasive in our examination of this part of the bill. Their testimony highlighted the importance of ensuring that we create an environment where public servants and Canadians at large feel safe in disclosing information about wrongdoing and are protected from reprisals for doing so.

Furthermore, the testimony we heard from Edward Keyserlingk, Canada's Public Sector Integrity Officer, clarified the need to protect the identity of whistle-blowers while not allowing the government to exploit this reality to close the doors on access to information.

Bill C-2 and the amendments made to it by the committee make important changes to Bill C-11, the Public Servants Disclosure Protection Act. This legislation was introduced and passed in the previous Parliament although it was not proclaimed due to the dissolution of Parliament for the recent election. Without the proclamation of Bill C-11, there is currently no legislation in place to protect public servants who disclose information relating to wrongdoing. I believe that Bill C-11 should have been proclaimed at the first opportunity to do so by this government. Michèle Demers, president of the Professional Institute of the Public Service of Canada, echoed this sentiment, saying,

> While there are many changes we support, we must point out that Bill C-11, the Public Servants Disclosure Protection Act, which received Royal Assent last year, remains unproclaimed and without effect. We have fought for these protections for more than 15 years and have watched many initiatives come and go with the fortunes of politics. Had Bill C-11 been proclaimed, at least our members would have been protected.

In ideal circumstances, it would have been beneficial to live in a world where Bill C-11 had been in force for a few years. This would have given us an opportunity, as legislators, to see how the bill operated in practice as opposed to theory. Seeing the bill in practice would have meant making amendments to correct real problems in the application of the legislation, as opposed to theoretical ones. We did not have that advantage, and, therefore, we proceeded to make amendments based upon the best information available today, much of which arose from the testimony of witnesses at committee.

The amendments that we proposed in relation to whistle-blowing are substantive and important. First of all, our amendments increase the reimbursable dollar amount for access to legal services paid to whistle-blowers from $1500 to $25,000. The committee heard testimony from Ms. Gualtieri on this issue, saying, "This is surreal what has been proposed for legal counsel. It is an insult." We also heard testimony from Allan Cutler who identified this provision as one of the three crucial shortcomings of Bill C-2, when he said that proposed paragraph 25.1(1), subparagraphs 4, 5 and 6 of the Public Servants Disclosure Protection Act all limit the amount that can be paid for legal services provided to the whistle-blower. That is an unacceptable amount.

• (1550)

Mr. Cutler further recognized that there must be a balance between what legal support and advice is provided to management and what is provided to whistle-blowers. He said, and I quote:

> A manager accused of wrongdoing will usually be allowed up to $25,000 for their legal expenses. That appears in the rules and guidelines of departments right now. The whistle-blower gets a pittance in comparison. At the very least, the amount should be equal so the whistle-blower has the ability to get legal representation when needed.

We could not agree more, honourable senators. That is why we have amended Bill C-2 to provide a fair and level playing field for whistle-blowers.

It is not only members of the committee from this side who agree with this amendment. Duff Conacher of Democracy Watch praised this initiative, saying, that "with $1,500, you could probably get only an opinion from the lawyer, whereas with $25,000, you could have them take the full case and represent you."

We also removed the cap of $10,000 on the amount that may be paid to a whistle-blower for pain and suffering, leaving that to the discretion of the independent tribunal. Mr. Cutler and Ms. Gualtieri also supported this approach. Clearly, it is difficult to attach a dollar amount to the pain and suffering experienced by a whistle-blower facing reprisals, and we believe it is best left to the tribunal, a concept supported by Dr. Keyserlingk.

We also heard testimony from the United Steelworkers, the Professional Institute of the Public Service of Canada, Mr. Cutler and Ms. Gualtieri that Bill C-2 should be amended to reverse the onus in cases involving a reprisal.

In its original form, Bill C-2 placed the onus on an employee to prove that an action taken against him or her is a reprisal related to a disclosure of information made by that employee. Unfortunately, the employer in these circumstances is able to simply say that the action is unrelated to the disclosure and therefore not a reprisal, effectively, in many cases, ending the whistle-blower's claim that a reprisal is taking place.

Mr. Cutler identified this as a major flaw in the legislation. The committee's amendment seeks to correct this flaw, reversing the onus and placing it on the employer, forcing them to show that a given action is not a reprisal. This is important to the creation of an environment where potential whistle-blowers feel comfortable that their rights will be protected and that unfair reprisals will be recognized as such.

Another amendment made in committee will extend the time during which a public servant may file a complaint that a reprisal is taking place or has taken place. Originally, Bill C-2 provided a period of 60 days following the occurrence of a reprisal in which a complaint could be made. Our amendment will extend this period to one year, while leaving in place the ability for the commissioner to extend this deadline if necessary. We heard compelling evidence from Mr. Cutler and others of the need for this amendment.

Additionally, given the nature of government business and the fact that government frequently contracts with private-sector organizations, it is important that investigators of wrongdoing have the ability to obtain information from the private sector. That is why we amended the bill to authorize investigators on behalf of the commissioner to obtain information pertinent to an investigation that is held outside the public sector. This is important in establishing accurate information in cases involving private-sector entities.

We have also enhanced the effectiveness of Bill C-2 by amending the proposed act to include members of CSIS and the Communications Security Establishment in the whistle-blower protection regime. Currently, these public-sector employees do not enjoy the same protection, and it is important that they are able to benefit from the same safeguards as other public-sector employees.

It was also our intention to include members of Canada's Armed Forces in this amendment, but doing so would require significant legislative changes that are beyond the scope of Bill C-2.

Another important amendment we have made is to expand the definition of what constitutes a reprisal. Expanding this definition was supported by Dr. Keyserlingk, the United Steelworkers, the Confédération des syndicats nationaux, Ms. Gualtieri and Mr. Cutler. With such strong support, it is clear why the definition of "reprisal" should be as open and inclusive as possible.

Another change comes in the definition of "protected disclosure." Bill C-2 provided that a protected disclosure exists when a public servant is lawfully required to make such a disclosure. Our amendment expands this definition so that a disclosure may be protected not only when it is required to be made but when it is permissible to be made, thereby protecting more disclosures at earlier stages. This issue was recommended to us by the Canadian Bar Association and further supported by Dr. Keyserlingk.

Finally, we have amended Bill C-2 to allow for more disclosure of information about wrongdoing, while always protecting the identity of whistle-blowers. In this regard, it is important to strike a balance between the public's right to access information and the protection of the privacy and identity of a whistle-blower. These amendments were suggested by Dr. Keyserlingk and, as made, serve to protect whistle-blowers, while not allowing the government to prevent public disclosure of wrongdoing based on a personal information exemption. Again, this modification has found third-party support from Democracy Watch, which said that this amendment will allow the public to know that there has been wrongdoing in government, thus increasing transparency in government.

Honourable senators, legislation to protect public-sector disclosures must achieve a number of balances. It must achieve a balance between the public's right to access information while ensuring a safe environment for public servants to make disclosures. It must strike a balance between providing an effective and protective forum for disclosures while ensuring that the reputations of public-sector managers are not sullied by frivolous or vexatious complaints. It must also strike a balance between the government and those who would choose to challenge its management practices.

In my judgment, honourable senators, Bill C-2, as amended, performs this balancing act, and for that I thank both the government and opposition senators who have worked tirelessly to achieve such a balance.

Senator Andreychuk: Would Senator Cowan take a question?

Senator Cowan: Absolutely.

Senator Andreychuk: Senator Cowan referred to Bill C-11 and made the comment that the bill should have been put into practice and tested. He also quoted liberally from the testimony of Ms. Gualtieri and Mr. Cutler.

Would the honourable senator not agree what when that witness panel came forward, Mr. Cutler said that Bill C-11 would have been a retrograde step and worse than having nothing but that Bill C-2, while it could be improved on, was a step forward?

Senator Cowan: I thank the honourable senator for her question. We did hear testimony against the proclamation of Bill C-11. My point was simply that, during much of our discussions, the committee was speculating as to what effect the bill might or might not have on government. It seemed to me that if we had seen the bill in practice, we would have had a better basis for judging whether or not changes needed to be made. I did not attribute that to Mr. Cutler or to other witnesses. The honourable senator's characterization of Mr. Cutler is correct. Mr. Cutler did, as I am sure the honourable senator would agree, point out what he considered to be major flaws in Bill C-2.

I hope the honourable senator will agree with me at the conclusion of our discussions here in this chamber that together we have produced a significant piece of proposed legislation, one that will advance our shared objectives of openness and transparency. I did not sense any difference of opinion amongst committee members, or indeed amongst the witnesses that appeared before us, as to the overarching objectives we are trying to achieve. Bill C-2, I would agree with the honourable senator, is a significant improvement over Bill C-11. My point was that I would have preferred to have seen how proposed legislation was operating before it was amended without having even been proclaimed.

The Hon. the Speaker: Senator Cowan's time has expired.

On motion of Senator Milne, debate adjourned.

• (1600)

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, to amend the Constitution Act, 1867 (Senate tenure).

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

Senator Comeau: Question!

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, it is customary on such occasions for the leaderships to have some discussion about the committees to which important bills of this nature will be referred. We have not done that. Therefore, I would propose that we continue the adjournment.

Hon. Anne C. Cools: I was hoping to take the adjournment, honourable senators. I did not realize the debate was coming to a conclusion. I would like to appeal to the chamber. I do wish to speak in this debate. Thank you.

On motion of Senator Fraser, debate adjourned.

TAX CONVENTIONS IMPLEMENTATION BILL, 2006

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Angus, seconded by the Honourable Senator Tkachuk, for the second reading of Bill S-5, to implement conventions and protocols concluded between Canada and Finland, Mexico and Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Hon. Wilfred P. Moore: Honourable senators, I am pleased to rise today to participate at second reading on Bill S-5, to implement tax conventions and protocols concluded between Canada and the countries of Finland, Mexico and Korea.

I should like to take the opportunity to commend Senator Angus on his speech at second reading. I would also like to thank him for having given this chamber the benefit of his deep understanding of tax law and for having reminded us all of the effects that taxation policy can have on Canadian taxpayers, be they individuals or corporations.

Every year at tax time, I am reminded of how complex our system of taxation truly is. Anything that our government can do to simplify the system and to recognize that Canada and Canadians are active participants in the global economy is beneficial and should be supported.

These conventions and protocols go a long way toward providing Canadians with certainty about the rules surrounding the applicable taxation rates and clarity in the demarcation of taxation jurisdictions between the country in which the taxpayer resides and the country in which the income arises. This, in turn, helps prevent double taxation.

As Senator Angus has already mentioned, such conventions are also an important part of our government's tool chest in preventing income tax evasion. Canadians should know that we are doing what we can to ensure that everyone pays their fair share of taxes, no more and no less.

I should note that between 2001 and 2004, the Liberal government brought forward three such bills, allowing for implementation of such conventions and protocols with 20 countries, including Italy, Germany, the United Arab Emirates and the Czech Republic. In fact, Canada has been expanding its network of taxation treaties since the early 1970s, and I believe that it is important for us to continue to do so.

I note that the treaties that we would be implementing with the passage of Bill S-5 have already been negotiated and finalized with the countries concerned. I also note that the bills implementing such conventions are basically structured the same way and that the treaties themselves are all structured on the OECD models. I see nothing in this bill that appears controversial, although I trust that my colleagues on the Standing Senate Committee on Banking, Trade and Commerce will look into the details to ensure that I am correct in my assessment.

Honourable senators, I conclude my remarks by saying I support Senator Angus's call to send this bill to the Standing Senate Committee on Banking, Trade and Commerce for study. As a member of that committee, I will be following up on the matter that Senator Murray raised when questioning the sponsor of this legislation in the chamber on October 5. It would indeed be interesting to know how many countries with which we have tax treaties do not follow through with implementing legislation.

Senator Murray referred to a specific instance where problems arose in the past. Senator Angus seemed to know the example to which he was referring, and in his answer stated, "I understand that we no longer bring such bills forward because of the experience to which the honourable senator has referred." I do not know what example the two honourable senators were referring to, but I am sure that the Standing Senate Committee on Banking, Trade and Commerce will look into the matter and ensure that whatever has happened in the past does not occur in this instance or at any other time in the future.

Honourable senators, I look forward to participating in the study of this bill in committee.

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

Hon. Senators: Question!

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Angus, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

THE ESTIMATES, 2006-07

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (A)

Hon. Gerald J. Comeau (Deputy Leader of the Government), pursuant to notice of October 30, 2006, moved:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2007, with the exception of Parliament Vote 10.

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

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, I have a quick question, if I might. This motion is basically part of a pair with the motion immediately following. The question would actually dispose of both items, as far as I am concerned. I would like confirmation of my understanding, for those who do not know the estimates by heart, that Parliament Vote 10, which is the one that is excluded in the motion now before us, concerns the budget for the Library of Parliament, which is why the following motion refers to the Library of Parliament. Am I correct in that?

Senator Comeau: Indeed, the honourable senator is correct.

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

Motion agreed to.

[*Translation*]

MOTION TO REFER VOTE 10 TO STANDING JOINT COMMITTEE ON THE LIBRARY OF PARLIAMENT ADOPTED

Hon. Gerald J. Comeau (Deputy Leader of the Government): pursuant to notice of October 30, 2006, moved:

> That the Standing Joint Committee on the Library of Parliament be authorized to examine the expenditures set out in Parliament Vote 10 of the Supplementary Estimates for the fiscal year ending March 31, 2007; and
>
> That a message be sent to the House of Commons to acquaint that House accordingly.

Motion agreed to.

• (1610)

[*English*]

STUDY OF PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

INTERIM REPORT OF BANKING, TRADE, COMMERCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report (interim) of the Standing Senate Committee on Banking, Trade and Commerce, entitled: *Stemming the Flow of Illicit Money: A Priority for Canada—Parliamentary Review of the* Proceeds of Crime (Money Laundering) and Terrorist Financing Act, tabled in the Senate on October 3, 2006.

Hon. Jerahmiel S. Grafstein: Honourable senators, at the outset I want to thank all members of the committee, the staff, the clerk, the researchers and in particular my colleague Senator Angus for the assiduous work we did so quickly to focus on this important issue that affects the Canadian economy. The work of the committee presaged the introduction of a bill that is now before the other place. I want to thank all members of the Senate on this side and members on the other side for their commendable and hard work. We were all of a mind with regard to the 16 recommendations in the report which I urge all honourable senators to consider.

The question that honourable senators who are not engaged in the work of the Banking Committee should ask is: Why? Why did we study money laundering and the illicit transfer of funds from criminal activities to other criminal activities via laundering? Why did we consider the question of sourcing of illicit terrorist financing? Why is this such an important issue?

Honourable senators, this subject is important because money laundering and criminal activities within and without Canada and terrorism financing within and without Canada are two of the largest growth industries in Canada and in the world. In many instances, they outweigh and are greater than the economies of a number of countries. Thus it is important that we look at these questions to determine why the growth has been so deep, why these black holes are being filled in our economy, the nature of the black holes and how, as each of us on the committee came to realize, it affects each and every Canadian. We want our economy to be open, fair, transparent, productive and effective.

The committee discovered that there were capacious pools of illicit money growing and becoming deeper and wider and which can now be counted in the billions. We could not sort out the quantum, but we know the figure is large and growing rapidly. It is bigger than most businesses in Canada. In our way of speaking its illicitness undermines the effective operation of the national economy.

We discovered a number of large loopholes in the legislation. These are not malicious loopholes but transparent and open ones. They include the jewellery trade, precious metals and possibly lawyers. We came to the conclusion that these loopholes should be closed. We hope that, for instance, when the lawyers meet with the federal government they will try to come up with a formula that will protect the national interests on the one hand and

solicitor-client privileges and privacy on the other. This is an important question which we will be returning to study as this is just an interim report.

After our report we learned of abuses and other loopholes, such as the illicit transfer of automobiles and the use of insurance policies. We discovered, not to our amazement — the committee is very well experienced in these matters — that the criminal mind is agile and when a loophole is closed they can quickly seek out another loophole through which they can plow these illicit gains.

We concluded that our committee should provide a regular oversight to spot this illicit trafficking of money. The report makes a number of recommendations as to closing these loopholes and ensuring rapid enforcement of our laws.

We know that whenever we close one door another is opened. We hope that we can inspire prosecution teams across the country to move quickly with even more legislation that can with precision attack and prosecute these horrendous gaps in our economy.

As I mentioned, there is a new bill in the House. We in our committee intend to carefully review that legislation to ensure that it is as tight as it can be. We undertake and give this commitment on behalf of the committee that we will continue our surveillance and oversight of this issue. This is an ongoing matter. It is not something that will be solved in one day, or with one hearing, or with one report.

Our committee report, before honourable senators today, is a commendable first start. We have woken up the regulatory authorities, as well as governmental agencies, and not just those at the federal level, but those at the provincial and municipal levels, to look into this question of criminal activity.

I urge all honourable senators to examine this report and its carefully crafted and targeted 16 recommendations. Hopefully, we can struggle as best we can to protect and maintain a strong, transparent, honest and open economy that can only serve the best interests of all Canadians.

Hon. W. David Angus: Honourable senators, I would like to add a few words to those of Senator Grafstein in respect of this report. I do so because I want to emphasize for all honourable senators the importance of the word "interim", for this is but an interim report.

We were seized with this matter pursuant to a statutory requirement that the legislation in question, that is the money laundering and financing of terrorism legislation, should be reviewed periodically. We were charged with carrying out the review at the Senate level. We were in the middle of our study when we suddenly found that the bill to which Senator Grafstein has referred, a bill which is now known as Bill C-25 which is making its way through the other place, needed to be introduced quickly. That is because Canada had been honoured by having one of our distinguished civil servants named as chairman of the international round table which deals on an ongoing basis with these matters of money laundering and illicit funds for financing terrorism. That particular round table was to meet in British Columbia last month. We had made certain undertakings and obligations previously that we would introduce into our own domestic law. We found that we better not be going to that conference without having first brought in legislation in this regard.

That is what has happened, honourable senators. We then decided that we would bring in our recommendations so that the drafters of Bill C-25 would at least have the benefit of the work we had already done.

Originally, it was put to us that this would be a fairly routine study and that we would not need more than two or three days to examine witnesses. As Senator Grafstein said, we found to our surprise that this is a huge area that required a considerable amount of further study.

I will now share one or two vignettes that really shocked us. Senator Grafstein has mentioned the dimension of this problem. No one could give us a straight answer, which is because probably no one knows, as to the dollar amounts involved. However, we did have one law enforcement officer who estimated in the $30-billion range of illicit funds in circulation. Although we were counselled not to use numbers, we did use a number of $10 billion in our report. It is a very large problem.

Since we started doing the study I have now noticed that on almost every street corner in Montreal there are these money changing shops. I counted 13 of them yesterday just for fun. They are small shops which measure about 10 square feet. Many new ones are opening up. What is this about? I cannot say today without further evidence being brought before us how they are involved with money laundering. I am not talking about payday loan organizations. These shops are euphemistically called "money service shops". They are everywhere. There simply are not that many people who walk along the streets of Montreal who are trying to change their pounds sterling into Canadian dollars. What is up?

We asked the RCMP to come back to us after their initial appearance with some specific information that we requested.

• (1620)

The response was an affirmative one and we waited for a number of weeks. To this day we have not received the information we require to conclude our study properly. We thought the best way to continue was to await the legislation as it comes through the process, hopefully have it referred to the Standing Senate Committee on Banking, Trade and Commerce, and then, as we review that legislation, expand our investigation into the issue and decide whether the legislation is appropriate to stem the tide and, as Senator Grafstein says, try to at least give a fair fight to that tricky criminal mind that seems to take advantage of all these loopholes.

Honourable senators, those are my comments with regard to our report. The report is receiving acclaim and that again is a tribute, not so much to us and the members, but to the wonderful work that our support staff, particularly in the Library of Parliament, gives us. They are so busy these days with all these reports that it boggles my mind how they manage to do them.

I read in yesterday's *Hansard* about how the clerks of the Senate and the staff in the library worked all night — or several nights — to put Bill C-2 in order. One of our clerks was seconded from our committee to help in the exercise, so I hope we give them the support they need to continue this great work they do for us.

The Hon. the Speaker *pro tempore***:** If no other senator wishes to speak, this item is debated.

Senator Grafstein: If there are no further comments I move the adoption of the report.

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Tommy Banks: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

> That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to sit today at 5:00 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspend in relation thereto.

Honourable senators, I have checked carefully and this is the only committee that meets at five o'clock today. We have two important witnesses having to do with the statutory review of the Canadian Environmental Protection Act, one of whom has flown to meet with us today from Toronto and must make a return flight tonight. Since it is the only committee that is sitting I ask for the leave for us to sit as contained in the motion.

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

Hon. senators: Agreed.

Motion agreed to.

FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Callbeck, for the second reading of Bill S-205, to amend the Food and Drugs Act (clean drinking water).—(*Honourable Senator Banks*)

Hon. Wilbert J. Keon: Honourable senators, Bill S-205 amends the Food and Drugs Act by defining water provided by community water systems as a food and thereby bringing it under federal authority. Under Bill S-205, the Canadian Food Inspection Agency, which is responsible for the enforcement of the act as it relates it food, would become responsible for inspecting community water systems.

The regulation of community water systems gained attention after incidents in Walkerton and North Battleford. By way of response, Senator Grafstein introduced nearly identical bills in the Thirty-seventh and Thirty-eighth Parliaments. Together with former member of Parliament Dennis Mills, he convened a water summit to explore the issue of water quality deficiencies including concerns about areas within the federal government's jurisdictions such as native reserves.

In the Thirty-seventh Parliament, Senator Grafstein's Bill S-18 was referred to the Standing Senate Committee on Energy, the Environment and Natural Resources and reported without amendment. However, at third reading, senators raised serious federal-provincial jurisdictional concerns and the Senate referred the bill to the Standing Senate Committee on Legal and Constitutional Affairs for further study where it remained when the election of 2004 was called.

Finally, in the Thirty-eighth Parliament, Senator Grafstein's Bill S-42 did not complete second reading as it was introduced shortly before Parliament was dissolved. Honourable senators, as the summary of Bill S-205 states:

> This enactment amends the *Food and Drugs Act* to include water from a community water system as a food that is subject to regulation under the Act. Water systems that serve fewer than 25 persons or that operate less than 30 days a year are excluded.
>
> The Act is amended to allow for the inspection of any place where water destined for human consumption is accumulated or collected or where any activity takes place that promotes the accumulation of such water, thus allowing for the inspection of lands that form part of the watershed. It also allows for the inspection of any place from which contaminants may escape into a drinking water source.

Honourable senators, the general ideals of providing safer drink water is something we can obviously endorse. After all, this continues to be an issue that will engage policy makers.

Consider some of the following facts. First, in 2004, the Organisation for Economic Co-operation and Development, OECD, pointed out that Canada faced considerable disparities in access to safe water supply. In this vein, the OECD report mentioned how the two major drinking water contamination incidents in Walkerton and North Battleford resulted in deaths and shook public confidence in the quality of Canada's drinking water management practices.

On a related front, in our 2005 report, the Commissioner of the Environment and Sustainable Development examined federal responsibilities for the safety of drinking water in Canada and found gaps that may put people's health at risk. For instance, on the issue of the federal government's partnership role with the provinces and territories for developing drinking water guidelines, the commissioner found that while the process is sound, it is sometimes slow. By way of illustration, at the current pace, the

commissioner expressed the opinion that it could take over 10 years to deal with the current backlog of about 50 drinking water guidelines that the federal government needs to examine to ensure that they are up to date.

A third area of concern, with respect to the federal government's role in ensuring safe drinking water, is the issue of First Nations and Inuit communities. The OECD, in its 2000 Environmental Performance Review of Canada, cited the fact that many First Nations and Inuit communities continue to lack adequate water supplies. For instance, a 2003 *National Assessment of Water and Waste Water Systems in First Nations Communities* indicated that 29 per cent of the 740 community water systems assessed presented a potential high risk that could negatively impact water quality. Another 46 per cent were classified as medium risks.

Canada's Commissioner of the Environment and Sustainable Development echoed her concerns in 2005, stating that:

> People in these communities do not benefit from the same safeguards on drinking water as most Canadians who live offer the reserves.

She stated this as the main reason for this lack of regulatory regime for drinking water in the First Nations communities and fragmented technical support available to First Nations for the design, construction, operation and maintenance of water systems. She also expressed the view that there are a number of management and operational issues that contribute to this, such as inconsistent implementation of government guidelines and failure to carry out water testing.

• (1630)

Finally, also related to the quality of drinking water to which some Canadians have access, the 2004 OECD report suggested that over 1 million Canadians routinely depend on wells that do not meet water quality guidelines for bacteria. By way of illustration, the OECD asserted that poor inspection and maintenance of septic tanks serving over one quarter of the population, and inadequate attention to groundwater resource management, are sources of concern.

The OECD also pointed out that, depending on the region, 20 to 40 per cent of surveyed rural wells have occurrence of coliform bacteria. About 15 per cent of rural wells exceed nitrate guidelines. Naturally occurring trace minerals, such as arsenic fluoride, are also of concern.

I mention these points to illustrate the complexity and many dimensions of this issue of providing safe drinking water for Canadians. Obviously, Senator Grafstein's bill only pertains to water systems that serve more than 25 people, so some of the OECD's observations about rural wells are not applicable to the intent of this bill. Nonetheless, they bear mention in any discussion of the quality of water to which Canadians have access.

Honourable senators, the subject matter of this bill is more important than ever. Senator Grafstein is to be commended for bringing it forth, if only because it encourages a debate on this important issue. Nonetheless, I believe this bill does face much debate and consideration when it comes to committee.

We should bear in mind some federal-provincial-territorial jurisdiction matters that cannot be ignored. These jurisdictional issues were clearly articulated by former Senator Beaudoin in the debate over Bill S-18 in the first session of the Thirty-seventh Parliament. Senator Beaudoin, an eminent constitutional scholar, was of the strong opinion that jurisdiction over water, particularly water supply systems and water purification, falls under provincial jurisdiction.

He said:

> The jurisdiction of the legislatures over municipal institutions is critical as regards the protection of the environment. Pollution is concentrated in cities and urban planning is now a leading sector. Regulations on zoning, sewers, waste collection, waterworks, water treatment plants, drinking water supply, sanitation of premises, sanitation and construction are made by provincial legislatures.

The senator buttressed his opinion by citing Peter Hogg, professor emeritus at Osgoode Hall, who also believes that water treatment is under provincial jurisdiction. According to Mr. Hogg's book, entitled *Constitutional Law in Canada*, fourth edition, page 738, Senator Beaudoin stated that:

> This power and the power over municipal institutions, section 92(8), also authorizes municipal regulations of local activity that affects the environment, for example zoning, construction, purification of water, sewage, garbage disposal and noise.

The senator continued:

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

While it is not my intention to get into a detailed discussion of the constitutional issues relating to Bill S-205 and its predecessors, the fact remains that the points made by former Senator Beaudoin strike at the core of the problem with Bill S-205. Simply put, extending the federal authority through the Food and Drugs Act over the quality of drinking water, an area over which provinces and territories are presently exercising their jurisdiction, is problematic within the context of ongoing federal-provincial-territorial jurisdictional dynamics and relationships.

In my view, the current division of responsibilities and federal-provincial-territorial collaboration are considered the most effective means of achieving the objective of ensuring safe drinking water and protecting the health of Canadians.

With this point in mind, there are nonetheless a number of things that the federal government can do in the areas of its own jurisdiction over water quality issues. For instance, with respect to water quality for First Nations, the Honourable Jim Prentice, Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians, is to be commended for launching a plan of action to address drinking water concerns in First Nations.

This plan of action includes a number of things. First, it includes the implementation of protocol for safe drinking water for First Nation communities. Second, a component of this plan of action is mandatory training for all treatment plant operators and regimes to ensure that all water systems have the oversight of certified operators. Third, the plan allows for complete, specific remedial plans for First Nation communities with serious water issues. Fourth, the plan also entails setting up a panel of experts to give advice on the appropriate regulatory framework, including new legislation, developed with all partners. Finally, the plan announced by Minister Prentice contains a clear commitment to report on progress on a regular basis.

These are realistic and sensible measures, honourable senators. They are also an example of how a government can take action in an area that is clearly within its own purview.

As well, on the issue of the federal government's partnership role with the provinces and territories for developing drinking water guidelines, the federal government can become more vigilant in addressing what the Commissioner of the Environment and Sustainable Development states is sometimes a slow process. As I pointed out earlier in my speech, the commissioner found that at the current pace, it could take 10 years to deal with some of the problems, and this is obviously not acceptable.

In addition, we now have a new Public Health Agency of Canada and a Chief Public Health Officer. The network unfolding between the new Public Health Agency and the provincial-territorial Aboriginal medical officers provides a new opportunity for improvement in drinking water supply.

To conclude, we must congratulate Senator Grafstein for isolating this problem and for his persistence in dealing with it. The bill raises complex issues that will require considerable debate in committee, and I hope this enormously important subject enjoys the attention it deserves.

Some Hon. Senators: Hear, hear!

Hon. Jerahmiel S. Grafstein: Might I close the debate briefly and then ask the house to opine on this bill? I would like to talk to it very briefly.

The Hon. the Speaker: I will notify the chamber then. If Senator Grafstein now speaks, it will have the effect of closing the debate.

Senator Grafstein: I thank Senator Keon for his commendable comments. I thank him for repeating the history of this bill, which has now been before this chamber for half a decade. Still, when we look at the result, the situation on the ground is that clean drinking water across Canada is in no better a state than it was five years ago, most specifically with the Aboriginal communities.

I commend Minister Prentice for his new initiative. This is the third initiative we have heard since this bill was introduced. I look at my colleagues from the Aboriginal communities and they nod in agreement — no action. This bill is meant to focus, in a precise way, action at both the federal and provincial levels to do what they are supposed to do, which is to enforce their laws and their commitment in their jurisdiction.

Honourable senators, I want to make some brief comments about the comments of Senator Keon and then I will close the debate.

First, Mr. Hogg's constitutional comments put some questions in my mind when he is raised as an authority in this place. If one looks at his text on constitutional law, he does not think this chamber is effective. He comes from New Zealand, a unitary state, and does not understand our bicameral system — notwithstanding the fact that, over and over again, people use him as a constitutional authority. I would rather rely on Mr. Justice Bora Laskin, or on others, for constitutional support than I would want to rely on Professor Peter Hogg. I have read his text from corner to corner and when he concludes that this chamber is not effective and does not have an effective role in a bicameral system, I disregard and discredit his comments on this issue or any constitutional issue.

• (1640)

Let us talk about the substance *in rem* and not about *ad hominem*. The federal government now regulates water in bottles, in parks, on planes, on trains and on ships, and it regulates soft drinks and packaged ice. It regulates all of these things and yet, the federal government still resists exercising its power in the food and drug arena. Our former colleague Senator Beaudoin said that this is a federal-provincial issue, which is correct. However, it is clear that even in the province of Quebec, the food and drug federal power has never been challenged, or by any province for that matter. I have sought to bring this proposed legislation of federal oversight, as legislated in the United States in 1974, to ensure that the provinces do the job they are mandated to do, which is to ensure that every Canadian receives clean drinking water. The provinces are not doing their job. The facts speak for themselves and cry out for redress. The honourable senator has pointed them out in this chamber and they have been pointed to in inquiry after inquiry; in Ontario, in Alberta, in Saskatchewan. As well, the OECD, to our shame and distress, has emphasized, and accumulated the facts to substantiate their position, that we do not have clean drinking water from coast to coast to coast.

The federal government has voluntary drinking water guidelines, which the provinces have agreed voluntarily to follow. As the Honourable Senator Keon pointed out, that voluntary guideline, we discovered from the Auditor General's report, is 10 years out of date. In Bill S-205, I ask only that those voluntary guidelines, which the provinces and territories follow, be made mandatory, be accelerated so that they are up to date, and can be robustly enforced.

This is not a federal-provincial issue. Rather, it is a case of provinces and governments ducking their responsibility to ensure that every Canadian is entitled to clean drinking water. It amazes me, honourable senators, that there are women in Newfoundland and Labrador with six or seven children who have to boil their water every day. That is Canada in the 21st century. It amazes me that 150 reservations have so many chemicals in their drinking water that native woman living on one of those reserves has to go off-reserve for three years to cleanse her womb so that her children are not born imperfect or deformed. It is a shame. It is scandal. The Senate represents all the regions of this country and the water issue is a national scandal in each and every one of

them. Yet, we sit back and talk about why we cannot proceed. There is no constitutional barrier. The judge in Ontario who studied Walkerton reported there is no constitutional barrier and the justice in Saskatchewan says there is no constitutional barrier. However, there is lack of political will. I commend Minister Prentice, who is a great guy. Mr. Chrétien said to me that the then government would bring in measures to guarantee clean drinking water and that it would handle the federal jurisdiction for the Aboriginal communities. Guess what, honourable senators, nothing happened. We do send drinking water plants to Afghanistan, Iraq and Africa. We send drinking water plants to Darfur, but we do not send drinking water plants to our native communities. It is a national scandal.

I would call upon all honourable senators to understand the importance of water in everyday use to wash dishes, clothing and give eight glasses a day of clean water to children. When parents cannot give their children clean drinking water every day, it is a shame. I do not understand why housewives do not rise up and demand, "let us have clean drinking water in our communities"; and where are the women's groups? There are communities in Quebec without clean drinking water, in this day and age. Yet, Quebec wants still more powers. To do what? Not to give their communities clean drinking water. I urge the second reading of this bill so that it can be referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Grafstein, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Carstairs, P.C., for the second reading of Bill S-215, to amend the Income Tax Act in order to provide tax relief.—(*Honourable Senator Tkachuk*)

Hon. David Tkachuk: Honourable senators, Bill S-215 has been on the *Order Paper and Notice Paper* for 13 sitting days. I have adjourned the debate but I am unable to speak today to complete my adjournment. I talked to Senator Austin and I would move that debate be continued to the next sitting of the Senate.

On motion of Senator Tkachuk, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Banks, for the second reading of Bill S-206, to amend the Criminal Code (suicide bombings).—(*Honourable Senator Comeau*)

Hon. A. Raynell Andreychuk: Honourable senators, I rise today to address Bill S-206, to amend the Criminal Code (suicide bombings) introduced by our colleague, Senator Grafstein. In his second reading remarks, Senator Grafstein was clear in articulating the objectives of Bill S-206. Simply put, the bill seeks to bring greater certainty to the definition of what is considered "terrorist activity" under section 83.01 of the Criminal Code. It purports to do this by explicitly identifying suicide bombings as a terrorist activity.

Honourable senators, the provisions of the Criminal Code of Canada are not static. It is a continually evolving document, taking into account the social changes and various technological advances in society and any other issues that society deems to be inappropriate and in need of change under the Criminal Code. We often clarify legislative criminal offences in the Canadian Criminal Code when it is deemed advisable.

Honourable senators, Senator Grafstein has said with clarity, both in this current session and when he introduced this bill in the previous Parliament, that Canada's current definition of "terrorist activity" in the Criminal Code of Canada is complicated and often unclear. Senator Segal also spoke to this initiative. The concern is that the definition of "terrorist activity" in the Criminal Code continues to be complicated and unclear. It needs clarifying, particularly if we are to give voice to the fact that we do not tolerate suicide bombings in any form.

Honourable senators, the Government of Canada is also concerned about this issue. However, I am uncertain whether "terrorist activity" in its definition as currently stated, needs to be changed, or will be changed as a result of our ongoing study of the Anti-terrorism Act and the various terrorist activities that have occurred in recent years.

• (1650)

As this chamber is aware, the Senate began its review of the act much earlier, in December 2004. During that session of Parliament, the committee held approximately 47 meetings and heard from 141 witnesses.

During this session, the committee has already heard from the Minister of Justice and the Minister of Public Safety and Emergency Preparedness and has concurred in the need to clarify, I believe, the definition of what constitutes terrorist activity. At least there have been discussions of its need in that regard.

Both the House, which has tabled an interim report, and our Senate committee, which is in the process of drafting its report, should be taken into account. The recommendations contained in these reports will contribute to the government's response in reviewing the Anti-terrorism Act.

Honourable senators, the government is required to respond to the reviews of the Anti-terrorism Act of the Senate and the House of Commons by the end of February of next year. While we think it is generally supportive of the spirit of this bill, I also believe that the proper venue to effect change should be as a part of the comprehensive package of changes to the Anti-terrorism Act in response to the committee's work, both here in the other House.

Until then, I think it is important that we continue to consider the public policy issue that has been raised in this bill. We should await the government's process in due course and respond to the excellent work that I believe our committees are accomplishing.

In addition, we now have a decision from the Superior Court of Ontario that has struck down as unconstitutional an element of the definition of terrorist activity in the Criminal Code. This is the provision requiring proof that persons were motivated by an ideological, religious or political purpose, objective or cause regarding the activity for which they have been charged. This is an issue that our committee on anti-terrorism has been struggling with and has commented on in its debate with witnesses.

While I believe that suicide bombing should not be tolerated, and I believe most Canadian citizens agree, we want to be certain that we identify it correctly, and we must ensure that it can pass a constitutional and judicial response.

Therefore, I believe that we should continue to be mindful of the need to denunciate the acts of suicide bombing. We should be carefully including that every life is important, whether it is in Canada or elsewhere, and that the taking of civilian lives, especially in any conflict, is not warranted.

Hon. Hugh Segal: I want to be clear, particularly regarding the last part of the honourable senator's reflection on the motion.

Is she suggesting there is some constitutional right, perhaps relating to the Charter or something else, that would in some way be affected by a specific reference in the Criminal Code to suicide bombing?

Is there some right with respect to expression or some other matter that is protected in the Charter that in some way might be affected by an interdiction that is explicit relative to suicide bombing?

Senator Andreychuk: That was not my intention, if that is what the honourable senator read into my comments. My intention is quite the contrary. I tried to state that I personally do not believe we should tolerate in any form or manner, whether in a legal sense or otherwise in our society, suicide bombings. The taking of innocent lives is not appropriate.

I am saying that we should be very careful when crafting clauses dealing with terrorism. I believe the government, the first time around in its definition of terrorist activity, thought it was doing the right thing, but practice pointed out that the unintended consequence led to racial profiling.

I am not certain how in recrafting a terrorist definition we will take in all of these issues and frame a definition that is appropriate and can withstand any legal or constitutional challenge. In a broad statement, I meant we should have an effective definition that we all agree with. That is the role of the two committees that have been working on anti-terrorism, to ensure their best advice is given, and ultimately for the government to weigh and bring in a definition.

Whether the portion on suicide bombings is put in for denunciatory or necessary reasons again is a value judgment of how one crafts it.

My concern sitting on the Standing Senate Committee on Legal and Constitutional Affairs is that, often in a political arena, we have good ideas, but that in the drafting and crafting of legislation we sometimes fall short. Groups like the Standing Senate Committee on Legal and Constitutional Affairs, after the government has had its say, go ahead and ensure that the drafting is appropriate and understandable, and we call witnesses to hear whether there is at least a consensus that we are on the right track in wording.

Good ideas sometimes fail in the delivery and the drafting, and that was what I meant by the comments I made.

Hon. George Baker: I am wondering whether the honourable senator would agree that the judgment of the Superior Court of Ontario concerned an explicit definition with some specificity on motivation contained in the definition.

Could the honourable senator, given that she has had experience with judicial matters in her past, tell the Senate whether on its face the proposal of Senator Grafstein does not provide some certainty and whether she would be supportive of referring the matter to the Legal Committee?

Senator Andreychuk: Perhaps the honourable senator has stated it more eloquently than I. I did start out by stating that I support it in principle and that a committee should look at it.

I went further in that the government has indicated it wants to hear from the two committees. In fact, our committee on anti-terrorism was quite insistent that we wanted to finish our work and give our best advice to the government. I have no difficulty with what the honourable senator is proposing.

As I say, I think all good Canadians agree with the principle. I am concerned about how it is crafted and whether it can withstand the test. I will make no comment on the judgment from the Superior Court of Ontario, simply because it speaks for itself as a judgment. However, we need to know whether it will be appealed and whether it is still before the court.

I will refrain from making any further comment — something I learned from my days on the bench.

Hon. Jerahmiel S. Grafstein: I have a brief question. I thank the honourable senator for a very lucid and clear-cut analysis of my bill. I had hoped she would emphasize the word "clarity," as she did. The bill adds the words "For greater clarity..." to a proposed new subsection of section 83.01 of the Criminal Code. It is meant to deal with exactly the issue Senator Baker was saying the Superior Court of Ontario is concerned about, that being lack of clarity, lack of precision and lack of *mens rea*.

The whole idea was to make this bill absolutely clear. It does not, in my view and analysis, hinder anything else that the other committees are working on. It does provide instant clarity to a subject matter that is of great concern to Canadians at home and abroad, and that is that suicide bombing is abhorrent, it is a criminal act and it should be made absolutely clear in the Criminal Code of Canada that it is an act we do not tolerate in any way, shape or form.

• (1700)

Suicide bombing falls below our civilized standard. The Criminal Code is meant to establish civilized standards. With the concurrence of honourable senators, we can refer this bill to the committee and hear the legal experts who are prepared to come forward to deal with the question the honourable senator raised, whether this amendment is appropriate and clear enough to accomplish the goal of ensuring that in our civilized society we find suicide bombings abhorrent and beyond civilized conduct.

I ask that this bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs, where we can call witnesses and proceed.

Senator Andreychuk: Honourable senators, I leave it to the leadership to determine to which committee this bill will be referred. They appear to be consulting at the moment.

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

Hon. Senators: Question!

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

Motion agreed to and bill read the second time.

REFERRED TO COMMITTEE

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

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

SCRUTINY OF REGULATIONS

THIRD REPORT OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Joint Committee for the Scrutiny of Regulations (Report No. 77 — Tabling of Statutory Instruments), tabled in the Senate on October 26, 2006.—(*Honourable Senator Eyton*)

Hon. J. Trevor Eyton: Honourable senators, I have the honour to present to the Senate a brief summary of the third report of the Standing Joint Committee for the Scrutiny of Regulations, tabled on Thursday last. It draws our attention to the frequent failure to table instruments of delegated legislation in Parliament, as required by various federal statutes.

The tabling of documents constitutes a fundamental procedure of Parliament. It ensures that members have access to the information necessary to effectively deal with the issues before Parliament. The contravention of a statutory duty to table a particular instrument of delegated legislation constitutes a prima facie breach of the privileges of Parliament and may be treated as contempt.

Regulation-making authorities need to be vigilant of statutory tabling requirements. Careless disregard for the laws made by Parliament reflect a lack of respect not only for Parliament, but also for the rule of law. The standing joint committee strongly reminds our regulation-making authorities to review their internal procedures to ensure these requirements are not overlooked or ignored.

Honourable senators, I move adoption of this report.

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

Hon. Senators: Question!

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

Motion agreed to and report adopted.

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. Hugh Segal: Honourable senators, I rise today on the inquiry of Senator Tardif regarding the state of post-secondary education in Canada.

In order for us to increase the sense of public priority as it relates to higher education, we must begin by changing public views and public expectations on the subject. Education, and the chance or not for an education, was a determining factor in the lives of our parents and grandparents. In their minds, access to higher education for their children meant the difference between prosperity and a less constructive existence. It meant the difference between success and failure.

Education as a public policy issue combines economic, social and productivity investments. I agree fundamentally with Senator Tardif when she stated: "The issue is critical to the future success of Canada."

As an adjunct member of the faculty of Queen's University and a great supporter of our universities, I will say that there is more that universities can do on some of the issues that really matter. The institutions need to come down somewhat from their ivory towers of unearned privilege and, on occasion, levels of governance and self-indulgence that separate them from the public they serve.

How many university senates, for example, or boards of governors or faculty councils have any poor or disadvantaged members? How many local community people who are neither rich nor influential are on university boards? May I also suggest that the relationship between universities and their college cousins across the country, while improving, needs much more work. There is some but not enough cooperation, a lack of recognition of the hard work done by college students when they attempt to move into the university stream and, on occasion, vice versa.

The infighting does nothing to advance public perception regarding post-secondary education. It is long past the time for the implementation of a standardized and transparent equivalency standard so that due credit can be given and transferred between institutions. Insisting that students repeat course material already covered elsewhere because of an elitist or proprietary sense of importance is counterproductive. The aim should be to have a student-centred system, easing — not blocking — the way for students to continue their studies between institutions at different points in their educational lives. The life of a post-secondary student is not a straight line. They have choices to make about work and family and other obligations, and our system should be adapting to that situation, not making it more difficult.

Cooperation between post-secondary institutions benefits not only the institutions, but also the students whose aims and ambitions may change over time and whose previous efforts should not go unrecognized.

Students wishing to enrol in post-secondary education come from varying backgrounds and financial needs. No student who qualifies for admittance should be held back for financial reasons from entering a post-secondary institution in this country. That was the Bill Davis principle in Ontario when he was Minister of University Affairs, and many have embraced it ever since as the *sine qua non* of an open post-secondary system.

For this reason, I want to put the premise of income contingent repayment before honourable senators. This is not a new idea. This plan has been working successfully in Australia for a number of years. Such a plan may require that the federal government introduce a nationwide framework to prime the pump. However, it would provide young people with the flexibility, regardless of financial ability, to enrol in classes without paying tuition prior to enrolment. Repayment of the cost would begin after university through the income tax system based on their ability to pay.

This plan has its critics, the most vocal charging that this is simply a way to increase tuition and incur a lifelong debt. Let me draw an analogy from the royal commission in Ontario that dealt with this issue and made this recommendation.

• (1710)

If one were to tell someone the lump sum total of what he or she would pay into their pension over a lifetime, the response would be incredulity: How can I possibly pay that much into the Canada Pension Plan? However, the truth is most of us do it.

The same reasoning would apply when instituting an income-contingent repayment program. It would simply be a longer-term obligation based on one's ability to pay, rather than an enforced $30,000, two-year repayment program managed by credit agencies at the expense of the self-respect of our young men and women graduating with these debts. If one can afford to repay in two years, then certainly do so. For others, it would be a long-term, low-interest loan for which they are getting the benefit up front.

Should the benefits of education help people to achieve higher-paying employment, repayment could occur more quickly. The plan would lessen or even eliminate the possibility of default. It would do away with unreasonable debt repayment obligations.

Post-secondary education is one of the cornerstones of our success as a nation, and more must be done to keep talented researchers at home, stave off shortages of skilled labour and keep pace with global competitors.

This is a quote from our current Minister of Finance, the Honourable Jim Flaherty, at a recent Queen's University conference at the School of Policy Study:

> The Government of Canada does recognize the importance of its investment in post-secondary education. For this reason, the government has embraced working toward providing long-term predictable funding for the post-secondary sector. I stress the term "predictable" because the institutions have not known from year to year what, if any, funding might be expected.

Minister Flaherty emphasized in his May budget that Canada's necessary increase in productivity in an internationally competitive environment would require substantial investment in education, as well as in research and development.

While the constitutional jurisdictional authority for education lies primarily with the provinces, the federal government has more than a peripheral role to play. The Association of Universities and Colleges of Canada, in September of this year, made a submission to the government regarding its perception of the federal government's responsibilities to Canadian universities and aptly summarized the area where the feds can and should play a role.

As Minister Flaherty outlined, the government intends to make its share of investment in education at the post-secondary level. Forty million more has been allocated for indirect costs of research, which brings the new total to $300 million, a 15.38 per cent increase. $17 million more has been allocated for NSERC, seventeen million more for CIHR, $6 million more for SSHRC, and $20 million more for the Leaders Opportunity Fund at the Canadian Foundation for Innovation. As well, $1 billion have made available to the Post-secondary Education Infrastructure Trust to support urgent infrastructure needs.

I do not view the federal government's role here as gatekeeper to the bank vault. Provincial and federal governments must get out of the business of policing tuition fees and instead provide support for low-income students, R&D and infrastructure, as mentioned previously.

Every reliable statistical indicator marks a solid post-secondary degree as a key step to a brighter and more economically productive individual future. Universities and colleges need to do everything they can to reach out, gather in, hold to high standards, and energize the excellence we require as a society. Every young person should be able to participate in post-secondary education should they choose to.

I support Senator Tardif's suggestion that this institution focus on post-secondary education and consider establishing a study on the subject in order to identify where and how the federal government might enhance its presence and do whatever is feasible to place Canada's educational institutions and its graduates front and centre in the global economy.

Government must engage amid the infrastructure of research support at the high end and economic access for the disadvantaged. Education provides hope for individuals, and people with prospects, ideas and aspirations are the cornerstone of any industry, company, government department or scientific research centre. Following the dots leads to the inevitable conclusion that education and investment in education points to a successful society, one that is able to boast of its achievements, its ideas, its inventions, its standards and its standing in the world. Post-secondary education is the key to the Canadian dream. We must not deny any of our young people access to that dream.

On motion of Senator Losier-Cool, debate adjourned.

BUSINESS OF THE SENATE

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, I wonder if I might crave the indulgence of the chamber. This is in many ways an unusual day, indeed an unusual time, and we have had a very busy Order Paper. The hour is growing late and many senators have pressing obligations. We know the Energy Committee is meeting, but I know that other senators have committee obligations which are immediate and urgent. I also know that a substantial number of other senators have what I suppose would best be termed public business commitments that are urgent for them at this time.

Therefore, senators, I would ask leave of the chamber to call now, out of their normal order, two items: First, Inquiry No. 12, which is by the Honourable Senator Callbeck; and then the motion which now has the No. 111, that is, the motion that Senator Carstairs was given leave earlier this day to consider later this day. I would ask the chamber's leave to proceed with those two items now.

[*Translation*]

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I fully agree with that proposal. Many senators must attend committee meetings.

We could suggest to the Senate that all items on the *Order Paper and Notice Paper* that have not been reached stand in their place for the next sitting of the Senate.

[*English*]

THE HONOURABLE NOËL A. KINSELLA

MOTION EXPRESSING CONGRATULATIONS AND CONFIDENCE IN SPEAKER—ORDER STANDS

On Motion No. 81, by Senator Joyal:

> That the Senate congratulates the Honourable Noël Kinsella on his appointment as Speaker and expresses its confidence in him while acknowledging that a Speaker, to be successful and effective in the exercise of the duties of that office, requires the trust and support of a majority of the senators.

Hon. Serge Joyal: Honourable senators, I notice that Motion No. 81 in my name is standing at day 13. The last two days I was ready to speak on the motion, but because there was a decision to postpone all the items, I will not be able to address the motion again today and I will not be able to attend tomorrow in order to address it. Therefore, I would seek leave of the chamber to set the clock back on the motion. That would save the time of the house today.

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

Hon. Senators: Agreed.

Order stands.

IMMIGRATION POLICY

INQUIRY—DEBATE ADJOURNED

Hon. Catherine S. Callbeck rose pursuant to notice of June 22, 2006:

> That she will call the attention of the Senate to the importance of Canadian immigration policy to the economic, social and cultural development of Canada's regions.

She said: Honourable senators, this inquiry stands at day 13. I initiated the inquiry to call the attention of the Senate to immigration policies, how they affect the regions, particularly Atlantic Canada and Prince Edward Island. I know that the hour is late and therefore I would move adjournment of this item for the balance of my time.

On motion of Senator Callbeck, debate adjourned.

• (1720)

THE SENATE

MOTION TO STRIKE SPECIAL COMMITTEE ON AGING—DEBATE ADJOURNED

Hon. Sharon Carstairs, with leave of the Senate and notwithstanding rule 57(1)(d), moved:

> That a Special Committee of the Senate be appointed to examine and report upon the implications of an ageing society in Canada;
>
> That, notwithstanding rule 85(1)(b), the Committee comprise seven members, namely the Honourable Senators Carstairs, P.C., Chaput, Cordy, Johnson, Keon, Mercer, and Murray, P.C., and that three members constitute a quorum;

That the Committee examine the issue of ageing in our society in relation to, but not limited to:

- promoting active living and well being;
- housing and transportation needs;
- financial security and retirement;
- abuse and neglect;
- health promotion and prevention; and
- health care needs, including chronic diseases, medication use, mental health, palliative care, home care and caregiving;

That the Committee review public programs and services for seniors, the gaps that exist in meeting the needs of seniors, and the implications for future service delivery as the population ages;

That the Committee review strategies on ageing implemented in other countries;

That the Committee review Canada's role and obligations in light of the 2002 Madrid International Plan of Action on Ageing;

That the Committee consider the appropriate role of the federal government in helping Canadians age well;

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 adjourn from place to place within Canada;

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

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 Order of Reference to the Standing Senate Committee on Social Affairs, Science and Technology concerning the ageing of the population, adopted by the Senate on June 28, 2006, be withdrawn; and

That the Committee present its final report to the Senate no later than December 31, 2007, and that the Committee retain all powers necessary to publicize the findings of its Final Report until March 31, 2008.

She said: Honourable senators, I want to answer some anticipated questions about this special study. The Senate has already approved this study, but the chamber approved it to go to the Standing Senate Committee on Social Affairs, Science and Technology.

We are suffering from what I would like to call senatorial activism. There are a number of studies that a number of senators wish to conduct, and so the Standing Senate Committee on Social Affairs, Science and Technology will be very busy with a city study and a study that I anticipate will be introduced shortly by Senator Keon on population health. This motion would take this subject away from the Standing Senate Committee on Social Affairs, Science and Technology and establish it as a stand-alone committee.

Just so senators are aware, all senators that have been named to this committee have agreed to sit on Mondays from one o'clock to 3:30. They have agreed that travel across the country will be of a very limited nature, because we think we can do it by bringing witnesses here to Ottawa and by making very liberal use of video conferencing to engage others across the country.

Honourable senators, I assure you that it is not my intention that this be an expensive study. I have done one other special study since I came to the Senate, that being end-of-life care, the right of every Canadian, and it cost the Senate a total of $7,000. I do not anticipate that this study will be quite as inexpensive as that, but I assure honourable senators that I will watch the numbers very carefully, because we have limited dollars to spend on committee work and I want to spend it in the most effective way.

I do not think there is any point in going into the detailed areas we will study, because, quite frankly, honourable senators, you already approved that last June.

Hon. Terry Stratton: Honourable senators, I thank Senator Carstairs for that explanation as to the numbers and how she arrived at them. My bigger concern is that this is the third special committee that is currently under way in the chamber, each requiring senators to work on them. As a result, there are senators who are now serving on upwards of four, five or six committees — which is causing a great deal of trouble. The situation is simply getting untenable.

How many more special committees does the other side have in mind? Honourable senators must realize that special committees cost money, while subcommittees do not. I am chair of a subcommittee on budgets, as an example. The Subcommittee on Veterans Affairs is another example. The chairs and deputy chairs are not paid. In terms of special committees, the chair is paid $10,000 and the deputy chair is $5,000. That is $45,000 in the three special committees we have now established. The honourable senator will come to the subcommittee on budgets and request money. As we all know, that money is limited, and the pressure upon that money is ever increasing.

I would ask that honourable senators take into serious consideration putting a stop to any more special committees. First, they cost a lot of money, and second, there is a matter of staffing.

Senator Carstairs: I cannot speak for the leadership. I do not know whether we anticipate there will be any other special studies. We have had one, as the honourable senator knows, on Senate renewal, but I think that has been a very cost-effective study. I know we have one on terrorism, and that, too, has been very cost effective.

I think it is impressive that we have a number of senators who wish to participate and engage themselves in additional work, which is why I was careful to plan the timing such that it would

not conflict with other committees they would be sitting on. In fact, some of them, like myself, already sit on the Standing Senate Committee on Human Rights, which meets at four o'clock on Mondays. Others who have agreed to join sit on the Standing Senate Committee on Official Languages, which sits at four o'clock as well. I believe we have made the best and most effective use of both manpower and timing.

Hon. Gerald J. Comeau (Deputy Leader of the Government): I have a few questions. My understanding is that, generally, committee members are chosen by the Senate Committee of Selection. I note in this motion that the members are named. Is this a pro forma naming and they may wind up to be the same? I am probably prejudging the answer. As well, my impression was that special committees only had six members rather than seven.

Senator Carstairs: I did a review of that because Senator Stratton gave us a heads-up earlier. In fact, almost all the special committees have been odd numbers, not even numbers. I did not think we needed to go to nine or 11. I felt seven was more than adequate for this study. In terms of the other aspect of your question, I think we will be able to do this study with seven members.

In terms of the Selection Committee, there are two ways, of course, of introducing any committee. One is to do it as we do at the beginning of a session and allow the names to go to the Selection Committee. I chose to go the route of actually contacting individual senators, because I wanted senators who were deeply committed to the concept of aging within our community and I did not want to overburden anyone with additional work. That is why I approached them individually.

Hon. Joan Fraser (Deputy Leader of the Opposition): I do not know whether Senator Carstairs was in the chamber the day I had the pleasure of moving the motion for the creation of the Special Senate Committee on Senate Reform. She has far more experience in procedural matters than I, but at that time it was deemed sufficiently important to name the members of the committee, so we actually named pro forma members of the committee. I explained to the chamber that we were doing that in order to fill the slots but that those names would then later be changed, obviously by agreement of both sides. I believe what I did then was what precedent suggested, which would indicate what Senator Carstairs is doing now. Has the honourable senator any concept of that precedent?

Senator Carstairs: Yes, it is not uncommon to do a pro forma list, but I did not want to do that. I wanted to approach the individual senators and gauge whether they had the time and the interest to be engaged in this. The seven people who have been named today are in fact seven people who have committed themselves to this study.

Hon. John G. Bryden: Honourable senators, I was about to suggest a possible solution to the staffing shortage, but I reconsidered. Discretion really is the better part of valour.

On motion of Senator Comeau, debate adjourned.

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

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