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Tuesday, November 7, 2006

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Tuesday, November 7, 2006

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

Prayers.

SENATORS' STATEMENTS

VETERANS' WEEK

Hon. Catherine S. Callbeck: Honourable senators, this week is Veterans' Week. It is a time to honour the sacrifices and achievements of our veterans and to pay tribute to those who died protecting the freedom we enjoy today. This year's theme is Share the Story. It encourages Canadians to share their thoughts on remembrance, and for veterans and Canadian Forces members to share their memories and experiences with other Canadians. Sharing these stories is so very important as it makes us all aware, especially our young people, of the horror of war and the sacrifices that have been made.

More than one and a half million Canadians fought in the three wars in the last century and more than 100,000 lost their lives in defence of our country and our values. Even now, thousands of brave young men and women in the Canadian Forces continue to serve our country, putting their own lives in danger, and helping to bring peace and stability to others.

We must never forget our soldiers, past and present, who were and are willing to leave home and sacrifice their lives for our freedom so we can live in one of the best countries in the world.

We must also remember the sacrifices of those who remain behind — the families, friends and loved ones who support our courageous men and women overseas. They waited, and are waiting now, with great strength and fortitude, for their loved ones to return home.

In 1915, a Canadian doctor and teacher wrote a poem with which we are all familiar. John McCrae's "In Flanders Fields" is recited at Remembrance Day ceremonies across the country. Let me read two lines of the poem:

> To you from failing hands we throw
> The torch; be yours to hold it high.

At the time, these lines referred to taking over the battle from those who had fallen. These words have added meaning today. They call on us to carry a torch of remembrance for those who have lost their lives in war, for those veterans who returned home and for those who continue to serve. Sharing the story is a wonderful way for all of us to do just that.

Honourable senators, during Veterans' Week, activities, ceremonies and events will be held across the country. I encourage all Canadians to take part and to ask Canadian Forces members to share his or her story. We must ensure those stories are told well into the future and that what has been learned is never forgotten.

[*Translation*]

Hon. Lucie Pépin: Honourable senators, this week, we express our gratitude to the Canadian men and women who have served our country in time of war, military conflict or peace. We owe these veterans a great deal.

We are proud and glad to live in a beautiful country and in a free world. But things could have been quite different. Threats, each one more unpredictable than the last, shook our stability on numerous occasions. In each of these times of uncertainty, we were able to count on our fighting men and women, who sacrificed themselves for their community. These men and women strove with unshakeable courage to preserve freedom and democracy, values we hold so dear.

We owe them a huge debt. We will never be able to thank them enough for what they did. However, we can make them proud by remembering their individual and collective achievements. This year's theme, "Share the Story," calls us to meet with veterans to listen to their individual stories and gain a better understanding of the sacrifices they made.

The poster released to mark the occasion depicts a young man and his grandfather, a veteran. It is a wonderful idea to involve our young people directly in this celebration, because who better than the younger generation to keep the memories of the past alive for future generations. I am sure that our veterans' achievements will also be a lasting source of inspiration for our young people and will serve as a model for them.

As we mark the fiftieth anniversary of the creation of the first UN peacekeeping forces, our youth will realize that the Canadian Forces have always played a crucial role in peace and reconciliation between peoples. I hope that, by becoming aware of this facet of our military contribution, young Canadians will ensure that we again wage a struggle for peace in the near future, as we did in the recent past.

• (1410)

Honourable senators, this Saturday, November 11, we will pause and reflect on these brave souls who fought and fell in the fields of honour. At the same time, I encourage you to extend your thoughts and prayers to our military nurses, who have contributed to every mission undertaken by the Canadian Forces and risked their lives on many occasions.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of His Excellency France Cukjati, President of the National Assembly of the Republic of Slovenia, together with a parliamentary delegation from the National Assembly of Slovenia. Our distinguished colleagues from the Parliament of the National Assembly of Slovenia are accompanied by His Excellency Tomaz Kunstelj, Ambassador of the Republic of Slovenia to Canada.

While I am on my feet, I also draw your attention to the presence in the gallery of the participants of the Fall 2006 Parliamentary Officers' Study Program.

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

ROUTINE PROCEEDINGS

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

MEETING OF COUNCIL OF EUROPE ENVIRONMENT, AGRICULTURE AND LOCAL AND REGIONAL AFFAIRS COMMITTEE, MAY 12, 2006—REPORT TABLED

Hon. Lorna Milne: 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 parliamentary delegation of the Canada-Europe Parliamentary Association to the Council of Europe Parliamentary Assembly on its meeting of the Committee on the Environment, Agriculture and Local and Regional Affairs in Paris, France, on May 12, 2006.

• (1415)

WORLD WAR I

CONTRIBUTIONS OF ARAB PEOPLES TO ALLIED VICTORY—NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to rule 56(1), (2) and 57(2) of the *Rules of the Senate*, I give notice that on Thursday, November 9, I will call the attention of the Senate to:

(*a*) to Remembrance Day, November 11, 2006, the 88th Anniversary of the end of the First World War, the Day to honour and to remember those noble and brave souls who fought, and those who fell, in the service of the cause of our freedom and in the cause of the British and Allied victory over Germany, Austria-Hungary, and the vast and powerful Ottoman Empire, known as the Ottoman Turks; and

(*b*) to the Arabian theatre of the First World War fought in the Arab regions of the Ottoman Empire, particularly Arabia and Syria, and to the brave and valiant Arab peoples, the children of Ishmael, who fought and fell on the side of Great Britain and the Allies in a war operation known to history as the Great Arab Revolt, June 1916 to October 1918, in which the Arab peoples from the Hijaz, the Najd, the Yemen, Mesopotamia and Syria, and their leaders engaged and defeated the mighty Ottoman Turks, the rulers and sovereign power over the Arab peoples, expelling them from the Arab regions, which these Ottoman Turks had occupied and dominated for several centuries; and

(*c*) to the great Arab Leaders in the Arabian theatre of war, particularly the revered Hashemite, a direct descendant of the Prophet Mohammed, the Sharif Hussein ibn Ali, the Emir of Mecca, the Holy City, and his four sons the Emirs, Ali, Abdullah, Feisal, and Zeid, who though high office holders under the Ottoman Turks, repudiated their allegiance to the Ottoman Sultan, and led their peoples in the Arab Revolt, both in support of and supported by Great Britain, whose high representatives had promised them independence for the Arabs; and

(*d*) to the endurance and valour of the Arab fighters, adept with their camels, to the desert and Bedouin warriors, to the desert tribes, the tribesmen and tribal chiefs such as Auda abu Tayi of the Howeitat tribe, and also to the Arab soldiers and officers of the Ottoman Turkish Army who joined the Arab Revolt to oust the Turks and to support the British, and to the harsh and inhospitable conditions of the deserts, the scorching heat of the days and the frigid cold of the nights, and to the Arab campaigns and victories including their capture of Akaba, Wejh, Dara and Damascus from the Ottoman Turks; and

(*e*) to other Arab leaders, including the Emir Abd-al-Aziz of Najd, known as the Ibn Saud, and the Idrisi Emir of Asir, who had offered resistance to Ottoman domination even before the war, and to General Edmund Allenby, the Commander-in-Chief of the British forces with headquarters in Cairo, Egypt, who noted the indispensable contribution of the Arab peoples to British and Allied victory; and

(*f*) to the Remembrance of the Arab peoples, the descendants of Ishmael, the son of Abraham and Hagar, the bond servant of Abraham's wife Sarah, and to the Remembrance of all the Arab peoples who sacrificed and suffered tremendously, often afflicted by hunger and thirst, yet who contributed to making Allied victory, our Canadian victory, our freedom from domination, possible. Lest we forget. We shall remember them.

QUESTION PERIOD

THE ENVIRONMENT

FORMULATION OF CLEAN AIR POLICY

Hon. Lorna Milne: My question is for the Leader of the Government in the Senate.

Over the weekend, I had a chance to catch up on some reading and I noticed a column by Greg Weston that, prior to the introduction of this government's clean air act, Bruce Carson, a legislative assistant to the Prime Minister, was asked to become the Environment Minister's second Chief of Staff in five months. Apparently, his specific role was to take complete control of creating a new clean air plan. Weston reported:

> In true Harper hands-on style, Carson and only four other officials set to work inventing the Conservative's entire environmental air quality plan for Canada to the year 2050.

My question to the Leader of the Government in the Senate is simple: Can she confirm that Bruce Carson and only four other officials invented the entire environmental air quality plan for Canada to the year 2050?

Hon. Marjory LeBreton (Leader of the Government): I thank Senator Milne for her question. The premise and the content of Greg Weston's article, which I read, were absolutely false. A large number of people from Environment Canada and from energy are working on this very important file. Bruce Carson is a valued employee of the Prime Minister's Office. Mr. Carson worked with Minister Ambrose over the summer as an assistant in her office until she hired a chief of staff.

Senator Milne: Can the Leader of the Government in the Senate, in all good conscience, deny that this environmental policy was shaped entirely by four public relations staff from Environment Canada?

Senator LeBreton: I do not know what part of "no," the honourable senator does not understand. The fact is that Greg Weston's article is entirely incorrect.

• (1420)

Many of us who were involved in the briefings over the summer know the extent to which the consultations took place, the number of people who were consulted and the number of people in the various departments who worked on this file.

I think that once the Canadian public have a chance to look at the work of Minister Rona Ambrose and other ministers on this file, they will appreciate that the clean air act is a major step forward in dealing with a very serious environmental problem in this country.

Senator Milne: I thank the Leader of the Government in the Senate for her answer. However, we have recently seen the results of a rushed drafting project in the form of Bill C-2, currently before this chamber. Quite frankly, we have seen the potential pitfalls and ill will that it can create. It is clear that this clean air initiative was also rushed and that the previous Government of Canada was on course to improving the environment for all Canadians. It is also clear that the plan proposed by this government will place this process in serious jeopardy. Therefore, I want to know if the Leader of the Government in the Senate would be willing to recommend to her cabinet colleagues that they go back to the drafting table and improve on this proposed clean air act.

Senator LeBreton: For many years, we have had a situation of inaction on the whole issue of greenhouse gas emissions and air pollution.

Many people worked on this file. The Prime Minister's meeting with the leader of the NDP in the other place, where they agreed to send the proposed clean air act to a legislative committee, proves that the government is willing to listen to other points of view on the clean air policy.

I believe that the Canadian public knows we are making a serious effort on the issue of air pollution and greenhouse gas emissions and that we are leading the way. After all, this is the first government ever to regulate emissions. We are regulating the auto sector for the first time ever. We are imposing tougher new standards on air pollutants, and we are proposing new regulations to deal with hazardous pollutants from consumer products such as paint, ink and spray cans.

We will monitor polluters and fine those who do not meet their targets. We are proposing a solution whereby we would reinvest environmental fines into a fund that will help us clean up the environment. I believe all of those measures are major steps and steps which have never been taken. This government deserves credit for having the courage to take on this issue.

AGRICULTURE AND AGRI-FOOD

BEEF IMPORTATION QUOTA— ISSUANCE OF SUPPLEMENTAL PERMITS

Hon. Daniel Hays (Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government in the Senate.

Earlier today, some of us met with representatives of the Canadian Cattlemen's Association and were advised of a matter that is of great concern to them, involving the importation, tariff free, of beef into Canada. We have free movement of beef in the NAFTA countries, but this subject deals with importation from other countries.

The system that we now have is part of the Uruguay Round, which has been in effect since 1994. It allows roughly 76,000 tons of beef to come in free of duty.

In 2003, as we are all aware, we experienced the crises of BSE and a closed border, and we found that our processing capacity in Canada was incapable of processing the volume of beef that we produce. Over the period 2003 to the present, we have developed sufficient capacity to process all of the beef we produce. Canadian cattlemen are very concerned that we may return to a practice that came into effect in 2003 — that is, sticking to the 76,000-ton limit without allowing supplemental permits to import additional beef, which in 2002 would have been almost double the 76,000 metric tons allowed in. While we are on the verge of an over 30-month age regulation with the U.S., we may find the capacity in Canada is underutilized by the older cattle going into the U.S. for processing, leaving this new capacity non-viable. To remain viable, it requires a commitment from the government not to issue supplemental permits.

• (1425)

Can the leader assure me, those on this side, and the Canadian Cattlemen's Association, that it is the government's intention not to allow the issuance of supplemental permits, which would jeopardize this additional processing capacity?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I was not privy to the meeting held by the honourable senator today with the Canadian Cattlemen's Association. The honourable senator is asking a very interesting question. I will simply take it as notice and respond with a delayed answer.

INDUSTRY

FUNDING OF COMPUTERS FOR SCHOOLS PROGRAM

Hon. Jane Cordy: Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday, I spoke about the Computers for Schools Program, which was adopted by Prime Minister Kim Campbell. Since 1993, over 800,000 computers have been distributed throughout Canada for use in schools, regional libraries and needy not-for-profit organizations. This program is one of the many valuable programs that will no longer receive federal funding beyond March 31, 2007.

Would the Leader of the Government in the Senate tell this chamber why this program, which is now being piloted in other countries based on the Canadian model, will no longer be funded by this government?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for her question. I heard her statement yesterday. I am not aware of where the honourable senator obtained her information. Despite what is being said about the program, the fact is that it has not been cancelled. Additional resources have been secured to address the shortfall in funding this year for Computers for Schools. These funds will assist the Computers for Schools licensees to meet operational targets that are as close as possible to last year's levels.

I can only hope that whoever is saying that this is happening will cease to do so, because the program has not been cancelled.

Senator Cordy: The people with whom I have spoken will be most pleased to hear that answer. There was a group on the Hill a few weeks ago who worked with Computers for Schools across the country, and they told me that the program will receive no funding as of the end of March 2007. One of the gentlemen actively involved in Nova Scotia sent me an email relaying the same information. I will be happy to tell them all that they will be receiving funding after March 31, 2007.

PUBLIC WORKS AND GOVERNMENT SERVICES

COMPUTERS FOR SCHOOLS PROGRAM— DISPOSAL OF SURPLUS COMPUTERS

Hon. Jane Cordy: My supplementary question is for the Minister of Public Works. The Computers for Schools Program, for which I understand funding will be cut, provides a valuable service to the federal government by redirecting used computers, at a low cost, from landfill and putting them in the hands of people who can benefit. If this program is cancelled, will the Minister of Public Works tell us what plans the federal government has to get rid of the surplus computer equipment and what the cost of the disposal would be?

Hon. Michael Fortier (Minister of Public Works and Government Services): I wish to thank the honourable senator for that question. I will take it as notice and return with an answer on the surplus computers.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

WATER QUALITY ON RESERVES

Hon. Francis William Mahovlich: Honourable senators, my question is for the Leader of the Government in the Senate. Recently, an article was published in *The Globe and Mail* about the remote Ojibwa community of Pikangikum, an area located 250 kilometres north of Kenora, Ontario. The situation that currently exists in the community is an absolute disgrace. There are not enough houses for its population, which has doubled in the last few years. As many as 18 people live in a single small home. The small schoolhouse built 20 years ago now has 780 students attending when it was only meant for 250. This year alone, there have been six suicides in the small community, one of which was a 12-year-old girl.

Even more worrisome is the water situation in Pikangikum. There are high levels of many dangerous substances in the water which affect the entire population, both young and old. Many people must resort to getting their drinking water from Pikangikum Lake rather than from the community's water plant, which I should mention only provides water to approximately 19 per cent of the homes on the reserve.

• (1430)

This is simply not acceptable. The Department of Indian Affairs and Northern Development reasoned that little or no help is getting to the community because the reserve has a history of frequent changes in leadership. Further, Jim Prentice, minister of the department, has refused to meet with his Ontario counterpart due to political grandstanding by Premier Dalton McGuinty.

If resolving the awful problems of this and other native communities is not the priority of the Department of Indian Affairs and Northern Development, as they have demonstrated by their lack of actions and poor excuses, what exactly are their priorities? People's lives and well-being are at stake here.

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for his question. I will leave the pronunciation of that particular community to the honourable senator, but I acknowledge that we are talking about the same community. I, too, saw the news reports.

As the senator knows, Minister Prentice announced last March a water action plan, and money was set aside for that in the budget. In addition, considerable effort has been made over the past few months to initiate actions where clean water can be delivered to the most at-risk communities.

In the case of this particular community in Ontario, a main water point has been set up at the water treatment plant where residents can obtain clean, safe drinking water. The Department of Indian Affairs and Northern Development is moving immediately to ensure that more water is available to the residents. Discussions are under way with the leadership of the community to find a better and more long-term solution to this obviously unacceptable problem.

INDUSTRY

FUNDING OF COMPUTERS FOR SCHOOLS PROGRAM

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, I would like to return quickly to the question that was asked by Senator Cordy, because I found myself a little puzzled.

The Leader of the Government said that funding was continuing. Senator Cordy appropriately drew the distinction between funding for this fiscal year and for the next fiscal year. Can the leader confirm to us that she is saying that the program will be continued with full funding after the end of March 2007?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the premise of Senator Cordy's question had to do with whether the program had been cancelled. I said that the program had not been cancelled. Requests for monies for all the various good projects that people are concerned about will be presented to the Minister of Finance in due course. He and officials in the various departments who are dealing with issues such as this will decide what the budget will entail, but the fact is that the program has not been cancelled.

Senator Fraser: Honourable senators, I will take that as confirmation that Senator Cordy's assumption is correct.

Hon. Jane Cordy: Honourable senators, I am still not clear on this matter. The question I asked was whether these programs will no longer receive federal funding after March 31, 2007. My understanding of the response of the Leader of the Government, which I will be very pleased to email to all the people who have e-mailed me, is that in fact funding will not be cut, and that funding will continue past March 31, 2007.

Senator LeBreton: Honourable senators, I had answered the question, that the program had not been cancelled. In my answer, I cautioned people on assuming things. It was the same thing with the literacy program: People assume many things and then they come back and say that the assumption was wrong when a particular group applied and was given funding.

I am saying at this point in time that the Computers for Schools Program has not been cancelled. I do not think people should assume; honourable senators must know the old saying about making assumptions.

• (1435)

Senator Cordy: My question had nothing to do with the program being cancelled; my question had to do with whether the program will continue to receive federal funding after March 31, 2007. My understanding in listening to the minister's answer was, in fact, that funding will continue past March 31, 2007. That is all I would like to hear so that when I go back to my office later this afternoon I can email the people who are concerned.

Senator LeBreton: I said the program has not been cancelled, and, like everyone, I am awaiting the budget to show which programs will receive more money and/or which programs will continue. I simply said that the Computers for Schools Program has not been cancelled. The premise of the question was that it had been cancelled, and it has not. That is the most that I can say at this time. I will be very happy to inform the Minister of Finance and other ministers of the honourable senator's concern about this program.

Senator Cordy: My question was not about whether the program will be cancelled. It was whether funding would continue after March 31, 2007. The answer to me when I asked the question initially led me and others in the chamber, I would assume, to believe that this funding would continue after 2007. I am not saying "assume." I thought the answer was clear because I stood up and said that I would be pleased to inform the people that I had spoken to and who had contacted me that, in fact, this program will continue.

My question was not about whether the program would be cancelled. My question was whether the funding would continue after March 31, 2007.

Senator LeBreton: Honourable senators, I will be happy to take the honourable senator's concerns to the Minister of Finance and other ministers who are involved in this program.

HUMAN RESOURCES AND SOCIAL DEVELOPMENT

LITERACY ACTION DAY

Hon. Joyce Fairbairn: Honourable senators, first, I should like to remind all senators today that Literacy Action Day will be celebrating its eleventh year on Parliament Hill on Thursday of this week. Along with the Movement for Canadian Literacy and the other national associations, there will be 36 literacy delegates, 10 of whom will be learners, a smaller number than in the past; nonetheless, they are all committed to connecting with their representatives on Parliament Hill. Meetings have been set up with 60 parliamentarians, 12 of whom I understand are senators.

Will the Leader of the Government in the Senate be able to find the time to meet with one of the groups — two people usually come together, and one of them is a learner — to hear from them how they think things are going, particularly after last week?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I am well aware of the literacy advocacy day on Thursday. I do not have my schedule before me. I find myself sometimes committing to things when I should not have done so, but I will be happy to have my office call the honourable senator's office to see if it is possible for me to meet these people.

Senator Fairbairn: Honourable senators, I know that an invitation has been made. Thursdays are busy days, and I hope the minister will be able to meet with them.

In case she cannot, there is a stand-up lunch at noon in room 256-S, and that includes everyone in the Senate and the House of Commons. It will include all of the people who are here from out of town and as many parliamentarians as we possibly can have. Human Resources Minister Finley will speak, as will other opposition leaders and people from the other side. Senator Cochrane and I are co-hosting the luncheon, and we would like to see in attendance as many people from the Senate of Canada as we possibly can.

• (1440)

We will hear directly from two of the learners during this lunch. We will also meet the leadership of our national associations, and it would be great if the honourable senator could find even that amount of time to come in and say hello.

Senator LeBreton: Honourable senators, I will certainly do my very best to drop into the event.

[*Translation*]

ANSWER TO ORDER PAPER QUESTION TABLED

MINISTER FOR DEMOCRATIC REFORM—
MINISTERIAL APPOINTMENTS

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 3 on the Order Paper—by Senator Downe.

[*English*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO REFER DOCUMENTS FROM STUDY ON BILL S-18
IN FIRST SESSION OF THIRTY-SEVENTH PARLIAMENT
TO STUDY ON BILL S-205

Leave having been given to revert to Notices of Motions:

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

> That the papers and evidence received and taken and work accomplished by the Standing Senate Committee on Energy, the Environment and Natural Resources during its study of Bill S-18, An Act to amend the Food and Drugs Act (clean drinking water) in the First Session of the Thirty-seventh Parliament be referred to the Standing Senate Committee on Energy, the Environment and Natural Resources for its study of Bill S-205, An Act to amend the Food and Drugs Act (clean drinking water).

[*Translation*]

ORDERS OF THE DAY

FEDERAL ACCOUNTABILITY BILL

ALLOTMENT OF TIME FOR DEBATE—
MOTION ADOPTED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, pursuant to rule 38, I move:

> That, in relation to Bill C-2, An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability, no later than 3:30 p.m. on Thursday, November 9, 2006, any proceedings before the Senate shall be interrupted and all questions necessary to dispose of its third reading shall be put forthwith without further debate or amendment, and that any standing votes in relation to these questions not be deferred;
>
> That, if a standing vote is requested, the bells to call in the Senators be sounded for thirty minutes after which all questions will be then put consecutively without any further sounding of the bells; and
>
> That, with respect to the debate on the motion for third reading of the Bill, motions in amendment and subamendment be allowed for debate simultaneously without setting aside the motion for third reading of the bill, and, at the conclusion of the debate, all questions be put to dispose of any and all subamendments, amendments and the third reading motion.

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

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, the sponsor of Bill C-2 at the second reading is Senator Oliver and the opposition spokesperson is Senator Day.

Pursuant to rule 37(3), I move:

> That, when they speak at this stage of the bill's consideration, they will be entitled to 45 minutes, even though in this case the sponsor did not move the third reading of the bill.

[*English*]

FEDERAL ACCOUNTABILITY BILL

THIRD READING—DEBATE ADJOURNED

Hon. Terry Stratton moved third reading of Bill C-2, providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability, as amended.

He said: I would like to proceed on third reading of Bill C-2. I move third reading of this bill.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Stratton, seconded by the Honourable Senator Andreychuk, that this bill be read the third time.

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, before we proceed any further, I would like to confirm that it is our understanding on this side that the agreement we reached was that the official sponsor and critic for this bill, namely Senators Oliver and Day, would have allocated

to them the 45-minute time slots that are normally accorded to the first and second speakers at this stage of debate; that apart from the leaders, who, of course, have unlimited time, no other senator would be given 45 minutes as of right. That is the agreement.

Hon. Gerald J. Comeau (Deputy Leader of the Government): That was the motion I just read a couple of minutes ago — not the motion, but the advice to this chamber. I will read it in English this time around.

Honourable senators, the sponsor of Bill C-2, identified at the second reading as Senator Oliver, the opposition spokesperson being Senator Day, in accordance with rule 37(3), when they speak at this stage of the bill's consideration they will be entitled to 45 minutes, even though in this case the sponsor did not move the third reading of this bill.

The Hon. the Speaker: Is that clear, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Agreed. That is the house order.

Senator Stratton: I fully understand that I have 15 minutes, I think.

Senator Tkachuk: Not 20.

Senator Stratton: I might ask for five more.

Honourable senators, in last January's election, Conservative Leader Stephen Harper set out five priorities, one of which was the proposed federal accountability act. Canadians voted for these priorities, as did the elected members of the other place, last June when they passed Bill C-2. The proposed federal accountability act, the most sweeping anti-corruption bill in Canada's history, was the new government's first piece of legislation. The intent is simple: To change the way business is done in Ottawa by reducing the clout of big money in politics, by making life more difficult for lobbyists, and by making it easier to catch and convict politicians and public servants who engage in behaviour that would best be described, as in recent history, as corrupt. It represents a major departure.

Why do we need this bill? It is regrettable that the Liberal majority in this chamber chose to introduce amendments that will water down this bill. It is particularly regrettable that the opposition would do so given the series of events that led to this bill, the most significant of all being the sponsorship scandal. The bottom line is that the Liberals broke every rule in the book and that public money was laundered, through ad agencies and Crown corporations, to find its way into the hands of the Liberal Party through envelopes stuffed with cash, all in the name of national unity, all over a period that began shortly after the 1993 election and which continued until they were caught.

As Judge Gomery concluded in his report to the people of Canada:

> The Liberal Party of Canada (Quebec) cannot escape responsibility for the misconduct of its officers and representatives.

Beyond sponsorship, there was a series of incidents involving Crown corporations. It was the Business Development Bank's Grande-Mère scandal, complete with what one judge called a vendetta on the part of former Prime Minister Jean Chrétien.

• (1450)

It was the mint's David Dingwall who infamously said, "I am entitled to my entitlements." It took the Auditor General's revelations of the sponsorship scandal to prompt the former government to order a special audit of Canada Post, which in turn revealed that André Ouellet was funnelling contracts to his personal friends and bypassing normal hiring rules to get his friends on the payroll. If the Access to Information Act had applied to Canada Post at an earlier date, we would have known much sooner that André Ouellet did not have to file receipts to get reimbursed for whatever travel expenses he chose to claim.

There was then the revolving door between the former government and lobbyists, a textbook example of this being a rather cosy relationship between the then Prime Minister Paul Martin and his PMO in waiting.

This was a government that only begrudgingly addressed the issue of whistle-blowing toward the end of its mandate, and not in a manner that created a truly independent process.

We had a government that put unaccountable foundations into the business of delivering government programs beyond the scrutiny of Parliament or the Auditor General through the endowment of billions of dollars of taxpayer money. We have had no independent way to verify how this money is being spent and how the management of these foundations are conducting themselves.

I could go on, but I think this is a chapter in Canada's history that we would all rather leave behind us.

The need for this bill is clearly there, yet the Liberals introduced more than 100 amendments, in some cases insisting on those amendments even after being told by legal counsel of potential problems. These included changes that will remove the Wheat Board from inclusion under the Access to Information Act. One has to ask: Why? It should be pointed out that if the Canadian Wheat Board currently has an access to information system in place, there should not be a problem adapting the system to meet the new access to information guidelines. It is important to note that the Government of Canada is involved in the operations of the Canadian Wheat Board. Any payment made to farmers from the pool account requires approval through Order-in-Council before they can be made and any losses are to be paid by the Government of Canada. For example, in 2002, over $85 million were required to shore up the Canadian Wheat Board losses. The Canadian taxpayer, along with farmers, should have the ability to see how this occurred. Bill C-2 does not require that current commercial information be made available under the Access to Information Act.

Another amendment would limit the reach of the Access to Information Act in foundations to only include information created after the accountability act's Royal Assent. Why? There were five foundations created with billions of dollars before this act will come into effect. Why would they be exempted? When the foundations appeared before the committee we got the impression

they were well managed, and therefore they would not have a problem with this proposed legislation. It is called accountability. It is called transparency.

The Liberal amendments could reduce the proposed time available to prosecutors to initiate charges under the federal elections and lobbying laws. Why? This is an argument that I have been having with the reverend over a period of time. We want five years because it takes five years for a potentially complicated investigation and then a further five years to implement changes. Members opposite want to reduce those times to two years and five years, which I think is inappropriate. As I said before, the events which culminated in the Gomery inquiry started back in 1995. You have to take that time to go back and investigate. You need the five years.

An even more curious amendment would grandfather those political staff members who currently qualify for priority placement in the public service, allowing them to continue to jump the queue over more qualified applicants. Why? Why would they not be willing to compete against any other civil servant for a position?

Members opposite would increase the proposed donation limit from $1,000 to $2,000. Why? They would delay implementation of the new electoral financing limits until January 1 of the year following Royal Assent, which could very well mean until January 2008, if the Liberals continue their delaying tactics.

Honourable senators, I believe the last two items, those pertaining to electoral financing, are really driving the opposition majority. The proposal to double the limit to $2,000 from $1,000 does not sound like much, but it is really a proposal to allow for donations up to $6,000 per year. This is because you would be able to donate $2,000 to the party, $2,000 to the riding association and $2,000 to your local candidate.

The Liberal Party has been spectacularly unsuccessful in getting grassroots financial support from Canadians and now seeks to continue its dependency on large donations. I do not see the real problem. Remember, honourable senators, 99 per cent of all donations to political parties are under the amount of $200. It should not be a problem.

Honourable senators, during the meeting of the Standing Senate Committee on Legal and Constitutional Affairs of September 18, Senator Milne gave what I thought was a peculiar reason to set the limit higher than $1,000. She said, "I am presently at the limit from having donated to my own caucus expenses here in Ottawa, and then with paying convention fees I am over the $1,000 limit and I have not given a cent to my party." She said as well, "Many senators I know are choosing not to go to the convention for that exact reason."

I found this a little bizarre so I asked Senator Milne if she was saying that her caucus expenses are tax receiptable by her party. Her response was that she did not know but that she did get some kind of tax receipt. I was incredulous over that reply. If Liberal senators are funnelling their caucus lunch money through their party and then getting a tax receipt, something is wrong. As senators, we receive per diems to cover such costs and any kind of subsidy over and above that would constitute double-dipping.

Our caucus does not give tax receipts for the cost of caucus lunches. It is considered to be a personal expense, as it should be. I have no sympathy for the argument that we would raise the contribution limits beyond those originally proposed in Bill C-2 so that the Liberals continue to enjoy a tax break. If I am wrong, I will apologize, but that is exactly what took place in that meeting.

Honourable senators, the Liberal amendments to delay the new election financing rules until January 1 of the year following Royal Assent means that if the bill does not pass by Christmas, the old rules will remain in effect for all of next year. The party has relied heavily upon $5,000 cocktail parties to raise funds and could continue to do so. Until they moved that amendment, some of us thought their objective was to delay the bill until after their convention, which at this point would have been easy to do. For that matter, given their majority, they could have inserted December 3 as the effective date.

I remind senators that in June Senator Oliver thought that he had an understanding among members of the steering committee that, while the committee would not sit over the summer, the committee would be able to report the bill on September 26. To his surprise, in September, the Liberals denied the existence of any such understanding. They wanted far more witnesses than foreseen in the spring and had no desire at that point to put in extra hours to get the witness list done by September 26. Indeed, when it was pointed out that we could have sat through the summer to hear those witnesses, Senator Campbell's response from the afternoon of the meeting of September 5 was, "Why would we want to sit over the summer?"

The committee met the first and third weeks of September, but not the second. When I suggested that we sit the second week of September, the Liberals rejected this flat out.

• (1500)

Committee hearings took far longer than is our practice, as witnesses who would normally be grouped as a larger panel sat as a smaller panel or as a panel of one. Some of those witnesses brought little to the table that had not already been said. Unfortunately, our chair had his hands tied by the Liberal majority on the steering committee.

It was only when faced with the prospect of staying in Ottawa for weekend sittings that the opposition agreed to report the bill on October 26; one week sooner than they were saying the committee would wrap up its work.

Shortly before the committee proceeded to clause-by-clause consideration of the bill, we saw Senator Day declare to a press conference that the Senate would need two weeks for report stage and third reading. Why would he do that, unless it was part of a plan of delay? We can sit until midnight to debate the bill, sit Mondays, Fridays and weekends. I doubt this would be acceptable to the opposition, who will use the rules to string out debate by means of adjournment.

Would I be cynical if I wondered out loud whether the Liberal game plan was to move amendments in the full knowledge that several may not be acceptable to the government? Would I be wrong to wonder out loud if their rag-the-puck strategy includes having the other place reject several of those amendments? They are policy oriented, and that is not the function of this place.

Liberal senators are proposing to give third reading to the bill just before Remembrance Day, in the full knowledge that under the fixed schedule set out in the standing orders of the other place it must break until November 20. The fixed calendar of the other place is working to the advantage of the opposition senators in this place. Unless there is an emergency, such as a major labour disruption, the other place cannot sit beyond December 15, which means the Liberals will only have to delay the bill for another month.

In a perfect world, assuming we send Bill C-2 to the other place this week, we could have had the bill back as early as the evening of November 20, but it would not take much for the Liberals to keep it in the other place for a few days.

The Liberals have made several amendments to the bill, and while some may be accepted by the other place, as I have said, others may not. Indeed, some of the opposition amendments are clearly counter to the intent of the bill, while others could not work without further amendment.

An example of this that I have used before is the opposition amendment to ban from lobbying the hundreds of thousands of Canadians who work in any capacity for employers that do business with the government. This amendment failed to establish a proper exemption regime for those who are not public office-holders.

I expect this amendment would either have to be struck from the bill or dramatically changed to provide some sort of an exemption regime. Even with an exemption regime there is a danger that the sheer volume could grind the process to a halt.

The Hon. the Speaker: I regret to advise that the honourable senator's time has expired.

Senator Comeau: We agree to an additional five minutes.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Stratton: Thank you very much.

With the bill returned to the Senate and the clock down to little more than three weeks or less, the Liberals in this place could then employ new tactics to keep the clock ticking. They could spread out debate by continuing to adjourn it. They could refer the bill back to committee and then force additional testimony that could stretch into mid-December. They could introduce amendments with the knowledge that they would be unacceptable or unworkable. They could insist on amendments that they were told in committee would be unworkable in practice. They could even send their staff out — I do not like this one — to shop for kazoos.

They could then, on December 15, send the bill back to the other place insisting on but one amendment: that the financing provisions not take effect until January of the year following Royal Assent. They will, at this point, have beaten the clock and their new leader will be able to host $5,000 cocktail parties in early January.

I do not think I am giving the Liberals any new ideas here. Some of the opposition senators were around in the period between 1984 and 1990 when Senator Murray led the government and a Liberal opposition controlled the Senate.

Honourable senators, I sincerely hope that I am wrong, but it is hard to believe there is not some kind of underlying strategy behind the foot-dragging we have seen to date.

Senator Fraser: Would Senator Stratton take a question?

Senator Stratton: Yes.

Senator Fraser: The honourable senator said in his remarks that some of the witnesses in committee brought little to the table. Would he care to tell us which witnesses were not worth hearing?

An Hon. Senator: The green hat.

Senator Stratton: I absolutely refuse to get personal. There has been a physical description of one individual, and I do not want to go there. The same applies to other witnesses; I do not want to denigrate anyone who was there.

Hon. Terry M. Mercer: Honourable senators, it is interesting that I am speaking today. Three years ago today, Her Excellency the Governor General called me to this place. It is my anniversary.

Hon. Senators: Hear, hear!

Senator Mercer: She did a fine job.

Honourable senators, it is a pleasure for me to rise to speak at third reading of Bill C-2, the proposed federal accountability act.

While much has been said here and in the other place about the effectiveness of this bill and the outcome it will produce, I will focus my comments on one section of the bill that I believe many honourable senators may also have issues with.

As senators, we have the duty to examine bills, which may or may not become law, in our committees. Those committees do their work and do it well. In fact, with regard to Bill C-2, the Standing Senate Committee on Legal and Constitutional Affairs heard from 140 witnesses, all of whom I think were credible individuals; over 98 hours of meetings. If the Commons had only heard as many people and had taken as much time, maybe we would not have all these amendments.

Our committee's members concluded, — sometimes unanimously; sometimes not — that the bill contains flaws and requires amendments in order to reflect how we can improve transparency and encourage trust in all government offices and procedures.

The way in which this place and our committees work reflects the purpose of the Senate. I believe it is a purpose that all senators from both sides of this place have fulfilled when it comes to Bill C-2.

My main concern, honourable senators, is that we all agree that the bill's intent should be to increase the public's faith and confidence in government. In reality, it does not. In certain parts it hardly recognizes the important work that is already taking

place. Apparently, Canada's new government has little faith in its current set of public office-holders, federal prosecutors and law enforcement officers. They are already doing their jobs, and I think doing them well.

I am no expert in legal matters, but it seems to me that common sense has not been used in proposing a certain section of the bill. I have always taken a common sense approach to matters concerning the laws we are examining, and I will continue to do so with Bill C-2.

Honourable senators, I speak of Part 3 of this bill; specifically, the establishment of a director of public prosecutions. This part gives the authority to that office to initiate and conduct criminal prosecutions on behalf of the Crown. Is this not something that the Attorney General, through the current apparatus of government and the RCMP, can already do?

Honourable senators, I will read a paraphrased excerpt from the legislative summary provided by the Library of Parliament for Bill C-2.

• (1510)

The director of public prosecutions acts under and on behalf of the Attorney General of Canada and is considered the Deputy Attorney General for the purpose of exercising his or her powers, duties and functions. The director of public prosecutions has the following enumerated responsibilities: initiating and conducting prosecutions except where the Attorney General has assumed to conduct of them; intervening in matters of public interest that may affect prosecutions or investigations except where the Attorney General has decided to intervene; and carrying out any other compatible power, duty or function assigned by the Attorney General. Those are a lot of exceptions.

It appears that the Office of the Auditor General could very well entrust its several thousand Crown prosecutors and staff and the RCMP to do the exact thing this section of the bill is proposing. This system exists already and exists for a purpose, the very purpose that Canada's "new government" seems to think does not work well enough for them. In fact, the government goes on to set out transitional provisions with respect to the operations of the office of director of public prosecutions.

Until the appointment of the director of public prosecutions, the current Assistant Deputy Attorney General (Criminal Law) will act as director of public prosecutions and they may choose two deputies of public prosecutions until the appointment of the director of the public prosecutions under the new act.

What a mouthful! Again, if the department can already do the job, why are we considering another level of bureaucracy? However, honourable senators, we must ask ourselves, why is this being proposed in the first place? I say, "If it ain't broke, don't fix it." I do not think it is broken.

We can make many comparisons to our American friends in recent weeks with policy announcements and backroom deals that smack of U.S. policy, not Canadian policy. I now recall the name that senators all remember as well, Mr. Kenneth Starr, the American lawyer and former judge who was appointed to the Office of the Independent Council to investigate such things as Whitewater and the Monica Lewinsky scandal. Many used the words "witch hunt," "sensationalism" and "opportunistic" when asked about the job he was doing.

Do we not see similarities between that position and the one this bill proposes? The primary objective of the proposed director of public prosecutions is to ensure that prosecutions, under federal law, operate independently of the Attorney General of Canada and the political process. Do they not already? The Attorney General, a cabinet minister in the government, should, in all full faith and conscience, make decisions based on the law and specifically on advice he or she receives from their advisers. The law is the law.

Therefore, it seems hard to believe that a government would not have faith in one of its own ministers to apply the law in the way it is meant to be applied and not based on a personal or political decision-making process. We have hardly had a problem in the past with this system and now, all of a sudden, we do. No one has been able to give me a case where the Crown prosecutor system or the RCMP have failed to do their jobs properly.

Honourable senators, if Canada's "new government" has general concerns regarding the conduct of Canadian Crown prosecutors or the RCMP, let it say so. Let it not hide behind a section of a bill that in essence says the government does not think its own employees are doing a good job.

This new office of director of public prosecutions will not guarantee impartiality or accountability and will only serve to add a level of bureaucracy that Canada's "new government" can fill with it own cronies.

Honourable senators, while the director of public prosecutions would seemingly avoid political interference in the system, I contend there is a dangerous possibility it will do just the opposite. Since this bill is entitled the "Federal Accountability Act," is this not something we are trying to avoid?

MOTIONS IN AMENDMENT

Hon. Terry M. Mercer: Honourable senators, since the current system works well and should not be changed in this manner, I move:

> That Bill C-2 be not now read a third time but that it be amended in the following clauses: 40, 121 to 140 inclusive, and 273.

This motion amends the bill in the following ways: First, clauses 121 to 140 are the clauses that enact the director of public prosecutions act and related transitional provisions. My amendments would delete these clauses. Second, my amendments include a wording change to clause 40 to accommodate the removal of the director from Elections Act prosecutions. Third, clause 273 would also be deleted as it adds the office of the director to the Financial Administration Act.

Honourable senators, I will ask your indulgence and request that you dispense from the obligations of having me read all of the individual amendments into the record as I am proposing 22 of them. I would assure honourable senators that these amendments remove the director of public prosecutions from the bill and leave everything else intact.

Senator Stratton: I think if we have 22 amendments, the chamber should hear all 22.

Senator Mercer: If you have the time, I have the energy.

It is moved that Bill C-2 be now amended —

The Hon. the Speaker *pro tempore***:** Point of order, Senator Baker.

Hon. George Baker: On a point of order, there are two ways that an amendment such as this can be brought in. One is by reading into the record every single instance, and the other way is simply by outlining what the amendment is and applying it to certain specific sections of the bill. The latter would take about 60 seconds, whereas the former would take at least 20 minutes. I suggest the latter and that the honourable senator be given permission not to have to read every single amendment into the record but do it in a shorter form, or let us accept that the words "director of public prosecutions" would be removed entirely from the bill.

The Hon. the Speaker *pro tempore***:** Honourable senators, to dispense of reading the amendment, I need leave. Is leave granted?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore***:** Continuing debate.

Senator Baker: I have a few words to say, Your Honour, before another honourable senator of great reputation in this chamber is about to move, as I understand it, further amendments.

I would like to make specific reference to the speech just given and the amendments proposed by the honourable senator. Initially, I supported that position, and I think that a great many members of the committee did when the committee heard the evidence and prior to hearing all of the evidence. As the honourable senator was speaking, I was thinking that there is good reason to support him in his proposal. However, after listening to all of the evidence, I will instead support the section in the bill as proposed by the government with the amendments proposed by the committee.

I want to make reference to the reason that I think the honourable senator has for making the proposal that he is making. It jumped out at me when I looked at the bill. The scheme of the bill is that there are commissioners who shall conduct investigations. If any violations of an act of Parliament are found, then charges shall be laid — in a specific instance by the director of public prosecutions. That is, it is the director of public prosecutions who will make the judgment as to whether or not charges will be laid, and it is the director of public prosecutions who will then prosecute the charge.

• (1520)

As we all know, and as was pointed out by Justice Binnie of the Supreme Court of Canada in several judgments, there is what is called a hard, objective second look in our system that is done by the Crown prosecutor. Separate from the police who investigate and lay the charge, we have that objective second look built into our system, which is different from the U.S. system. Why? Because in the U.S. system there are other protections, which are perhaps greater protections in that an individual can plead the Fifth Amendment. In other words, a person does not have to answer a question. In Canada, he or she must.

In each one of these cases of the commissioner appointed under this bill, one must answer the questions. It is compelled testimony. If I can just find the first instance, which is the same as all the other instances, it is on page 26 of the bill. It says that the commissioner has the same power as somebody under the Public Inquiries Act — in this case,

> ...to compel them to give evidence as a court of record in civil cases.

It is the same thing; it is the superior court. In Newfoundland, it would be the Supreme Court or it could be the Federal Court.

The commissioner has the power to compel testimony. What is the protection, then, given to you or to anyone else under investigation by any of these commissioners? That is found in the next part which states:

> Information given by a person under this section is inadmissible against the person in a court or in any proceeding, other than in a prosecution of the person for an offence under section 131 of the Criminal Code (perjury) in respect of a statement made to the Commissioner.

That is our protection built into the scheme. In other words, there are these four commissioners investigating each one of these cases. If they take testimony, which is compelled testimony, a person must answer. If he does not answer, he will be charged, or could be charged. Just as in a court of law, he must answer the question. The protection offered, then, is that whatever that person says cannot be used against him in a future proceeding, except one for the purpose of perjury, under section 131 of the Criminal Code.

If the commissioner finds, on reasonable grounds, that the person violated an act of Parliament, then he consults with the director of public prosecutions. In the case of the Elections Act, as we pointed out, the director of public prosecutions makes the decision whether charges will or will not be laid, and then carries out the prosecution.

That removes a protection, does it not, in the Canadian system of that hard, objective second look? How can there be an objective second look if the director has taken the first look and made the first decision? Just on its face, that would violate a principle in bringing in a director of public prosecutions who will investigate and determine whether reasonable grounds exist to lay a charge, and then carry on and conduct the prosecution.

The reason that this is so important — and I was thinking about it while Senator Mercer was speaking — is that the protection given to public office-holders, cabinet ministers, et cetera — people who are investigated by the commissioners — in compelled testimony is that what they say cannot be used against them in a future proceeding. Unfortunately, that is not true, is it?

Since about 1990 in this country, the interpretation of that section has been that it is true that what you say cannot be held against you; the information cannot be held against you, as

Senator Austin would know in the great case of the *British Columbia Securities Commission v. Branch*, in which the determination was made by the Supreme Court of Canada that not only can the information not be used against you, but any evidence derived from that information cannot be used against you.

However, what you say can be used to impugn your credibility. In other words, what you say before one of these commissioners can be taken word for word in a future proceeding and can be used to impugn your credibility.

Honourable senators, one's credibility is a pretty important thing. If you are a cabinet minister or public office-holder who is brought before the court and charged with something, on the decision as to whether or not you will take the stand in your own defence, what will come into play is whether or not someone can impugn your credibility on exactly the same evidence that you gave in compelled testimony under each of these interviews being made by a commissioner.

There is only one exception to that that I can think of that I read recently, and that is the case of *Gagliano v. Canada* last year in connection with the Gomery commission, in which Mr. Gagliano's lawyer wanted to cross-examine a Mr. Charles Guité. that matter went to the Federal Court because Justice Gomery ruled against it, saying that we have parliamentary privilege here and that anything said before a committee cannot be used, even to impugn your credibility, which is what the lawyers requested.

That is the accepted law in Canada, that under compelled testimony, the derivative evidence cannot be used against you but the words that you say can be used to impugn your credibility in a future proceeding. In other words, if you are charged under the criminal law with something, then you better think carefully before you take the stand if your credibility can be impugned by evidence given before a commissioner established under this act.

Therefore, I think the bottom line, honourable senators, is that the inclusion of a director of public prosecutions — I believe, on its face — removes a protection in our system that is there in the U.S. system. How many times do we turn on the television and watch a fellow say, "I refuse to answer on the grounds that it will incriminate me"? We hear that during every single public hearing of a Senate committee in the U.S. We cannot do that in Canada. These were our protections. In one case, in the case of a director of public prosecutions, that protection is being taken away under this act. In the other case, in a plain reading of all of these types of legislation that we have, every single professional body in Canada has the protection, where there is compelled testimony, not to have that testimony used against an individual in a future proceeding. That protection is there. If you look at doctors, nurses, lawyers, accountants, or the Unemployment Insurance Act or the Social Assistance Act that I am more familiar with over the years, and it is there.

However, the law has changed to the point where it is no longer a good protection. Therefore, we should be very careful in removing a protection in the law by establishing a director of public prosecutions who can now initiate a prosecution. That is unheard of in any act of Parliament, where a prosecutor can initiate a prosecution, establish beyond a reasonable doubt that charges should be laid, give orders that charges be laid and then prosecute the person in the proceeding.

I must say that the Honourable Senator Mercer's argument does have a great basis, as far as I am concerned.

• (1530)

The Hon. the Speaker *pro tempore***:** Honourable senators, it is moved by Senator Mercer, seconded by Senator Baker, that Bill C-2 be not now read the third time but that it be amended:

> (a) in clause 40, on page 56, by replacing lines 7 to 9 with the following: "Statements may be produced by the commission for the purpose..."

Some Hon. Senators: Dispense.

The Hon. the Speaker *pro tempore***:** Are there other honourable senators wishing to speak to the motion in amendment?

[*Translation*]

Hon. Marie-P. Poulin: Honourable senators, since being tabled in Parliament on April 11, Bill C-2, which was to be the centrepiece of the government's legislative policy, has lost its lustre as a result of the stream of witnesses who appeared before the committees of both chambers. This voluminous document covers everything from access to information to restrictions on election financing.

When introduced — as mentioned previously by my colleagues — the bill consisted of 234 pages and five major parts. It amended some 100 federal statutes, created eight new organizations and positions, and gave additional powers to current officers of Parliament.

It extended the application of the Access to Information Act and the Privacy Act to include the following agents and officers of Parliament: the Auditor General, the Information Commissioner, the Privacy Commissioner, the Official Languages Commissioner, the Chief Electoral Officer, the Public Sector Integrity Commissioner, the Director of Public Prosecutions and the Commissioner of Lobbying. The bill also covers all Crown corporations and their wholly owned subsidiaries, the Canadian Wheat board and five foundations.

The enormous size of the bill cannot be underestimated. It is thanks to the Standing Senate Committee on Legal and Constitutional Affairs that the flaws of the bill were noted and amendments proposed to correct them. From the outset, I have been interested in the bill within the bill, the purpose of the provision in Part 3 being to enact the proposed Director of Public Prosecutions Act.

This measure, even with its amendments, would transform our traditional prosecution system by establishing a new departmental structure outside the Minister of Justice. Upon examining this aspect of Bill C-2, we cannot help but wonder what the government was trying to achieve with this new legislation that a simple amendment to the Department of Justice Act could not have done.

According to the government's action plan, the director of public prosecutions, the DPP, is important for transparency and for the integrity of the federal justice system and for ensuring that prosecutions under federal law operate independently of the Attorney General of Canada and of the political process.

It would therefore be beneficial to review our current system. The Federal Prosecution Service has defended the principles of integrity and has given Canada a justice system of which we can be proud, and which works uncompromisingly in the interest of nation-wide justice.

The numbers speak to the federal presence in the justice system: some 700 employees in the Federal Prosecution Service, and nearly 250 law offices representing 800 lawyers pleading cases in regions where there is not a permanent federal presence. By the government's own admission, the transition from the Federal Prosecution Service to the proposed office of the director of public prosecutions will not change much.

Honourable senators, we have here a federal institution that has, throughout its remarkable history, defended in an exceptional manner the integrity and independence of prosecutions, without having to overhaul the Department of Justice.

We are told there will be a one-time cost for relocating the staff and materiel from the Federal Prosecution Service at the Department of Justice to a site to be determined where the office of the director of public prosecutions will be. What will be the cost? There are many costs associated with implementing all the provisions of Bill C-2. Financially the cost will be $57 million, but how much of this amount will the taxpayers have to absorb for a government bill that essentially accomplishes nothing?

They tell us it will cost $23 million, and I can only assume these estimates will be exceeded. What about human and professional costs? Interpersonal relationships will be sacrificed because of this forced reintegration. What will happen to the ongoing working relationship between the Federal Prosecution Service and the Department of Justice's own policy development branch?

Honourable senators, allow me to summarize Part 3 of this bill. The act would create an office of the director of public prosecutions independent of the Department of Justice. The act would give the Director of Public Prosecutions the power to bring legal action for offences against federal acts and regulations, including the new fraud provisions that the government proposes to integrate by amending the Financial Administration Act. The act would give the Director of Public Prosecutions the power to make final binding decisions about whether to pursue legal action unless the Attorney General orders otherwise by written public notice.

The act requires the Director of Public Prosecutions to submit an annual report to the Attorney General to be tabled in Parliament. The clause introducing the Director of Public Prosecutions is in Part 3 of the Summary of Bill C-2 and reads as follows:

> ...enacts the Director of Public Prosecutions Act which provides for the appointment of the Director of Public Prosecutions and one or more deputy directors. That act gives the director the authority to initiate and conduct criminal prosecutions on behalf of the Crown that are under the jurisdiction of the Attorney General of Canada. That act also provides that the director has the power to make binding and final decisions as to whether to prosecute, unless the Attorney General of Canada directs otherwise, and that such directives must be in writing and published in the *Canada Gazette*. The director holds office for a non-renewable term of seven years during good behaviour and is the Deputy Attorney General of Canada for the purposes of carrying out the work of the office. The Director is given responsibility, in place of the Commissioner of Canada Elections, for prosecutions of offences under the Canada Elections Act.

Highly significant words are used in this statement. First, the words "initiate" and "conduct"; second, the director's power to make binding and final decisions as to whether to prosecute, unless the Attorney General of Canada directs otherwise; third, the requirement that the Attorney General's directives be published; fourth, the seven-year term of office which is non-renewable; and, fifth, the responsibility for prosecuting offences under the Canada Elections Act.

It is important to recall that, within the Federal Prosecution Service, the principle of the independence of the Attorney General is firmly entrenched in our legal system, widely respected, and carefully safeguarded.

Crown counsel exercise their independence as the representative of the Attorney General. As such, the independence of Crown counsel is a delegated independence, and Crown counsel retain a significant degree of discretion in individual cases. They are accountable for their decisions.

• (1540)

Thus, the Attorney General is accountable to Parliament and the public for decisions taken in his name.

The interaction of the principles of independence, accountability and consultation mean that what is protected is a system of prosecutorial decision-making in which the prosecutor is an integral component. A large measure of independence is conferred on Crown counsel, but absolute discretion is not.

Although, in Canada, the Minister of Justice and the Attorney General are now joined into a single portfolio, the functions of the Attorney General are unique, given that, as a member of Cabinet, the Attorney General is regarded as an independent officer, exercising responsibilities similar to those of a judge.

The policy manual of the Federal Prosecution Service specifies this by indicating that the absolute independence of the Attorney General in deciding whether to prosecute and in making prosecution policy is an important constitutional principle in England and Canada.

As the Supreme Court of Canada found in the case of *Krieger v. Law Society of Alberta*:

> It is a constitutional principle in this country that the Attorney General must act independently of partisan concerns when supervising prosecutorial decisions.

In 1925, Viscount Simon, Attorney General of England stated:

> I understand the duty of the Attorney General to be this. He should absolutely decline to receive orders from the Prime Minister, or Cabinet or anybody else that he shall prosecute. His first duty is to see that no one is prosecuted with all the majesty of the law unless the Attorney General, as head of the Bar, is satisfied that the case for prosecution lies against him. He should receive orders from nobody.

Thus, honourable senators, the independence of the Attorney General, and the policies and legislation surrounding the Attorney General's office are firmly anchored, to such a degree that the proposal for an office of the director of public prosecutions has left more than one witness confused.

As former Deputy Minister Arthur Kroeger declared before the committee:

> I am not clear as to what problem it intends to solve. You have a Deputy Minister of Justice; you have an Assistant Deputy Minister, whose function is prosecutions. Virtually all prosecution is handled under the Criminal Code and administered by the provinces. I am puzzled as to why the position was necessary...

Under the new bill, the Director of Public Prosecutions, or DPP, will continue to prosecute offences that come under federal jurisdiction, but will have expanded duties, specifically under new fraud provisions resulting from amendments to the Financial Administration Act that create offences for fraud against the Crown by agents and employees of the government. As I mentioned earlier, the DPP will also prosecute offences under the Elections Act.

When we look at the government's reasons for changing the judicial system, it is difficult to follow its logic. On the one hand, the government is saying that there are no gaps in the current system. The Associate Deputy Minister of Justice told the Standing Senate Committee on Legal and Constitutional Affairs that the system was a faithful guardian of the prosecutor's independence.

On the other hand, the government is imposing new functional responsibilities and a new appointment process and is dividing the Department of Justice in two. We are being told that this will not change federal-provincial relations at all.

We are being told that, in fact, this is nothing but a name change to give more credibility to openness, transparency and accountability, but in practice, it is creating a new ministerial bureaucracy.

We are being told that the Attorney General will remain independent, but can cancel a decision by the DPP, provided that the Attorney General publishes such directives — but not, apparently, the reasons for those directives. Publication can be delayed if the Attorney General deems it appropriate.

Despite everything, however, the DPP must always submit an annual report to the Attorney General for tabling in Parliament.

Honourable senators, readers of Bill C-2 can be forgiven for feeling confused about the government's intentions. As I said, we are being told that nothing will change. Yet Michel Bouchard, from the Department of Justice, asked "whether we had to wait for a scandal before creating an institution which, in appearance and reality, gives greater independence to the Director of Criminal Prosecutions."

The Minister of Justice and Attorney General told the Standing Senate Committee that the government was not insinuating "that prosecutorial independence at the federal level has been violated....We are not here to correct a problem that has already occurred..."

[*English*]

The Hon. the Speaker: I regret to advise that the honourable senator's time has expired.

Senator Poulin: May I request an extension?

Senator Comeau: Five minutes.

[*Translation*]

Senator Poulin: I will finish the quote: "We are not here to correct a problem that has already occurred; we are here to prevent problems from arising in the future."

The question here is: Does the government have the ability to see into the future? If it does, why not prepare for it in the simplest and most direct manner — by amending the Department of Justice Act?

Honourable senators, I have identified several issues that are confusing. The lack of time prevents me from raising all of them. But a very important point was mentioned by Senator Baker. A troubling provision of this legislation states that the Director of Public Prosecutions "initiates and conducts prosecutions on behalf of the Crown, except where the Attorney General has assumed conduct."

The Supreme Court of Canada deemed that the separation of the duties of the police and of the Crown is a well-established principle in our system of criminal justice and that this principle must be protected at all costs.

[*English*]

Hon. Lowell Murray: Honourable senators, I believe I have read the transcripts of all or almost all of the meetings held by the Standing Senate Committee on Legal and Constitutional Affairs concerning this bill, and I came away from the exercise full of admiration for the committee's prodigious hard work, thoroughness, attention to detail and its attention to principle. Regardless of what one's opinion may be of various recommendations in the committee's report, the committee members cannot be faulted for their dedication, and this is something from which we can all derive some pride and satisfaction.

What we have before us is the bill, as amended at report stage, incorporating the recommendations of the committee. I intend to propose several amendments at third reading, which will have the effect of undoing some of the amendments adopted yesterday, and indeed undoing some of the original provisions of Bill C-2. I will tell you what the amendments are and, with your indulgence, I will then explain why I am proposing them.

First, I would restore the Public Appointments Commission to the version originally proposed by the drafters at first-reading stage of this government bill. With my amendment, the appointment of such a commission and its mandate would be entirely within the discretion of the government. Clauses defining the mandate and giving Parliament a role in appointments to the commission would be deleted by my amendment.

Second, in the same spirit, I would delete from the bill the ludicrous and convoluted consultative and approval process for the appointment of a director of public prosecutions and leave the decision where it belongs; that is, with the Governor-in-Council on the recommendation of the Attorney General, and let him and them answer for it.

• (1550)

Third, I would delete from the bill all the provisions respecting political financing. Fourth, I would delete from the bill the main core of the amendments to the Access to Information Act and to the Privacy Act.

In proposing this surgery on the bill, I will unburden myself of some concerns that I have been nursing for some time, concerns that did not originate with this bill or even with this government but have come to a head now, in the sense that debate on this bill offers an opportunity to ventilate them.

One such concern is that, in our effort improve accountability, we are blurring the distinction between government and Parliament and, in so doing, we are undermining both government and Parliament in their essential but different roles. Gladstone's admonition to his parliamentary caucus is worth repeating and remembering. He said, "You are not here to govern; rather, you are here to hold to account those who do." How can members of the House of Commons or Senate hold government accountable for its decisions if we are implicated in decisions that are the proper prerogative of the executive government? The short answer is that we cannot.

The proposed public appointments commission is a case in point. I have never regarded the idea as much more than a cosmetic "cover" for appointments that are really patronage appointments in the literal and proper sense of the term. The House of Commons committee proceeded to add what a famous Canadian might have called "a fig leaf of legitimacy" to this proposed body by purporting to draft a mandate for it, and compounded the felony by an amendment requiring the Prime Minister to consult the leader of every recognized party in the House of Commons prior to appointing a person to the commission. Not to be outdone, the Senate committee recommends that creation of the commission be mandatory. In other words, it is not something that the Prime Minister "may" do but, rather, that he "shall" do.

The amendment that I will present will make the creation and appointment of such a commission entirely discretionary. If the Prime Minister thinks he needs such a commission to help him out let him proceed, but let us leave Parliament out of it. Parliamentarians are not here to help give him cover for the exercise of cabinet prerogatives. Parliament is here to hold him and his cabinet accountable.

Another example is in the creation of a directorate of public prosecutions. This may or may not be necessary — probably not — and it may or may not turn out to be an improvement on the present system — who knows? It is the process to which I want to draw your attention. The Federation of Law Societies is to be involved, along with a representative of each recognized political party in the House of Commons, the Deputy Ministers of Justice and of Public Safety, and a person selected by the Attorney General. There is a winnowing of a list of candidates which then goes to a parliamentary committee, then back to the Attorney General and the cabinet.

What should happen in our system of government is that the Attorney General consults as he sees fit, reports to his cabinet colleagues and recommends the name of a person to occupy this position. If he and the government appoint a bum, they will "wear" it. However, if a bum is appointed, after the elaborate process spelled out in this bill, whom does Parliament and the country hold accountable or responsible: The Federation of Law Societies; the representatives of each registered political party in the Commons; the other deputy ministers; the parliamentary committee? The answer is "all of the above," which means everyone is responsible, which means no one is responsible.

Was it Gilbert and Sullivan who wrote, "When everybody is somebody, then no nobody is anybody"?

Far from supporting the Senate committee's recommendation to further dilute the political responsibility of the minister, I would place the onus back where it belongs, solely with the Attorney General and his cabinet colleagues. That is the effect of the amendment I will move.

Colleagues, this bill purports to introduce further reforms to our political financing and elections laws. The committee has recommended amendments to the government's proposals. I am more persuaded by the argument of Professor Peter Aucoin, who told the committee that those proposals have no place in the omnibus Bill C-2 and should be considered as part of an overall examination of elections and political financing law. My amendments would delete not only the amendments proposed by the committee but also all the provisions of the bill touching on political financing and elections.

For more than 40 years, I have been a close observer and supporter of reforms to our political process, including those advocated by our friend Senator Di Nino for some years. I well recall the arduous, perilous and ultimately successful efforts of the late Nelson Castonguay, the Chief Electoral Officer of the 1960s, to put an end to the multi-partisan shenanigans involved in the periodic redrawing of the electoral map and to create an impartial process respectful of electoral democracy. That was formally agreed to by Parliament at the initiative the Pearson government. In the years that followed, Parliament imposed election spending limits on candidates and parties, brought in post-election rebates to eligible candidates and parties, required disclosure of campaign contributions and provided generous tax credits for contributions to political parties and candidates. We have regulated so-called third party spending in campaigns and we have tried to ensure fair access by all competitors to the use of television and radio advertising.

More recently, we have placed limits on political contributions by individuals and corporations; we are financing political parties directly from the public treasury; and we are regulating leadership campaigns and the activities of constituency associations. From

trying at the beginning to guarantee fair election practices, we have somehow come to the point where we are regulating, perhaps trying to micromanage the entire political process through a state bureaucracy in Ottawa. We must ask ourselves whether we have gone too far. Have we bureaucratized the system to the point where people are turning away from party activity in their ridings, something that used to be socially and intellectually attractive as an exercise in civic participation? Have we imposed an impossible burden of regulation on the volunteers in 308 constituencies across the country who assure the vitality of our parties? If so, the time has come to call a halt, to step back and to reconsider what we have done.

Honourable senators, I do not believe it is possible or even wise to try to make significant changes before the next election. However, we need to ask ourselves hard questions. How much public funding of the political process is necessary? How much is desirable? How much state intrusion and regulation of the activities of political parties, including party conventions, nominating contests and leadership contests, is necessary or desirable? Is over-regulation and bureaucratization leading to excessive centralization within the parties? Will limits on contributions inhibit some parties from expanding beyond their particular demographic, geographic or cultural base? Is this fair? Is it democratic? The examination of our political financing and election laws that I believe is necessary must go forward, in my view, and my amendment would remove from Bill C-2 the various provisions relating to political financing in the hope of a principled examination of this whole field and, a principled examination of our electoral and parliamentary democracy, by people who have relevant experience in it.

Over the years, Parliament has brought into being a variety of institutions sometimes erroneously called officers of Parliament or agents of Parliament. They include the Auditor General, the Commissioner of Information, the Commissioner of Privacy, the Commissioner of Official Languages and the Chief Electoral Officer. Over the years, we have enlarged the mandates of these officers, increased budgets and generally supported their activities. Bill C-2 would add several others, including a commissioner of lobbying and a procurement ombudsman. Here, again, I believe Parliament needs to step back and examine the history of these offices individually and collectively in terms of their impact on our governance and on our system of government. We need to ask whether some of these agents and servants of Parliament may be on the way to becoming autonomous actors obtaining their validation from advocacy groups, professional organizations and the media. Are they slipping away from Parliament as the executive government slipped away from Parliament over a period of time? I believe we need to be able to recognize when we see it emerging and beware: a culture of zealotry, a tendency to empire-building, a zero-sum attitude in pursuing values that do need to be reconciled with other, also valid, principles and values.

Parliamentarians when in opposition love these offices. When in government, they get a clearer idea of how, even with the best of intentions, the activities of these offices can have a negative impact on good governance. In this connection, the committee's recommendation, in the interests of access to information to amend the bill in order to oblige the Auditor General as well as government departments to cough up draft audits and other internal preliminary working documents, is, in my opinion, excessive in principle and would be unworkable and counterproductive in practice.

• (1600)

The "Observations" document tabled by the committee last Thursday is critical of the provisions of Bill C-2 relating to the Access to Information Act. The Deputy Commissioner of Information is quoted as describing the process as "smoke and mirrors." I would remove from the bill virtually all the amendments to the Access to Information and Privacy Acts pending a more fundamental examination of the kind I believe is necessary. The government has already tabled in the House of Commons a discussion paper on the Access to Information Act; therefore, the amendments to this act seem premature. The Privacy Commissioner wants the coming into force of amendments affecting her office to be delayed.

Therefore, honourable senators, I have four sets of amendments at third reading. If you agree to proceed as Senator Mercer proceeded, I will simply indicate what is involved here without going through the deletion of each clause that is to be deleted.

MOTIONS IN AMENDMENT

Hon. Lowell Murray: With regard to the public appointments commission, I move, seconded by the Honourable Senator Atkins:

> That Bill C-2 be not now read the third time but that it be amended in clause 227 (a)...

— and I will provide the written copy in English and French to the table.

With regard to the Canada Elections Act and political financing, I move, seconded by the Honourable Senator Atkins:

> That Bill C-2 be not now read the third time but that it be amended in clauses 39 to 64, and 108, on pages 52 to 65, 93 and 94.

That set of amendments I will also hand to the table.

With regard to the director of public prosecutions, I move, seconded by the Honourable Senator Atkins:

> That Bill C-2 be not now read a third time but that it be amended in clause 121,

The details are set out in the motion in amendment.

With regard to the Access to Information and Privacy Acts, I move, seconded by the Honourable Senator Atkins:

> That Bill C-2 be not now read the third time but that it be amended in respect of a number of clauses and a number of lines that are detailed in the motion I am now handing to the table.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Murray, seconded by the Honourable Senator Atkins:

> That Bill C-2 be not now read the third time but that it be amended in clause 227 —

Dispense?

Hon. Senators: Dispense

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Murray, seconded by the Honourable Senator Atkins:

> That Bill C-2 be not now read the third time but it be amended (a) by deleting —

Dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Murray, seconded by the Honourable Senator Atkins:

> That Bill C-2 be not now read the third time but that it be amended in clause 121 —

Dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Murray, seconded by the Honourable Senator Atkins:

> That Bill C-2 be not now read the third time but be amended in clauses 91, 98, 108 —

Dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Is there further debate?

Hon. Daniel Hays (Leader of the Opposition): May I pose a question to Senator Murray, or are we out of time?

The Hon. the Speaker: We are out of time. Senator Murray may wish to ask for an extension of time.

Senator Murray: With the approval of the house, I would ask for an extension.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Five minutes.

Senator Hays: Honourable senators, I congratulate Senator Murray on his speech and on his amendments. They would take the government back to an earlier stage in the development of the accountability bill, which I think the opposition side tried to draw attention to, in the case of political financing for instance, looking at the effect of the restrictions on political contributions that are now in place and would have permitted the Chief Electoral Officer and his office to have provided a report.

Having said that, it was difficult for the opposition to not accept some of the proposals, because of the policy issue that came forward.

My question is on the appointment of a director of public prosecutions and the requirement of an appointments commission coming into existence and not being discretionary. The other side of what I think it is that the honourable senator presented is that the government should be responsible for the appointments that they make and bear that responsibility at election time if they have made a bad appointment.

Going back, surely there is some merit in trying to ensure that the appointments, when made, are the best that they can possibly be. These additional steps of consultation, which are required in CSIS, and so on, may well serve the purpose of producing the best appointment possible. That is something with which the public interest is well served. Would the honourable senator comment on that?

Senator Murray: I will simply say that we have been going too far down that road in relation to some of the statutes that the honourable senator has already mentioned. I believe that our system has become very considerably out of whack in recent years. I would leave the executive prerogatives where they belong, with the executive government; and I would have Parliament, particularly the House of Commons but also the Senate, reclaim the prerogatives that are ours and that we have allowed to atrophy over the years. That is the principle on which I am operating.

While I appreciate the honourable senator's point that an exception might be made in this or that case, at the end of the day we are implicated in matters where we should be holding the government accountable, not involving ourselves in those.

On the matter of the Canada Elections Act and political financing, I simply want to say that the examination that I believe we need to make is far more fundamental than the detailed examination that the Chief Electoral Officer is making of exactly how the law has been applied in a given instance. The examination that we must make is far more fundamental than that and covers almost all aspects of our electoral democracy. It ought to be made by people with experience on the front lines.

Senator Hays: One last point, if there is time, has to do with the process by which the Senate ethics officer is appointed. Would Senator Murray agree that that is an appropriate process?

Senator Murray: Yes, I support the recommendation of the committee on that matter. I have not seen or read in the evidence before the committee a single argument to persuade me that it is wise or prudent, nor will it be very effective, to have one ethics officer covering the House of Commons, the Senate and other public office-holders.

On motion of Senator Fraser, debate adjourned.

[*Earlier*]

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to call your attention to the presence in the gallery of a very distinguished member of Her Majesty's Privy Council, our former colleague, the Honourable Senator Alasdair Graham.

• (1610)

[*Translation*]

THE SENATE

MOTION TO EXTEND WEDNESDAY SITTING AND AUTHORIZE COMMITTEES TO MEET DURING SITTING ADOPTED

Hon. Gerald J. Comeau (Deputy Leader of the Government), pursuant to notice of November 6, 2006, moved:

> That, notwithstanding the Order of the Senate of April 6, 2006, when the Senate sits on Wednesday, November 8, 2006, it continue its proceedings beyond 4 p.m. and follow the normal adjournment procedure according to rule 6(1); and
>
> That committees of the Senate scheduled to meet on Wednesday, November 8, 2006, be authorized to sit even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

[*English*]

MEDICAL DEVICES REGISTRY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Mac Harb moved second reading of Bill S-221, to establish and maintain a national registry of medical devices.—(*Honourable Senator Harb*)

He said: Honourable senators, there is a growing crisis facing Health Canada and Canadians, a crisis that can be easily averted if we choose to take action now. This crisis involves Health Canada's mandate to protect the health and safety of Canadians. This mandate is compromised by the lack of a national medical device registry.

As new and more sophisticated medical devices come to the marketplace, the government must ensure that Canadians are not only provided with safe and effective products but also that they are informed should these devices fail. Without a national registry complete with patient contact information, we simply cannot fulfill this responsibility.

Reports indicate that 1 in 10 Canadians is walking around with some form of medical implant. Perhaps in this chamber, fellow senators, the ratio is slightly higher.

Canada's orthopaedic surgeons are performing significantly more hip and knee replacements than they were 10 years ago, up 87 per cent in fact. Statistics from the United States show us that this trend will continue. By 2030, the number of knee replacements in the United States is expected to increase by 673 per cent and hip replacements are expected to grow by 174 per cent.

It is not just the use of implants that is on the rise. Thousands more Canadians every year use prescribed medical devices such as blood glucose monitors or portable oxygen tanks. An aging population, increased obesity and improved medical technologies are expected to contribute to more widespread use of medical devices.

[*Translation*]

The term "medical devices", as defined in the Food and Drugs Act, covers a wide range of medical instruments used in the treatment, mitigation, diagnosis or prevention of a disease or abnormal physical condition.

Health Canada reviews medical devices to assess their safety, effectiveness and quality before authorizing them for sale in Canada.

The number of new medical devices issued market authorization by Health Canada in 2005 was 4,284. Unfortunately, honourable senators, the same year, 555 defective medical devices were reported to Health Canada, in spite of extremely rigorous testing and very strict guidelines.

Some devices cannot really be tested until they are in use. Because of the many possible variables, there are sometimes defective devices. The purpose of the bill before us today is to mitigate the impact of such defectiveness.

Under the Food and Drugs Act Medical Device Regulations, manufacturers are required to maintain a registry of patients who receive certain types of implants such as heart valves, pacemakers and artificial hearts. This information is collected by health professionals with the patients' consent and sent to the manufacturers.

For medical devices other than implants, the manufacturer, the importer and the distributor must keep a distribution registry containing information to authorize a complete and rapid removal of a medical device from the market. Unfortunately, it has been proven that this system is not without flaws.

For example, if a manufacturer, importer or distributor ceases activities following a closure or a bankruptcy or loses distribution data because of an operational failure or unforeseen problems, all distribution records of the device could be lost.

The regulations require that the manufacturer indicate to the Minister of Health any unfortunate incident related to — and I quote — "the failure or deterioration of the device or inadequacies in the labelling or directions for use."

But there is another problem. Health Canada issues these warnings, public health notices and other industry notices as services to health professionals, consumers and other interested parties.

When Health Canada receives a notice, it posts the warning on its Web site. Does the consumer stay informed? There is no way to be sure. One thing is for certain, this process alone is not enough to replace a device registry.

[*English*]

Auditor General Sheila Fraser has warned that as a government, we should be keeping better track of medical devices. In her 2004 March report, the Auditor General stated:

> While Health Canada has made progress in important aspects of managing risks related to medical devices before they are made available for sale, it needs to better manage risk after they are available for sale.

Further on, she states:

> ...Health Canada does not have a comprehensive program to protect the health and safety of Canadians from risks related to medical devices, even though it committed to such a program over a decade ago. Its failure to deliver such a program compromises Health Canada's ability to protect health and safety, which could translate into a growing risk — risk of both injury and liability.

That risk is very real. In fact, patients are suffering as a result, and Health Canada's liability for this suffering is being put to the test in our courts.

I would like to tell honourable senators about a woman named Judi Logan who has become a symbol of the shortcomings within our medical device program. Ms. Logan received a Vitek jaw implant in Hamilton, Ontario, in 1985. Her condition before the implant was relatively minor — a clicking jaw and headaches caused by a condition known as temporomandibular joint syndrome, or TMJ.

Her condition after the implant was a great deal more serious. In 1995, Ms. Logan's implant, or what was left of it, was removed. The Teflon implant had crumbled, causing her immune system to attack her own body. Eight years after the implant was removed, Ms. Logan was going blind in one eye. She has had six surgeries to rebuild her face and jaw, and she was taking 10 pills a day to control the intense pain she suffered.

Ms. Logan's surgeon, who, under the Medical Devices Regulations was required to notify her about the defective implant when the recall came out in 1990, failed to follow up on the safety alert. He is reported to have said that he did not contact her because, he said, he "didn't think it was urgent." In fact, she learned about the recall in a routine check-up at the dentist.

• (1620)

Now Ms. Logan and others have launched a class action lawsuit against Health Canada. She says Health Canada did not do enough to protect her. When her situation was profiled on CBC's *Marketplace*, Ms. Logan summed it up like this:

> We got a recall notice for the van. For the springs. But never about the jaw. It doesn't make sense.

Terrie Cowley of the TMJ Association in the United States says that the jaw implant disaster is a case study of how government, professional and business entities failed to protect these patients. Had an implant registry been in place in 1983 when the first Vitek device was implanted, evidence of the problems to come would have been available within six months and further use of the product halted. A minimum number of patients would have been harmed, and all would have at least been notified.

Honourable senators, putting a national medical device registry in place would allow Health Canada to be proactive and specific in the dissemination of information about medical devices that it has approved for use in this country. The registry would ensure that individuals receive quick and reliable information regarding possibly life-threatening malfunctions or the failure of a device from a centralized source.

Let us look for a moment at how the national medical device registry would work. The registry would contain, with their consent — it is important to note that registering on this database would be totally voluntary and up to individual patients — the names and addresses of persons who use implantable medical devices or prescribed home-use medical devices. Individuals would be given the option of providing contact information for safety alerts and/or for medical device follow-up and evaluation.

[*Translation*]

Personal data in the registry would never be disclosed for any reason without the written permission and informed consent of the person. At the end of the day, the registry would provide Health Canada officials with the necessary information for contacting patients quickly in the event of a recall or a defective device. Canada expects nothing less and deserves nothing less.

[*English*]

A number of voluntary registries for medical devices already exist. Currently, there are joint replacement registries here in Canada as well as in Sweden, Finland, Norway, Denmark and Hungary. Registries are also being evaluated in New Zealand, Australia and England. Should this Senate, as well as the House of Commons and the government, adopt the establishment of a national medical registry, we would be the first country in the world to set up such a registry, and it will play an important role in showing the rest how to do it.

Just two weeks ago, an organization known as the Biomedical Research and Education Foundation, or BREF, announced that it was forming a national committee to develop a national medical device registry in the United States. BREF pointed to an explosion of new patents on medical devices, the exponential increase in errors related to devices used and, most important, the injury or death of more than 400 Americans each year caused by medical device failures.

This important initiative is a collaboration between BREF, academia, medical associations, industry and government. It is apparent to me, honourable senators, that Canada could benefit from a similar multi-partner approach to the establishment of a national medical device registry.

There are practical challenges associated with the establishment of such registries, such as data management issues and access and privacy issues. None of these is insurmountable, and I venture to

say that there is a net cost benefit to taxpayers, in particular when we consider the cost to our already overburdened health care system and our legal system if we fail to monitor these devices and those whose lives are affected by them.

Experts back this up. In fact, Dr. William Maloney from the Department of Orthopedic Surgery at Washington University's School of Medicine, is calling for a national registry in the United States. His research showed that if a registry led to an annual decrease of even 5 per cent of the total number of revision hip replacements, it would save more than $30 million a year. That is for hip replacement repairs alone. Multiply that by the number of devices and complicated repair procedures that could be prevented by an efficient registry system, and the savings for Canadian taxpayers would become that much more apparent.

Therefore the registry, aside from saving lives in the end, will save us money. As Ms. Logan's case illustrates all too clearly, the personal health care and legal costs of inadequate medical devices are monumental and devastating both to the individual and to society.

Honourable senators, I am proud to be joined in this initiative by our colleague Senator Keon. His wisdom and expertise in the medical field add much to this bill and to its goal to help Canadians live longer and healthier lives.

Honourable senators, I look forward to hearing your comments on the establishment of a national medical device registry. Given the statistics, it is very possible that you, or perhaps a family member or friend, will be affected by a faulty medical device in the days or years ahead. I believe it is up to each of us to do what we can today to ensure that the system is in place to prevent what could be a disastrous failure of our public health.

Honourable senators, I ask for your support to move this legislation forward to committee so that we may explore its benefit for the health care system and for the safety of all Canadians.

The Hon. the Speaker: Are there questions or comments?

Hon. Joan Fraser (Deputy Leader of the Opposition): Would Senator Harb take a question? I have two questions, which I will preface by saying that I think this idea sounds immensely attractive. The story that the honourable senator told us about Ms. Logan gives real life to this idea. However, two questions occur to me.

The first is the obvious one: Has the honourable senator any idea how much it would cost to operate this registry? Second, if it is a voluntary registry, does the bill contain provisions to guarantee that people who receive these devices would have to be notified of the fact that they can register, and how they can do it? In other words, would the bill make it obligatory that the system be simplified for those who did wish to register?

Senator Harb: Thank you for those extremely relevant questions. I will deal with the last part of the question about voluntariness.

Health Canada now requires a manufacturer or corporation that sells medical devices to register the names, the service provider or the doctor and the hospital where the implant took place. It requires them to do that, and it requires them to notify the patient should a problem arise. That system is voluntary because, whether we like it or not, there are some people who do not want to divulge personal information. Therefore, I am using this same principle to say that should a system at the national level be established, we would follow the same criteria because of privacy concerns.

In terms of the cost implications, the U.S. has found that if a system such as a national registry was set up, if that system were to reduce only by 5 per cent of hip replacements alone, it would pay for itself and in fact save the treasury in the U.S. close to $30 million. That is only on hip replacements. Consider overall replacements, which in Canada amount to about 4,000 a year, and the complications that come as a result of an operation.

• (1630)

Dr. Keon, who is much more experienced than I in this field because he has done many implants, will tell you that the costs as a result of the complications are huge. The net result of it, when you look at the costs of setting up a database that is voluntary, in a sense, versus how much it will save, I would submit that the registry would save money, not cost money.

At the end, if it is done by a multi-party partnership, it is conceivable that the industry would be asked to contribute because right now they are maintaining the registry and must notify, et cetera. There is no reason that they cannot be mandated to contribute as a national registry, and therefore the cost to the treasury would be absolutely minimal.

On motion of Senator Keon, debate adjourned.

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, I will speak today to Senator Austin's Bill S-215. This bill proposes to reduce the lowest marginal tax rate by one half percentage point, and to make slight refinements to the planned phase-in of a higher basic personal exemption.

Bill S-215 is an attempt by the Senate Liberals to introduce a tax cut that they were not able to implement. It was a deathbed repentance that was way too little, too late. Even though the people voted for the other party's tax cuts — our party's — Senator Austin believes they should have the Liberal tax cut anyway because, after all, it is a Liberal tax cut.

I wanted to introduce that second paragraph to allay any suspicion by members opposite that now that we are the government, the departments would be writing my speeches.

If you remember, the same party promised to cut taxes in 1993 by eliminating the GST, and then failed to do so. Now they are attempting to deliver a tax cut after having lost an election. They had many years of surplus budgets, but the tax cuts they did deliver were delivered, in many cases, on the back of artificially high Employment Insurance premiums. Even the Auditor General had to comment on this more than brazen attack on the working people of Canada; the very people who overpaid to balance the books and then overpaid to provide income tax cuts.

The Liberals then imposed a 10 per cent tax on income up to $40,000 to finance what is generously called Canada Pension Plan reform. They froze the personal exemption on the CPP, which used to rise with the cost of living as well. In years to come, it will be worthless. That is the 13-year Liberal record on tax cuts. Only at the very end — when they were mired in scandal and corruption, handing out envelopes of cash to candidates who had been fraudulently taken from the government accounts and were seriously in danger of losing an election, which they did eventually lose — did they promise to deduct a point on personal income tax.

Remember in the last election how they ran against our tax cuts. A reduction in the GST was terrible, they said, and they opposed putting money into the hands of families so that they could make their own decisions on child care. It is only bureaucrats, they said, who know how to raise children, not parents.

Meanwhile, the Liberal Party criticized our tax reductions in the campaign and in the House, and then turned around and voted for our budget in the House of Commons. They broke their promise in opposition. They have been doing so for so long that they could not help themselves.

This government has already, from day one, instituted a number of tax cuts for Canadians. We cut the GST to ensure that all Canadians benefit from tax relief. The $9 billion less that Canadians will pay in GST over the next two years rings up to a substantial tax savings at the checkout counter.

In fact, this government implemented in the May budget a more generous version of our January tax proposals. For example, while we had originally said in the campaign that the lowest marginal tax rate would be left at 16 per cent, the budget announced a rate of 15.5 per cent. As a result of our first budget, hard-working Canadians in my province of Saskatchewan will have more money in their pockets than they ever had under the Liberals; the party that has been overtaxing the good people of Saskatchewan for years.

Our government, on the other hand, is delivering real and timely tax relief: Tax relief that makes a difference; tax relief for every person in the province, regardless of age or income level. In fact, this government's first budget offered nearly $20 billion in tax relief for Canadians over the next two years; more than the last four federal budgets combined. Best of all, for every dollar of new spending, there were $2 of tax cuts.

Our government has introduced a new Canada employment credit that allows working Canadians to earn an extra $1,000 over and above the basic personal amount before they pay federal taxes, saving them $155 a year. Our government has doubled the pension tax credit, providing savings of up to $1,055 for eligible seniors. Honourable senators, as a result, 85,000 pensioners will be taken off the tax rolls and will no longer pay any income tax. The fact is that next year residents of my province of Saskatchewan will pay $250 million less in taxes.

Beyond that, there is the universal child care benefit which provides all families with $1,200 a year for each child younger than six. This puts an estimated $85 million into the hands of Saskatchewan parents over the next year.

We have also offered Canadians a tax credit for using public transit; an incentive to leave the car at home. Since not all Canadians can use public transit, it is also worth mentioning that cutting the GST to 6 per cent is saving Canadian motorists about $220 million per year at the pumps.

Let me mention the textbook tax credit, which will benefit $2 million Canadian students and give them a break in savings of over $260 million over two years.

Honourable senators, the Liberals tried to claim that their tax plan was more beneficial to low-income Canadians. That was the subject of some speeches in the Senate chamber. Yet the fact remains that their tax plan offered nothing for the 32 per cent of Canadians who pay no income tax at all. Only the Conservative tax plan benefits every Canadian.

Let me get back to Bill S-215. The fact is that the basic personal amounts for the next few years set out in the budget are actually more generous than what is in Senator Austin's bill, once you sit down and calculate your taxes payable, which all of you will soon do.

In 2009, the Liberal plan was to have a $10,000 basic personal amount and reduce taxes by $1,500. Our plan is to have the $10,000 basic personal amount and reduce taxes payable by $1,550. Looking at it this way, the changes that Senator Austin proposes would provide no real tax relief. In fact, in this calendar year, Canadians with an income of $30,000 and taking advantage of this government's various tax credits, which are universal, will have taxes payable of $2,881 compared to $2,863 under the Liberal plan. This means that under the Liberal plan you would pay $18 less, but if you factor in the additional $200 in savings that economists estimate that someone under $30,000 will save by way of our cut in the GST, then that figure drops to $182 less paid by people earning under $30,000 than they would pay under the Liberal tax plan.

Those earning more than $30,000, it stands to reason, will save even more. Seniors, too, will realize savings because in the budget we doubled the pension income tax credit from $1,000 to $2,000, which provides those collecting pensions with $155 in tax savings.

Honourable senators, last spring, for the first time in a dozen years, there was a budget for the average Canadian; the hard-working people who built this country and who have received few breaks from Ottawa in recent years. If the point of this bill is to offer tax relief, then it has already been delivered, but in a different way than the honourable senator would like to have seen, and from a different delivery organization.

• (1640)

Moreover, the tax reductions outlined in the May budget are just the beginning. I can say that because our government firmly believes that unanticipated surpluses should be used mainly to reduce the debt and to cut federal taxes. That is the Conservative plan. The Liberal plan, on the other hand, is to ramp up government spending and create new programs in areas where the federal government is not best placed to design or deliver programs.

We, on this side, agree with the principles that Senator Austin is espousing in his bill; unfortunately, we need to be aware of the fiscal framework. We also, on this side, believe in the principle of responsible government, which to my mind does not allow for private member's bills that propose tax measures. That, I believe, can only lead to chaos in the fiscal framework.

Given these thoughts and the tax relief we have already provided to Canadians, I can say at this time that I do not and ask others not to support Bill S-215.

Hon. Joan Fraser (Deputy Leader of the Opposition): In listening to Senator Tkachuk's lofty flights of rhetoric about cash and envelopes, I was irresistibly reminded of the former Conservative Prime Minister who has admitted to taking very large amounts of cash in envelopes from a controversial character. I was also reminded that our government called a royal commission when it became apparent that some things might have gone wrong. I look forward with great anticipation to the day when the Conservative government calls a royal commission of a similar nature. That said, I move the adjournment of the debate for the balance of my time.

On motion of Senator Fraser, debate adjourned.

FIRST NATIONS GOVERNMENT RECOGNITION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Segal, for the second reading of Bill S-216, providing for the Crown's recognition of self-governing First Nations of Canada.—(*Honourable Senator Austin, P.C.*)

Hon. Jack Austin: Honourable senators, with respect to the Bill S-216, introduced in this chamber by Senator St. Germain, let me go to the point. This is a bill that deserves to be approved at second reading and to be sent to the appropriate Senate committee for careful study. Senator St. Germain is to be commended for his persistence in advancing this bill, particularly its principle of First Nations self-government. There are many issues in the organization, implementation and administration of this principle and they will need careful study at the committee stage.

I have been long enough involved in Aboriginal rights issues to be concerned that the national leadership of the First Nations not only be consulted with respect to the desirability of this legislation, but actually supported in principle and be prepared to work side by side with the Senate in creating legislation which they believe would be of value to various First Nations in advancing their self-reliance and governance. Without the active engagement of First Nations and their national leaders, this bill would be of academic interest only, if that.

Accordingly, I am pleased to advise honourable senators that under date October 25, 2006, the National Chief of the Assembly of First Nations, Phil Fontaine, wrote to Senator St. Germain and me to advise as follows:

> I am writing to ask your support in getting Bill S-216 into the Senate Committee on Aboriginal Peoples so that it can have a thorough hearing this autumn.
>
> Bill S-216 is based directly on the recommendations of the Penner Committee on Indian Self-Government whose report was tabled in the House of Commons in November 1983. Similar recommendations are enclosed in the Report of the Royal Commission on Aboriginal Peoples, and it indirectly fits with the Senate Report, "Forging New Relationships" (the Watt Report).
>
> Despite these recommendations and the urgent need to remove the obstacles to satisfactory implementation of self-government which have thwarted success for so many years, the intent of Bill S-216 has not been given the study and comment it deserves. First Nations have not been thoroughly consulted or informed about the Bill because it is not a government Bill and the Senate is the only vehicle available for this purpose. I believe the discussion on self-government would be advanced considerably by the Committee's hearings. Hearings will also give First Nations the opportunity to recommend amendments to the Bill to strengthen it.
>
> I hope Senators, that through your collaboration, the Bill will be in Committee at the earliest possible time.

Honourable senators, there are some additional points made in the October 25, 2006 letter, and I ask for agreement that the full letter be made an appendix to today's debates.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Agreed.

(*For text of letter, see Appendix, p. 1180.*)

Senator Austin: Senator St. Germain, on opening second reading debate of Bill S-216, provided senators with a helpful background on the issue of First Nations self-government. Those of us who will study the issue in detail will find the historic and demographic materials referred to by Senator St. Germain to be illuminating.

The Indian Act, passed shortly after Confederation, largely conceived of Indian bands and communities as dependencies requiring control and administration by the federal government who, in turn, appointed Indian agents as administrators of their affairs. This Indian agent system imposed itself on historic governance models and reduced self-reliance and governance capacity. Of course, many bands kept their historic models alive, but oft times with difficulty.

At a later stage, the Indian Act was amended to provide for band elections which, in time, created conflict in certain cases with historic practices of hereditary leadership and also conflict with the powers and decisions reserved to the Indian agents and ultimately to the minister responsible.

One of the most meaningful experiences of my parliamentary career was my participation as a member of the Special Joint Senate-House of Commons Committee on the Constitution. We sat for over six months in 1980-81 to deal with the Trudeau government's proposals for patriation of the Constitution and a Charter of Rights. Our colleague Senator Joyal was the co-chair representing the House of Commons and the late Senator Harry Hays was co-chair representing the Senate. I recall Senator Corbin was also a permanent member of the joint committee as a member of the House of Commons.

Senator Corbin: I was the whip.

Senator Austin: He was the whip.

A high point of the work of the joint committee was its fashioning of section 35 of the Constitution Act which gave constitutional confirmation to the existing rights of Indian, Inuit and Metis peoples and left to the future the precise determination in all its aspects of those rights.

From that time forward, a part of the ongoing debate has sought to define the concept of Aboriginal self-government. Is it an inherent right included under section 35, or is it a right which can be negotiated and defined by agreement and created by statute and even made a constitutional right by legislation by the federal Parliament and provincial legislature acting with the approval of a First Nations community as the Constitution Act provides?

Such was the case with the historic Nisga'a Final Agreement of 1998, which was enacted by this Parliament. The Senate gave third reading to the Nisga'a Final Agreement Bill on April 13, 2000, after a lengthy examination and debate. Along with ratification by the British Columbia legislature and members of the Nisga'a community, the right of self-government by the Nisga'a became a constitutional right as defined by the Nisga'a Final Agreement.

Senators St. Germain, when he introduced Bill S-216 on June 15, 2006, argued for the concept of an inherent right of self-government as recognized by section 35 of the Constitution Act. The Royal Commission on Aboriginal Peoples contended for this conclusion. While there are decisions by Canadian courts, including the Supreme Court of Canada, that inherent rights exist, as yet no court has concluded that one of the inherent rights is that of self-government.

• (1650)

However, whether or not the courts will at some future time come to this conclusion is not really germane to the principle of Bill S-216. The Nisga'a final agreement, Bill C-9, shows us the way to create constitutional rights of self-government for First Nations. As Senator St. Germain contends:

> The proposed legislation provides a simple mechanism for Canada's recognition of those First Nation governments that wish to be so recognized.

He goes on to say:

> The purpose of recognition legislation is to implement a framework and mechanism so Parliament provides the federal government with statutory authority and a statutory mandate to recognize First Nations and the rights and powers of their governments, institutions and other bodies.

Honourable senators, the Nisga'a Final Agreement, Bill C-9, was at that time an exceptional process and not part of a general policy or legislative system. There were senators at that time, in 1999 and 2000, who raised many questions about the inherent right or any right at all to self-government, and also doubted the constitutional validity of what they termed "a third order of government."

It pleases me to see this bill seek to set up a legislative base similar to the Nisga'a process, so that First Nations who are ready to establish a constitution for self-government can do so in the future without the need to resort to special and specific legislation.

I am pleased that Senator St. Germain has presented this bill, and I express the hope that it suggests the support in principle of the present Conservative government and his colleagues on the government benches in the Senate. He is, of course, free to confirm this as Bill S-216 progresses through committee.

Before concluding, I want to advise honourable senators that the Nisga'a people have done a commendable job of administering to their own affairs under the Nisga'a Final Agreement. They are leaders in demonstrating the role and benefits of self-government.

As honourable senators may remember, British Columbia, with very minor exceptions, did not experience treaty and land settlements, as did the rest of Canada. The First Nations of British Columbia have, for some time, sought recognition of historic land and territory and inherent rights.

Over 20 years ago, the federal government and the provincial government, with the support of some Aboriginal groups, set up the B.C. Treaty Commission to provide negotiating tables among the two governments and each Aboriginal community. It has been a difficult labour, with millions of dollars spent and little agreement to show for it. However, at the end of last month, the first final agreement was signed since the process began in 1992. The Lheidli T'enneh, a band living near Prince George, has made an historic decision, which still requires ratification by a minimum of 70 per cent of the band who vote and 50 per cent plus one of those who are eligible to vote. The B.C. provincial government has signed, as has the federal government, represented by the Honourable Jim Prentice, Minister of Indian Affairs. As a result, other treaty tables may now be encouraged to move forward, including the Tsawwassen band, which is close to agreement.

Rather than require the Lheidli T'enneh to use the same legislative route as Nisga'a, it would be possible, if Parliament moved with proper dispatch, to see Bill S-216 passed and the

Lheidli T'enneh final agreement be the first of many to come under its provisions. Perhaps the B.C. legislature and other provincial legislatures could also pass similar enabling legislation.

Honourable senators should give second reading to this bill and allow early and detailed study to get under way at the committee stage. The participation and support of the national leaders of the First Nations is a prerequisite to the success of this legislation. Senator Watt and I have, in the past, suggested a Senate-citizens combined study as a key consultative step in assisting the later stages of the Senate committee's consideration. I would commend this suggestion to Senator St. Germain, both as the sponsor of Bill S-216 and as chair of the Standing Senate Committee on Aboriginal Peoples.

It is entirely within appropriate procedure to invite certain individuals to sit, not as members of the Senate committee, but to sit with the committee to provide additional assistance. However, I made it clear that they cannot be part of any process that is determining of the Senate committee's recommendations.

Regretfully, I have to conclude on a sad note. One of the great reforming Aboriginal leaders in British Columbia, Frank Calder, passed away on Saturday, November 4, at the age of 91. He was a Nisga'a hereditary chief who was one of the leaders in their fight for self-reliance and self-government. His name will be perpetuated in Aboriginal law for a very long time to come because of the renowned court case, *Calder v. the Attorney General of British Columbia*.

In that case, the Nisga'a argued that their title to land they occupied in the northwest corner of British Columbia since time immemorial had never been extinguished. In 1973, the Supreme Court of Canada came down three judges in favour of their Aboriginal title, three judges against, with the seventh judge finding that the issues could not be decided because appropriate procedural steps were not taken.

As a result of the court case, the Trudeau government decided to reverse its previous position that Aboriginal title did not exist. From that time forward, federal policy and practice recognized Aboriginal title as a foundation for future relations with the Aboriginal community and, in fact, was the foundation of section 35 in the Constitution.

Frank Calder was distinguished in other ways. In 1949, he became the first Aboriginal elected to the B.C. provincial legislature; and in the early 1970s, he became the first native cabinet minister, serving in the government of NDP premier Dave Barrett. Prior to the end of his career, he received the Order of Canada, the Order of British Columbia and an honorary doctorate from the University of British Columbia. Frank Calder saw his life's work completed when the Senate passed Bill C-9, the Nisga'a Final Agreement, on April 13, 2000.

Honourable senators, I would be very pleased to support Bill S-216 and suggest to colleagues that it should be sent to committee. It should be approved in principle.

Hon. Gerry St. Germain: I would like to thank the honourable senator for having spoken to Bill S-216 today. I have a couple of questions.

I have stood in this place before and I have said that I do not care whose name is on the bill; I just want to see it processed through and expedited for the benefit of our Aboriginal peoples. I am sincere in that.

I know that the honourable senator has sat on committees before in special cases, and Nisga'a was one where he was seconded and sat on the committee. In light of the influence he has had in his party over the historical period of time he has been in this place — which is considerable — and his service, does he see himself being able to convince the Liberal Party to work toward a resolution and a passage of this bill? Would he be prepared to sit on this committee, bringing his expertise from the Liberal side?

I honestly believe that Senator Austin has much to contribute to this because of his experience. We have to work together. Whether it is the drinking water, the housing of our Aboriginal peoples or their ability to take control of their own destiny, only by working together in this place will we be able to stand up and look at the world and say we are truly a great nation. We will never be a great nation unless we can resolve the problems in our own backyard — looking after and helping our Aboriginal peoples.

I am asking Senator Austin two questions. First I hope that the honourable senator will see fit to serve on the committee, if we can get it to committee soon enough. Second, does he think that he can impress on his colleagues on his side that this is as important as I think he and I believe it is?

• (1700)

Senator Austin: Honourable senators, it is my view that Bill S-216 is entirely within the policy direction of the Liberal Party and the Liberal governments that I have supported. Phil Fontaine, National Chief of the Assembly of First Nations, referred to the Penner Report, which resulted from the Royal Commission on Aboriginal Peoples in 1983. I well remember how excited I was when the House Committee tabled that report. I have spent most of my public life in support of increasing the capacity of the Aboriginal community in terms of self-government, economic capacity, and the management of health and schools so that the Aboriginal community could be a full participating community within the Canadian fabric.

I am able to commit only myself, of course, but I would say to Senator St. Germain that, in parallel with the commitment of the government that he supports, I will do my best to seek the commitment of senators on this side.

Senator St. Germain: Thank you, Senator Austin.

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

Senator Austin: I would be pleased to take additional questions and to have Senator St. Germain move second reading of Bill S-216, and that the bill be referred to committee.

Hon. David Tkachuk: Honourable senators, I was intrigued and delighted that Senator Austin supports this bill and that the Liberal Party has supported the general policy. As honourable senators are aware, Bill S-216 has been around for some 10 years. I have moved a similar bill twice and Senator St. Germain has

moved one a third or fourth time. During all those years, I never heard the Liberal Party say that it supported the bill, or even the concept of the bill. I am extremely happy that this great transformation has occurred so that Bill S-216 may be dealt with in a fair and reasonable way.

Senator Austin: Honourable senators, first, I was much kinder to Senator St. Germain in respect of Bill S-216 than Senator Tkachuk was to me in respect of Bill S-215. Second, I point out that the opposition on the other side was quite forceful in respect of the first major legislation dealing with Aboriginal self-government, the Nisga'a Final Agreement, although their opposition to that agreement did not succeed, I am happy to say. The record stands in the books so I will neither go to the record nor refer to any one particular senator. It took more than six months of debate in this chamber to pass Bill C-9.

The principle of Aboriginal self-government took a long time to establish. At that time, there was no opposition from Liberal senators to Bill C-9, the Nisga'a Final Agreement on self-government. There were, however, questions about overlapping claims, the major issue on which Senator St. Germain focused.

Honourable senators, I am more than willing to have this bill referred to committee, and that is the proposal from this side.

On motion of Senator Comeau, debate adjourned.

[*Translation*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Committee on Internal Economy, Budgets and Administration (*economic increase*) presented in the Senate on November 2, 2006.—(*Honourable Senator Furey*)

Hon. Pierre Claude Nolin moved the adoption of the report.

Motion agreed to and report adopted.

[*English*]

STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY

INTERIM REPORT OF AGRICULTURE AND FORESTRY COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the third report (interim) of the Standing Senate Committee on Agriculture and Forestry, entitled: *Agriculture and Agri-Food Policy in Canada: Putting Farmers First!*, tabled in the Senate on June 21, 2006.—(*Honourable Senator Gustafson*)

Hon. Leonard J. Gustafson: Honourable senators, I began a few days ago on this very important subject of agriculture and agri-food policy but, more particularly, on the recommendations that came out of our committee. I want to thank the Chairman of the Senate Agriculture and Agri-Food Committee, Senator Fairbairn, and all of the members who served on the committee. It truly is a very excellent committee. We heard testimony from some 20 witnesses, including Minister Strahl, Minister Emerson and Minister Lund, who gave us excellent reports on their suggestions for a policy direction. We also heard from representatives of the Canadian Wheat Board and other farm groups who appeared before the committee. Those were very good hearings.

Today, I will speak to the recommendations of the committee in its third report. Honourable senators, I stress the importance of agriculture. I had begun by saying that from the land comes pretty well everything you can imagine. Whether fisheries, gas and oil, lumber, agriculture or mining, they all come from the land. When we look at the history of what has happened in Canada, perhaps we will see that Canadians have been neglectful. I will deal with this aspect in terms of the environment and what we do not see happening in the use of renewable resources. That, in itself, deserves a great deal of consideration.

I mention the recommendations made here in addition to income stabilization, production, insurance and other business risk management programs. The government implemented a direct payment program for the next four years with payments calculated on the basis of historical yield and acreage. One of the problems we have had with our programs, many of which were introduced by different governments over the years, is that they have been far too complicated. The programs should be more straightforward.

Honourable senators might wonder how much money can be put into agriculture. I recall that Don Mazankowski, former member of Parliament, once said, when we studied the question of agriculture years ago, that $1 invested in agriculture will circulate through the economy 24 times. Today, we are not taking that into consideration. We are taking into consideration the cost only, and not what agriculture will return. What does that mean? If you give a farmer $1, he will buy a truck, a tractor, a seeder, et cetera, and these purchases help to create jobs. If the jobs are not there, then we have an ailing Canada. It is most important that we do that.

During the government of former Prime Minister Brian Mulroney, we had a drought. I chaired the drought committee in Western Canada at the time and the grasshoppers were so thick on the highways that the pavement was like grease. We took recommendations to the Prime Minister and the government made an acreage payment. That was very straightforward and simple, with not much administration. That is the kind of thing that we will need.

• (1710)

I want to carry that a step further. The second recommendation concerned a Canadian farm bill. Honourable senators may not like it but the Americans have a farm bill that states their direction for the next 10 years. In Canada, we need something that is stable, looking particularly at the global economy we are facing. We have not done that. Here, we have had a piecemeal approach. That is what our Senate committee was saying. In our country, we have 167 million acres of agricultural land. Canadians must realize that this wealth is useless without farmers, who are the best at servicing the land.

When I first came to Ottawa in 1979, 27 years ago, I went up to the lunch counter on the fifth floor. It was the only thing open so I went there to look around. The first person I met was Tommy Douglas. We were alone. He called me over and said, "Len, I want to talk to you." With all due respect to Tommy — and I did not agree with him on a lot of things — I thought he was about to give me a long political discourse on a situation, but he did not. He said, "Len, Saskatchewan has a great future." He then went through the oil, and so on. He said, "Saskatchewan has 40 per cent of all cultivated land in Canada." He went on to explain how important that was. If he were alive today, I think he would shake his head and say that we have let things go too far.

I must say one thing about Tommy Douglas's government. He used to come out to the farmers, sit down with them and ask, "What do you need?" As I said, we may not have agreed with his political direction in many ways, but he certainly had a heart for the farmers and for the importance of farming in our province and in our country.

There is one thing that Canada does not have. Please excuse me for drawing parallels to the American system, but the American people will defend the heartland. Maybe that is because of the design of the Senate in the U.S. where they have two senators for every state, regardless of population. Whether Americans are from New York or California or Seattle, they will support the heartland. In some ways, we really do not have that inner drive to do things the way we should in Canada.

You may say that you are a farmer and you see this happening. However, today our farmers are not saying to their sons, "Come and farm." The sad thing is that they are saying, "Do not farm." I have had farmer after farmer tell me that they would never let their sons farm. This is not a good scene. We must change it. We must begin to change it by looking at the global picture we are facing. There must be some semblance of a level playing field or we will not survive.

The way the commodity prices have been, the United States has had the three best years in their history, while we have had the three worst years in our history. That is a serious situation. I honestly believe that there is a way in which we can turn this thing around. I think we need a farm bill, as was recommended by the committee. That is, a Canadian farm bill that takes a long-term approach to some very serious problems.

I am rambling on here, but I now want to say something about the environment. We are pumping out a non-renewable resource at tremendous speed. That is good for the economy at this time, but maybe we should be concentrating more on renewable resources and what is happening there. In our area, they are starting to look into carbon credits that encourage farmers to get involved in the environment. We cannot properly look after the environment on our farms unless we have something to do it with. We cannot properly look after our farms unless we have young people going back into the farm. Old fellows like me will not be able to do it. It will be up to the young people. There is an opportunity right now to take and make use of the renewable resources — grain, straw, you name it. We have the technology but we must have the will.

We need a Canadian farm bill that looks at not only the global challenge but also the opportunities that Canada lays out for us. We have great land and a great country. We are the second largest land mass in the world. We have a great responsibility both to that land and to our farmers.

Some Hon. Senators: Hear, hear!

On motion of Senator Peterson, debate adjourned.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Peter A. Stollery: Honourable senators, I have already spoken with Senator Comeau. In terms of the Standing Senate Committee on Foreign Affairs and International Trade committee, we were to meet at 5:00 p.m. and it is now 5:15. We have witnesses waiting and, rather than keep them around any longer, I wish to have permission of the Senate for the committee to sit.

Hon. Gerald J. Comeau (Deputy Leader of the Government): I have a quick question before we continue. Why is the deputy chair asking the question and not the chair?

Senator Stollery: Because the chairman is not here. I am the deputy chairman today.

Senator Comeau: I just heard a comment back here that I agree with. My understanding is that although Senator Segal may not be in the chamber at this moment, he is around somewhere. On this side, we agree to your request.

The Hon. the Speaker: Is there consent of the house that the Standing Senate Committee on Foreign Affairs and International Trade has permission to sit?

Hon. Senators: Agreed.

[*Translation*]

STUDY ON OPERATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

REPORT OF OFFICIAL LANGUAGES COMMITTEE— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Chaput, seconded by the Honourable Senator Tardif, that the second report of the Standing Senate Committee on Official Languages, entitled: *Understanding the Reality and Meeting the Challenges of Living in French in Nova Scotia*, tabled in the Senate on October 5, 2006, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Canadian Heritage, the President of the Treasury Board and the Minister for Official Languages being identified as Ministers responsible for responding to the report.—(*Honourable Senator Comeau*)

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, the chair of the Standing Senate Committee on Official Languages asked me to make a few remarks. I will be brief.

First, I would like to thank the members of the committee who participated in the fact-finding mission to Nova Scotia in 2005. It was a good opportunity for them to discover the region.

Honourable senators, I would like to give you a brief history of Nova Scotia's francophone and Acadian communities. Nova Scotia was the Acadian homeland. In 1755, the Acadians were deported.

• (1720)

Although they were subjects of the British Crown, they were expelled from their homes and scattered around the world. This is why there are now Acadians in Louisiana, known as Cajuns. More than one million people in Quebec are of Acadian ancestry. Here beside me, Senator LeBreton had Acadian ancestors who were deported from that area.

The Acadians were authorized to return to Nova Scotia around the 1860s. I would like to read from a text that I recently found. This document authorized an Acadian to return to Nova Scotia. It is an official document from Nova Scotia, and it reads:

[*English*]

> This certifies that Pierre Béliveau, an Acadian, appeared this day before His Majesty's Court of General Sessions of the Peace for the King's County and took the oath of allegiance and fidelity to His Majesty according to form prescribed by the government of this province. Given under my hand this 31st day of May, 1768.

[*Translation*]

It is signed by Mr. Deschamps, a Justice of the Peace. This gives us an idea of the conditions under which the Acadians were allowed to return to Nova Scotia. They had to swear an oath, which was not asked of anyone else. They were British subjects who were forced to swear allegiance to the King if they wanted to return to Nova Scotia.

We swear such an oath here in the Senate when we take up our duties as senators; and in the House of Commons, when one becomes an MP. But at that time, the Acadians were the only subjects required to do so. Upon their return to Nova Scotia, they were not allowed to live anywhere but where they were told to.

Thus, they were dispersed throughout Nova Scotia. Some settled on the Baie Sainte-Marie, where I am originally from. Some settled in what is known as the Clare region, named after an Irish surveyor. Others were authorized to settle on Isle Madame, in Cape Breton; at Cheticamp, and in other regions.

They were settled throughout Nova Scotia, but were not permitted to form communities that were too large, so as to prevent them from becoming too powerful. They were allowed to settle only on land that no one else wanted. Other British subjects at the time did not want to settle on those lands.

The Acadians were only allowed to resettle in areas where there were good fisheries. There were lobsters but no one ate them in those days; they were used as fertilizer in agriculture. They were far from the major centres of Nova Scotia. They were a small minority, scattered here and there.

That is the history behind the Acadian regions in Nova Scotia. It is sometimes said of the Acadians of Nova Scotia and Prince Edward Island that they waged a battle, and that is true. It was a major battle to try to keep their religion, their language, their culture and their history. Is that not what truly defines a nation, a people with a common history, language, culture and region? Seldom do we hear about Acadians saying that they wish to be recognized as a nation because, in their eyes, they are one, they are a people.

The members of the Standing Senate Committee on Official Languages who travelled to Nova Scotia had the opportunity to meet these Acadians and to discover their culture.

Quite often, people had to change their names in order to get jobs. The Leblancs became Whites, the Aucoins turned into Wedges, and the Poiriers were transformed into Perrys from Prince Edward Island.

The problems of assimilation surfaced with the arrival of the media, since our newspapers, radio stations, and television channels were in English.

We did not have our own schools. The clergy provided education in French. However, I had to attend an English high school because there were no French schools. We were far from our Acadian cousins in New Brunswick, and even farther from our francophone cousins in Quebec. We lived in our little corner of the world as best we could, trying to maintain our language. We experienced even greater difficulties when we had to go to an English hospital and we spoke French. Even today, our hospitals are still English.

Yet you will not find a group that is prouder to support Canada's linguistic duality than the Acadians of Nova Scotia. You will sometimes meet people like me who get shivers when they hear references to English Canada and Quebec. We often hear such comments on the CBC. This is insulting to Acadians in New Brunswick, Nova Scotia and Prince Edward Island, because it implies that there are no francophones outside Quebec. I get the same shivers when I hear references to francophones outside Quebec, because that makes our definition as a people dependent on our difference from Quebec.

There are francophones across Canada. People tend not to be aware that there are francophones in Nova Scotia, Prince Edward Island, Newfoundland and the West. I sometimes meet people from Quebec who are surprised that there are francophones in Nova Scotia. I tell them that our accent differs slightly from theirs, but that there are francophones in Nova Scotia. Quebecers will be understood in Nova Scotia. Canadians should be proud to have such wealth across the country. That is why the visit by the Standing Senate Committee on Official Languages was very productive for the members of the committee, as well as for the Acadian communities in Nova Scotia.

• (1730)

It was the first time they had ever been visited by a Senate committee. The committee members met with them to find out about their concerns and their needs. On behalf of the Acadians and francophones in Nova Scotia, I want to thank the members of the committee. Senator Corbin, who was then Chair of the Committee on Official Languages; and Senator Buchanan, the Vice-Chair, did an excellent job. I hope that the government will take a close look at the recommendations in this report and will react positively.

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, I would like to thank Senator Comeau for his very moving speech. It is true that the history of the Acadians of Nova Scotia is filled with extraordinary, admirable examples of tenacity and courage in Canada's history.

My family is of Scottish descent. We were an English-speaking family living in Nova Scotia. I attended high school in Nova Scotia long before the time of the Commission on Bilingualism and Biculturalism. I remember every year we went on a little excursion to Grand-Pré and, sometimes, we even went to Port Royal.

We often forget that Nova Scotia was the cradle of the French presence in North America. Champlain settled in Nova Scotia before founding Quebec.

We learned the history of Champlain. We went to Grand-Pré and wept over the beautifully romantic story that we found in the poem *Evangeline* by Longfellow, an American. But absolutely no one told us that the French presence in Nova Scotia was not just an historic reality. It is still current. Acadian life has continued in Nova Scotia. We were 100 per cent ignorant of that fact. It was scandalous. I know that, because of this ignorance, likely intentional in many cases, among the majority of Nova Scotians, the obstacles the Acadians faced were beyond the imagination of most. We had no idea.

I feel quite humble before this example of courage and tenacity. As far as my ancestors and I are concerned, I can only talk about our serious mistakes and present our apologies.

That being said, as Senator Comeau reminded us, this study began when Senator Corbin chaired the committee. I know he would like to speak to this matter, so I move adjournment of the debate in his name.

On motion of Senator Fraser, for Senator Corbin, debate adjourned.

[*English*]

STUDY ON STATE OF HEALTH CARE SYSTEM

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ADOPTED

On the Order:

> Resuming debate on the consideration of the second report of the Standing Senate Committee on Social Affairs, Science and Technology, entitled: *Out of the Shadows at Last*, deposited with the Clerk of the Senate on May 8, 2006.—(*Honourable Senator Keon*)

Hon. Wilbert J. Keon: Honourable senators, I am pleased to speak to the second report of the Standing Senate Committee on Social Affairs, Science and Technology entitled *Out of the Shadows at Last*.

First, allow me to say what an honour and pleasure it was to serve on this outstanding committee so ably chaired by Senator Michael Kirby.

It is the prevalence of mental illness in its various forms in Canada that gave the Standing Senate Committee on Social Affairs, Science and Technology the impetus, first, to delve into this area with a view to revealing the mysteries of this condition affecting a good percentage of the Canadian population; second, to develop recommendations for the federal government in conjunction with the relevant public organizations; and third, to develop new additional services and organizations to directly deal with the issues surrounding those living with mental illness.

Honourable senators, I will today highlight a few integral points of the committee's report *Out of the Shadows at Last*, including the needs of the Canadian public dealing with mental illness and what the communities have proposed to remedy or deal with the situation.

Canada needs a genuine mental health care system where providers, Canadians and the government view mental illness with the same seriousness as physical illness, a system where patients are accorded respect and consideration equal to those given to people affected with physical illness, a system focused on the people and their ability to recover.

Recovery is not the same as being cured. Recovery constitutes living a satisfying, hopeful and productive life — the desire of every Canadian. Recovery can also, and most often commonly does, refer to the reduction or complete remission of symptoms. Recovery must be at the centre of health reforms. To ensure this, the committee's proposed mental health system must acknowledge two critical elements: first, that each person's path to recovery is unique; and, second, that recovery is a process, not an end point.

First of all, there is choice. The availability and exercise of choice is in itself a potential contributor to the recovery process. Under the Canada Health Act and current funding arrangements, many services needed by people living with mental illness and addiction are available only to those who can pay for them out of their own pockets or who have private insurance plans to cover these costs. This needs to change.

Second, there is community. Since mental health and addiction problems cut across so many facets of community life, much more than health care is required. With the proper supports in place, people with mental illness can not only live in the community but can lead fulfilling and productive lives.

Each year, approximately 3 per cent of the population will experience serious mental illness and 17 per cent will experience mild to moderate illness. Integration must occur at two levels — mental health services with the physical health care services, and a

variety of mental health treatments and services funded by ministries of health with the broader range of services required by people living with mental illness.

Third, there is integration. Services and supports must be made available to people through their life span and, as people's needs change, must still be available in a seamless fashion. Integration must serve the objective of improving the range, affordability, quality and accessibility of services. In this proposed recovery-focused mental health care system, we need the right blend of institutional and community-based supports and services. These services must be provided in the community and in a seamless continuum to effectively address changing patient needs. It takes discipline, perseverance and patience to see through the institution-to-community-based-system transition, but the rewards and benefits of a working and efficient system for those living with mental illness in all its facets are incalculable.

• (1740)

To help this process along, honourable senators, the committee has recommended the establishment of the mental health transition fund. This fund would, by its mandate, allow the government to make a time-limited investment to cover the transition costs and to accelerate the process of developing a community-based mental health system. Disbursement should be managed by the proposed Canadian mental health commission. Funds would be provided to the provinces and territories on a per capita basis, with additional financial support considered for those provinces with small populations spread across a vast territory, for two explicit purposes. First, to establish the mental health housing initiative that will be mandated to develop new, affordable housing units and provide rent supplements for properties rented at market rates. According to the Canadian Mortgage and Housing Corporation, 27 per cent of the Canadian public living with mental illness are without adequate suitable and affordable housing, well above the national average of 15 per cent. The second purpose is to establish a basket of community services to assist the provinces in providing a range of services and supports in the community. This basket of services would include assertive community treatment teams, crisis intervention units and intensive case management programs.

Another major component of the committee's proposed mental health system is collaboration between mental health professionals, medical health professionals, organizations, families and school boards. An effective and efficient working relationship between both mental health and social services is critical to staying well and providing seamless transition between the various levels the treatment available.

One particular concern, honourable senators, is the specific care required by Canadian seniors living with mental illness. The committee has recommended that alternatives to hospitalization must be made more widely available. The current inefficient and inconvenient transitions between the different levels of care must be remedied. Resources must be invested to help seniors and their families navigate the existing system. There must be greater decentralization of transitional services.

In dealing with the stresses and subsequent mental health repercussions of those in the workforce, collaboration is needed between the health care system and the workplace to provide a stable, productive life for those living with mental illness. These two separate entities are very different with differing cultures, languages, practices and priorities.

The committee has recommended that we make full use of the current Opportunities Fund for Persons with Disabilities administered by the Department of Human Resources and Social Development and to further mandate it to establish a nation-wide program to assist persons with mental illness to obtain and retain employment. When finding adequate, sustainable employment fails, people living with mental illness come to rely on social assistance and in the committee's view these social assistance programs do not go far enough to adequately address the unique situation of these citizens.

The committee has recommended that benefit levels and earning exemption amounts for social assistance programs for people living with mental illness be increased to reduce financial hardship and increase the incentive to work, and that those receiving supplementary aid should continue to be eligible for assistance.

The Canadian Pension Plan Disability and Disability Tax Credit do not address the question of mental illness and disability appropriately. In both cases, the committee has recommended that the qualification requirements be modified and benefit amounts increased to more adequately support and address those living with mental illness.

Honourable senators, it is well documented that addictions and substance abuse also come into play in the case of mental illness, but the vast majority of Canadians who are addicted use legally available substances. Let us use gambling as an example. In 1999-2000, the net profit to all levels of government from gambling was $5.7 billion. In 2004, it was $6.2 billion, more than the $5.9 billion net profit on tobacco and alcohol combined, and are all legal. Substance abuse can mask the symptoms of a mental illness and can also exacerbate psychiatric symptoms.

Historically, mental health and addiction services have developed separately with differing philosophies related to cause, effect and source of help. Addiction and mental health services must build integrated mechanisms based upon their shared interest, views and benefits. The committee has charged the proposed mental health commission with building these integrated mechanisms.

Integral to the success of the committee's proposed mental health system is research. Canadians need quality information to effectively plan and deliver a whole spectrum of mental health services. To this date, research funding has not matched the huge burden that mental illness and addiction places on society.

In the 2002 report, the committee called for an increase in the federal government's annual contribution to health research to 1 per cent of the total amount of health care spending within a reasonable time frame. Today, we have an overall expense of about $120 billion and we are only spending about 0.5 per cent or $700 million a year on research. Without effective knowledge translation, honourable senators — that is what I like to call from bench to bedside — ineffective or even harmful treatments may continue.

As there is currently no research policy or strategy in Canada, the committee has proposed that the current Canadian Institutes of Health Research develop a national research agenda on mental health illness and addiction. Canada does not have a national picture on the status of mental health across the country, or the prevalence of mental health and addiction. To this end, the committee has proposed that the current Public Health Agency develop a comprehensive national mental health illness surveillance system.

Another important segment of our report addresses the mental health promotion and mental health prevention. Mental health promotion emphasizes positive mental health by addressing the personal, social, economic and environmental factors that are thought to contribute to mental health. Mental health prevention focuses on reducing risk factors associated with mental illness and enhancing protective factors that inhibit its onset and shorten duration; both require substantial investments.

To tackle these two aspects, the Canadian Psychological Association has suggested that a Canadian mental health guide be established. In addition, and to complement the work of the Public Health Agency of Canada, the Canadian mental health commission will include a knowledge exchange centre to work with existing agencies in the collection and exchange of data relevant to mental health.

At the heart of our recommendation, honourable senators, is the establishment of a Canadian mental health commission. The mandate of this commission will be to be an independent not-for-profit organization; to make those living with mental illness and their families the central focus; and to act as a facilitator, enabler and supporter of a national approach to mental health issues. The commission will become a catalyst for reform of mental health policies; educate all Canadians about mental health, and increase mental health literacy, particularly among employers; and strive to diminish the stigma and discrimination faced by Canadians living with mental health and their families.

Of the $17 million of government support for this commission, $5 million would be dedicated to an anti-stigma campaign to put an end to alienation and misunderstanding; $6 million would be directed to the knowledge exchange centre; and the final $6 million would be used to cover operating costs.

• (1750)

Honourable senators, the committee is asking the government to commit: $17 million per year for the Canadian Mental Health Commission; $224 million per year for the Mental Health Housing Initiative; $215 million per year for the Basket of Community Services; and $50 million per year dedicated to research and treatment in the Concurrent Disorders Program. Also required is an additional $2.5 million per year dedicated to telemental health, an additional $2.5 million to support peer-support programs, and $25 million per year dedicated to research through CIHR. That is a total of $536 million.

Honourable senators, I would like to reiterate that the mental health system we are proposing is not about governments or programs or politics or service providers, it is about helping people with mental illness live the best life possible. This is a sector of the population that has been largely ignored by mainstream research, medical care and government support. We cannot afford, nor is it acceptable to allow this trend to continue. The research and revelations presented to the committee during its proceedings and in preparing this report emphasize the dire need for action, and action now.

I would ask honourable senators to fully support this report.

The Hon. the Speaker: If there are no further senators participating in this debate, this order will be considered debated.

Senator Keon: I propose the adoption of the report.

The Hon. the Speaker: It was moved by the Honourable Senator Keon, seconded by the Honourable Senator Tkachuk, that this report be adopted.

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

Motion agreed to and report adopted.

THE SENATE

MOTION TO STRIKE SPECIAL COMMITTEE ON AGING ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Bryden:
>
> 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.—(*Honourable Senator Comeau*)

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

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL DEFENCE ACT

MOTION CALLING UPON GOVERNMENT TO PROCLAIM SECTION 80 OF THE PUBLIC SAFETY ACT, 2002 ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Di Nino:

That the Senate calls upon the Government of Canada:

(*a*) to cause the bringing into force of section 80 of the *Public Safety Act*, *2002*, Chapter 15 of the Statutes of Canada 2004, assented to on May 6, 2004, which amends the *National Defence Act* by adding a new Part VII dealing with the reinstatement in civil employment of officers and non-commissioned members of the reserve force;

(*b*) to consult with the provincial governments as provided in paragraph 285.13(*a*) of the new Part VII with respect the implementation of that Part; and

(*c*) to take appropriate measures in order for the provisions under the new Part VII to apply to all reservists who voluntarily participate in a military exercise or an overseas operation, and not to limit the provisions to those reservists who are called out on service in respect of an emergency.—(*Honourable Senator Fraser*)

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

Hon. Senators: Agreed.

Motion agreed to.

FIRST NATIONS INVOLVEMENT IN NATIONAL AND INTERNATIONAL AFFAIRS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gill, calling the attention of the Senate to the Government of Canada's position on the First Peoples on the national and international level.—(*Honourable Senator Watt*)

Hon. Gerry St. Germain: Honourable senators, I rise to speak to the motion raised by my honourable colleague Senator Gill regarding Canada's position on the United Nations Draft Declaration on the Rights of Indigenous Peoples.

There can be no debate about Canada's commitment to continuing its decades-long efforts to work with Aboriginal people through consultations, negotiation, treaties and other means to reduce poverty and improve their quality of life. With regard to what Senator Keon just spoke about, if there is a group in society that is impacted with addictions and challenges, it is our indigenous peoples, our First Nations people here in Canada.

While there is no question that much needs to be done, there is also no doubt that some progress has been achieved. For example, since 1973, 20 modern treaties have been negotiated across the country. These treaties cover approximately 40 per cent of Canada, involve over 90 Aboriginal communities and represent over 70,000 members. Our country is viewed internationally as a human rights leader with a strong record of achievement. Canada has acceded to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural rights. These treaties, together with the UN Declaration on Human Rights, form the basis for what has been called "the international bill of rights."

We take our commitments to the international community and to the affected parties very seriously. It is precisely because of this that we must be vigilant in terms of what we agree to and what we do. This is true in the case of the draft resolution.

Canada worked consistently and faithfully for a strong and effective declaration that would promote partnerships and harmonious relations between indigenous peoples and the UN member states within which they live, and at the same time strike a balance between the rights of various parties, clarify respectively responsibility and commitments and provide practical guidance to UN member states.

Unfortunately, the draft declaration now before the United Nations General Assembly does not meet these long-standing goals. What is required is a declaration that is clear and totally transparent. Current text does not provide practical guidance to UN member states, indigenous peoples or to multilateral organizations.

Furthermore, Canada has concerns regarding how some of the articles could be interpreted. For example, article 26 declares, in part, that:

> Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

This text does not recognize that rights to lands and resources need to be balanced with the rights of others. This text does not recognize that broad areas may have been ceded by treaty, whether historic or modern treaties as is the case in Canada. This article is an example of the text failing to provide practical guidance or clear expectations on key provisions. As such, the draft declaration is a flawed instrument that Canada cannot support at this particular time. Let me also be clear: No Canadian government has ever accepted the draft declaration in its current form.

It is because Canada is committed to the spirit and the principles underlying the desire for a declaration that Canada wanted more time to discuss portions of the text that have been forwarded by the chairman of the UN Working Group, and which had not been discussed by UN member states and the representatives of indigenous peoples.

Improvements to the text were both possible and necessary. Canada was not alone in expressing concerns with the draft declaration. A number of UN member states also wanted more time to discuss those sections of the draft declaration where there are serious flaws such as in relation to lands, territories and resources; the use and concept of free prior and informed consent; and in the provisions relating to self-government.

In proposing to return to negotiations, Canada had hoped to help craft a declaration that more clearly sets out the rights of indigenous peoples and the commitments of UN member states in relation to such rights. Canada wanted to build a broader consensus on the text so that the declaration could eventually be adopted and supported by as many UN member states as possible.

Since we were successful in achieving further negotiations on the draft declaration at the UN Human Rights Counsel, Canada voted against adoption. At that time, a number of UN member states made statements of interpretation which highlighted a variety of ongoing concerns with the text of the draft declaration, many of which were shared by Canada. Even among the UN member states voting for the adoption of the declaration, there were clearly issues with both process and substance.

• (1800)

I want to reassure my honourable colleagues of this government's unwavering support of the rights of Aboriginal peoples. My friends, I would not stand here if I did not believe that.

Canada's new government has demonstrated its commitment by embarking upon a new approach focused on enhancing Aboriginal peoples' self-reliance through targeted efforts in four areas: First, the government is directing investments towards the initiatives that will empower individuals to take greater control over their lives and futures such as housing and education; second, the government is working to accelerate land claim settlements. It was spoken about here today that the minister initiated an historic moment in Prince George in initialling an agreement that has just been negotiated and agreed upon.

The Hon. the Speaker: Honourable senators, it is 6 p.m. Is there direction from the house?

[*Translation*]

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, could the honourable senators agree not to see the clock?

Hon. Senators: Agreed.

[*English*]

Senator St. Germain: Third, the government is promoting economic development, job training, skills development and entrepreneurship to open up opportunities for our Aboriginal people. Fourth, the government is laying the groundwork for responsible self-government by moving toward modern and accountable government structures.

It is important to note those actions that have already been taken in these areas: in ensuring First Nations communities have access to safe drinking water — which, I can assure you, we will be pursuing aggressively in light of recent news; in supporting women, children and families by launching consultations on the issue of matrimonial real property — the minister has been to the Human Rights Committee on this particular issue in recent days; and by signing a tripartite agreement in British Columbia ensuring that First Nation students will have access to an education that not only meets provincial standards but has cultural relevance.

I am proud to say that Canada is among the few nations in the world with constitutionally recognized Aboriginal rights. Canada's new government has made it a priority to work towards improving the quality of life for Aboriginal peoples.

Honourable senators, Canada and its government remain committed to the pursuit of and the protection and promotion of Aboriginal and treaty rights domestically, and to working with other countries and indigenous peoples internationally.

On motion of Senator Fraser, for Senator Watt, debate adjourned.

The Senate adjourned until Wednesday, November 8, 2006, at 1:30 p.m.

Appendix

OFFICE OF THE NATIONAL CHIEF

Assembly of First Nations

BUREAU DU CHEF NATIONAL

Assemblée des Premières Nations

October 25, 2006

Senator Jack Austin
Leader of the Opposition
Senate of Canada
Ottawa, Ontario, Canada

Senator Gerry St. Germain
Chair, Senate Standing Committee on Aboriginal Peoples
Senate of Canada
Ottawa, Ontario, Canada

Dear Senators:

I am writing to ask your support in getting Bill S-216 into the Senate Committee on Aboriginal Peoples so that it can have a thorough hearing this Autumn.

Bill S-216 is based directly on the recommendations of the Penner Committee on Indian Self-Government whose report was tabled in the House of Commons in November, 1983. Similar recommendations are echoed in the Report of the Royal Commission on Aboriginal Peoples, and it indirectly fits with the Senate Report, *Forging New Relationships* (the Watt Report).

Despite these recommendations and the urgent need to remove the obstacles to satisfactory implementation of self-government which have thwarted success for so many years, the intent of Bill S-216 has not been given the study and comment it deserves. First Nations have not been thoroughly consulted or informed about the Bill because it is not a government Bill and the Senate is the only vehicle available for this purpose. I believe the discussion on self-government would be advanced considerably by the Committee's hearings. Hearings will also give First Nations the opportunity to recommend amendments to the Bill to strengthen it.

I hope, Senators, that through your collaboration, the Bill will be in Committee at the earliest possible time.

.../2

-2-

I have asked Regional Chief (Alberta/AFN) Wilton Littlechild and Grand Chief Bernard Meneen of the North Peace Tribal Council, Treaty 8, and Chief of the Tall Cree First Nation, to keep me advised regarding this Bill. Regional Chief Littlechild may be contacted at (780) 585-3038 or 780 361-7527. Grand Chief Bernard Meneen may be contacted at (780) 451-0304 or (780) 927-3727.

Sincerely,

Phil Fontaine
National Chief

cc. Regional Chief Wilton Littlechild
Grand Chief Bernie Meneen
Chief Robert Daniels

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Tuesday, November 7, 2006

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