CANADA

Debates of the Senate

1st SESSION • 39th PARLIAMENT • VOLUME 143 • NUMBER 49

OFFICIAL REPORT
(HANSARD)

Wednesday, November 8, 2006

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

CONTENTS

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.
Also available on the Internet: http://www.parl.gc.ca

THE SENATE

Wednesday, November 8, 2006

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

GOVERNMENT OF QUEBEC POLICY ON CANADIAN FRANCOPHONE COMMUNITIES OUTSIDE PROVINCE

Hon. Maria Chaput: Honourable senators, today I salute the Government of Quebec for its new policy on the Canadian Francophonie announced yesterday, November 7, 2006.

Quebec's premier, Jean Charest, and the Minister Responsible for Canadian Intergovernmental Affairs and Francophones within Canada, Benoît Pelletier, unveiled Quebec's new policy on the Canadian Francophonie entitled "*L'avenir en français*".

Here are some excerpts from the November 7 news release:

> The policy was announced in the presence of the Government of Quebec's primary collaborators in the francophonie file and several representatives of francophone and Acadian communities, including the president of the Fédération de la jeunesse canadienne française, Karlynn Grenier; the president of the Société nationale de l'Acadie, Françoise Enguehard; the president of the Fédération culturelle canadienne-française, René Cormier; the president of the Fédération des communautés francophones et acadienne du Canada, Jean-Guy Rioux; and representatives of all twelve provincial and territorial francophone associations.

• (1335)

The current policy is the result of a collaborative process between the Government of Quebec and Canada's francophone and Acadian communities. It reflects a vision based on solidarity, accountability and a leadership role for Quebec to meet the needs of francophones across Canada.

Quebec is the Francophonie's North American headquarters. This leadership role belongs to Quebec and, as Mr. Pelletier said, this is a demonstration of Quebec's committed return to the Canadian Francophonie community.

I would like to express my sincere congratulations and gratitude to the Government of Quebec for this initiative.

[*English*]

LITERACY ACTION DAY

Hon. Joyce Fairbairn: Honourable senators, today the literacy troops are arriving from across the country in preparation for Literacy Action Day tomorrow, and many are already enthusiastically meeting with parliamentarians in their offices on the Hill. For them, this is perhaps the most important visit in the past 11 years as the literacy movement is facing changes that affect tutors, learners and organizers across this country.

With a new government, there is a new approach, and this army of volunteers and organizers want to learn about it directly, and are doing it with enthusiasm and with hope for a good working relationship.

Senators will know from the outstanding speeches that have been given in this chamber by colleagues on both sides of the house that literacy is indeed a foundation issue for the future success of our country. It cannot be organized in these buildings, nor delivered directly to tutors and learners alike. It is an issue that is founded on the encouragement and financial support of all levels of government for the benefit of every corner of Canada.

Many of you will have a chance to meet with these strong and positive citizens, who have made quite an effort to come far from home to tell their stories; and all of you can share lunch with them at noon tomorrow in room 256-S.

Their first words to you will be those of appreciation for our support and pride in the success and new opportunities it has helped to create.

Today, I met a young man from Newfoundland who said it all. Through the great support offered in that province, he has changed his life, and that of his wife and children, by seeking out a chance to learn and be able to offer all of them — and himself — a fair chance for a good life.

He is now a student at Memorial University, doing what all of us hope for these friends of ours, these Canadian citizens who are trying hard. We are helping them and we must continue to help them because it is working, honourable senators.

Hon. Senators: Hear, hear!

THE LATE DR. FRANK CALDER, O.C.

Hon. Gerry St. Germain: Honourable senators, I rise to pay tribute to the life of Dr. Frank Calder. He passed away earlier this week, leaving behind a lifetime of achievements that had profound impact on Canada's Aboriginal peoples.

Dr. Calder was the first Aboriginal to hold office in a Canadian Parliament, having been elected to the B.C. legislature in 1949 to sit as a Cooperative Commonwealth Federation MLA. Later in his political career, Dr. Calder joined the Social Credit Party — and what a great day that was in British Columbia — making history as the first Aboriginal to receive an appointment as a minister of the Crown.

Dr. Calder founded the Nisga'a Tribal Council, the first of its kind in British Columbia. He went on to serve as the council's president for 20 years, receiving the name "Chief of Chiefs" from all four Nisga'a clans.

Dr. Calder continued to make Canadian history in 1973, when the Supreme Court of Canada ruled on his appeal, establishing that Aboriginal title exists in modern Canadian law.

• (1340)

Honourable senators, this ruling that bears Dr. Calder's name set the legal ground for Aboriginal treaty negotiations across Canada. This precedent in Aboriginal treaty law is referenced internationally in current land claim settlements in Australia, South Africa, New Zealand and other countries. It is on these grounds that the historic Nisga'a treaty was signed in 1998, giving Dr. Calder's people title to their land.

A recipient of the Order of Canada and of the National Aboriginal Lifetime Achievement Award, Dr. Calder dedicated his life to serving Canada and was a pioneer in Canadian Aboriginal treaty development and negotiations.

Honourable senators, Aboriginal and non-Aboriginal Canadians owe a debt of gratitude to Dr. Frank Calder for his invaluable contribution to Canada.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before proceeding to tabling of documents, I would like to draw to your attention the presence in the gallery of Mr. Avdai, MP, Chair of Mongolia-Canada Parliament Group, Head of the delegation. Accompanying him is Mr. Sodnomtseren, MP, Member of Mongolia-Canada Parliament Group.

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 COMMITTEE ON ENVIRONMENT, AGRICULTURE AND LOCAL AND REGIONAL AFFAIRS, JUNE 9, 2006—REPORT TABLED

Hon. Lorna Milne: Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-Europe Parliamentary Association to the Council of Europe parliamentary assembly for its meeting of the committee on the environment, agriculture and local and regional affairs in Paris, France, June 9, 2006.

[*Translation*]

ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

PARLIAMENTARY MISSION TO PORT-AU-PRINCE, HAITI, SEPTEMBER 5-8, 2006—REPORT TABLED

Hon. Andrée Champagne: Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian Section of the Assemblée parlementaire de la Francophonie, respecting its Parliamentary Mission to Port-au-Prince, Haiti, from September 5 to 8, 2006.

MEETING OF HEADS OF STATE AND GOVERNMENT OF FRANCOPHONE COUNTRIES, SEPTEMBER 25-29, 2006—REPORT TABLED

Hon. Andrée Champagne: Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian Section of the Assemblée parlementaire de la Francophonie, respecting its participation at the Eleventh Meeting of the Heads of State and Government of Countries using French as a Common Language, held in Bucharest, Romania, from September 25 to 29, 2006.

• (1345)

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY PERMISSIBILITY OF SENATORS' STAFF INQUIRING INTO THE TRAVELLING DETAILS OF OTHER SENATORS

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

> That the Standing Committee on Internal Economy, Budgets and Administration be directed to examine and determine, in light of recent discussions and in light of present rules, procedures, practices and conventions of the Senate, whether it is appropriate or permissible that persons working in the offices of senators, including senators who are Ministers of the Crown, should obtain or attempt to obtain from hotels used by senators conducting business properly authorized by the Senate, detailed breakdowns including lunches or other costs included in hotel invoices, and including any and all sundry costs associated with the stay; and
>
> That the committee be directed to report its determination to the Senate no later than Thursday, December 7, 2006.

[*Translation*]

QUESTION PERIOD

PUBLIC WORKS AND GOVERNMENT SERVICES

GOVERNMENT PROJECTS TO INFUSE ECONOMY OF MONTREAL REGION

Hon. Francis Fox: Honourable senators, my question is for the Minister of Public Works and Government Services. We are not permitted to ask him questions concerning his duties as minister responsible for the greater Montreal area. I am very pleased to ask the following question in the presence of an eminent journalist from the Montreal area. Can the Minister of Public Works and Government Services tell us if, in that role, he is preparing an economic growth strategy for the Greater Montreal area? I am referring to the Montréal Harbourfront Corporation, among other projects. Can the minister tell us if his department has any other development projects in the Montreal area, in partnership with municipal and provincial authorities?

Hon. Michael Fortier (Minister of Public Works and Government Services): Honourable senators, my department is working on a number of projects simultaneously that will have an impact on certain major urban centres in Canada, certain smaller areas and, of course, Montreal. As you know, my department manages certain assets you are familiar with. Of course, that is part of Montreal's potential. Managing these assets keeps me busy.

I would remind you that I am the Minister of Public Works and Government Services for the entire country, not just Montreal. We have 325 buildings across the country, not just in Montreal. There are buildings in Ottawa, on the West Coast and on the Atlantic Coast. It is very important to look after all these assets, regardless of where they are located.

THE SENATE

REQUEST FOR CHANGES TO RULES TO MAKE MINISTER OF PUBLIC WORKS AND GOVERNMENT SERVICES ACCOUNTABLE FOR POLITICAL RESPONSIBILITY TO MONTREAL

Hon. Francis Fox: Honourable senators, we have had the pleasure of hearing the melodious voice of the Minister of Public Works and Government Services telling us about his development plans for Montreal and other regions.

I would like to go back to the question I asked in this chamber on November 1. I do not seek to defy the ruling by the Speaker of the Senate, which said that we could not put questions to the Minister of Public Works and Government Services in his capacity as minister responsible for Montreal, even though the Prime Minister, in appointing him, intended that he would represent Greater Montreal within the Government of Canada.

As I said, I am not speaking in a spirit of defiance but of cooperation. I had asked the Leader of the Government in the Senate whether she was willing to support an initiative, which could come from her side or ours, to change the *Rules of the Senate*. It is perfectly within the bounds of the Senate's powers to amend our rules in order to allow the Minister of Public Works and Government Services to answer questions in this chamber about his important responsibilities for Montreal, which affect the city's development and future.

If the Leader of the Government in the Senate is not willing to support such an initiative, could she explain what public policy reasons would prevent her from doing so? We on this side could introduce the motion and refer it to the appropriate committee, but in the spirit of democracy, we do not want to use our majority to impose a procedural change on this chamber.

• (1350)

[*English*]

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for his question. The importance of Senator Fortier to our government as Minister of Public Works and Government Services and minister for Montreal is well outlined in the preamble to the honourable senator's question. Senator Fortier is a valuable colleague and certainly a wonderful representative for the City of Montreal in the government and in cabinet.

In answer to the honourable senator's question when he posed it before, I said far be it from me to challenge a ruling of the chair, particularly since I am relatively new in this position and I do not want to start off challenging the chair. Even though it has been done in the past, it was not something I was planning to do.

In any event, what the honourable senator says has some validity, and I would suggest that he refer that question to the chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, which may be interested in looking at it.

Senator Fox: Honourable senators, obviously on this side of the house, as on the other side, we respected the ruling that was handed down by the Speaker, which is predicated on the rules as they presently stand. As the Honourable Leader of the Government has just acknowledged, those rules can be changed by all of us sitting here, as we are masters of the proceedings of the Senate.

What I would like to know, in a "yes" or "no" answer, is whether or not the Leader of the Government would support such a change to allow the Honourable Minister of Public Works and Government Services to respond to such questions. I am not sure it is to our advantage to have the minister respond, because he is very good, as we all know, at responding to questions concerning his other important responsibilities.

Senator LeBreton: Honourable senators, as Senator Fox quite clearly states, we are masters, or mistresses, of our own house I would not want to prejudge this question. I think it is a legitimate question to be referred to the Rules Committee. I am sure all honourable senators in this chamber would readily abide by a rule change if the committee, which has members from all sides, deemed it appropriate.

[*Translation*]

Hon. Jean-Claude Rivest: Honourable senators, I will just make a suggestion. Perhaps the problem posed by the Speaker's ruling could be resolved if our colleague, the minister and senator, were to run in a by-election in Repentigny.

[*English*]

Senator LeBreton: Honourable senators, that suggestion was made before. We already have a candidate nominated in that riding. Senator Fortier has made it clear that he intends to run in the next general election, and I am sure that when he does and wins a seat in the House of Commons, he will miss us all greatly here in the Senate chamber.

[*Translation*]

Senator Rivest: Since Repentigny is in my region, I could easily help our colleague, the senator, and I am certain that he would come in second, behind the Bloc Québécois.

[*English*]

Senator LeBreton: Am I to take it that Senator Rivest is ready to come back to us?

HUMAN RESOURCES AND SOCIAL DEVELOPMENT

INCREASE TO MINIMUM WAGE

Hon. Jerahmiel S. Grafstein: I have a question for the Leader of the Government in the Senate.

Is the government prepared to restore the minimum wage in the federal jurisdiction, to show leadership to the provinces in order to alleviate the plight of the working poor in this country?

Let me provide an example that might assist the Leader of the Government. For the working women of this country, the largest percentage are now at the poverty line or below; 53.9 per cent of working women are at the poverty line; 2.6 million women live at the poverty line; 47.1 per cent of single-parent women are working poor. When it comes to Aboriginal women, the average income of Aboriginal women is $13,300, compared to that of Aboriginal men of $18,200.

• (1355)

An increase of $2 in Ontario would mean $16 more per worker per day, times five, which would be $80 more per week for these poor working women. That would provide them with a food basket each week. Economic studies done in the OECD indicate that an increase in the minimum wage would have a *de minimis* effect.

A Pew Research report shows that the majority of supporters of both parties in the United States now favour an increase in the minimum wage, which would require federal leadership in the states. We learn that six of the United States have now approved a plebiscite to increase their state minimum wage.

Will the federal government take a leadership position to alleviate the plight of the working poor in this country by increasing the minimum wage in the federal jurisdiction?

On the Banking Committee, Senator Angus and I are very concerned about productivity. All of the economic studies that I have seen, both here and in Europe, indicate that this increase would not in any way, shape or form have a detrimental effect on the economy. There is no economic reason not to increase the minimum wage.

Would the federal government now show some leadership and convince not only themselves, but also the provinces that this measure would help to reduce or ameliorate the plight of the working poor in this country?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for his question. Upon hearing his plea, I could not help but wonder why there was not some success with the previous government on this front. However, suffice it to say that I will certainly take the honourable senator's question as notice and respond as soon as possible.

Senator Grafstein: For the historical record, I understand — and I may not be correct; the honourable senator may correct me — that the government of Brian Mulroney eliminated the federal minimum wage criteria. It is true that subsequent governments did not restore it. Surely, because of the Leader of the Government's close relationship with Brian Mulroney, who has always been concerned about the working poor, this is something that she might consider.

Senator LeBreton: Honourable senators, as I have often said, Mr. Mulroney was blamed for lots of things and never received credit for a lot of things, although recognition is starting to come now. The government of the honourable senator's party was in office for quite some time. If there was such an injustice in this area, steps should have been taken to address it then.

There are some serious concerns about the working poor, particularly women and Aboriginals. I know that the government of which I am now a part is very sympathetic. I do not know exactly what plans are in play. As I said, I will take the question as notice and attempt to get an answer as quickly as possible for the honourable senator.

Senator Grafstein: Honourable senators, I have been equally critical of my own government in Ontario, which is a Liberal government. I started several weeks ago to indicate that I was unhappy with their refusal to increase the minimum wage in Ontario. It is not a question of blame; it is not a question of responsibility; it is a question of where we go from here. I think that this Senate, which has been less partisan than other places, could join together in a common cause to induce or seduce the federal government to take leadership on this issue.

Senator LeBreton: The Honourable Senator Grafstein is absolutely right. The question is: Where do we go from here? The honourable senator did underscore a serious problem. I will make every attempt to get a serious answer to the question.

NATIONAL DEFENCE

AFGHANISTAN—VISITS BY PARLIAMENTARY DELEGATIONS—ENTERTAINMENT FOR TROOPS—DELIVERY AND ALLOCATION OF AID

Hon. Tommy Banks: Honourable senators, my question is for the Leader of the Government in the Senate. Senators will be pleased to know that, while they have noted that I often stand up and talk about things of which I know little, I will now talk about show business.

Some Hon. Senators: Oh, oh!

Senator Banks: You must take my word that, although you have not seen it, that I know a great deal about show business.

Last night on the CBC news — a network that still pays attention to rule A1 of checking the facts before they report them — Peter Mansbridge observed that given Canada's military involvement in Afghanistan, "you might expect Parliament's defence committees would have paid a trip to the region by now. They haven't. The Senate committee did try, but complications stalled their trip in Dubai, and the Commons committee, they haven't even made it to the airport."

• (1400)

That is partly true, although the Senate committee has in fact been to Afghanistan before and wanted to go again, as honourable senators well know.

The show business part comes as follows: There is a government website through which one can bid on putting together entertainment packages to take to our troops in Afghanistan. That is an admirable thing. I note that such a group is going to Afghanistan this month. It includes some very distinguished, established performers and some new, up-and-coming talent that I commend to your attention. My point is that, between Jean Lapointe and me, we could put together a hell of a show. There is great talent in the Senate.

Senator Lapointe, I require your concurrence.

If Senator Lapointe and I were to put together a package to take to Afghanistan, it would be a big show. It would require roadies. We could take Senator Kenny, Senator Moore and Senator Meighen as roadies, and we could ask some bootleg questions while we are there about the matters at hand. Would the Leader of the Government support such an undertaking?

We might be able to find, during the course of our visit, answers to some of the things that this committee has been seeking to find out. I will parenthetically note, in response to a question I earlier asked the leader, that this is not about money being spent — as we know, it is not being spent — but money that is earmarked to be spent in Kandahar, where Canada's troops are.

This is a double-barrelled question. I have asked the leader how much money that was and she replied correctly that the amount earmarked for spending in Kandahar province is $15 million. Would the leader support the idea of us taking a nice Senate show to Afghanistan?

Canada has booked $100 million this year for aid to Afghanistan through the Canadian International Development Agency. The Leader of the Government has correctly told us that of that amount $15 million is attributable to Kandahar province. Is it appropriate that 15 per cent of Canada's $100 million foreign aid for Afghanistan should be spent in that part of the country where Canada's troops are operating while the other $85 million goes into the coffers of the central government where it is very difficult for us to follow the efficacy of the spending of that money?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I am really disappointed with Senator Banks and his question because the other day he said I was a great tap dancer, but he did not include me among the senators who could provide entertainment.

I saw the CBC report last night. The truth is that the military had offered to take the Foreign Affairs Committee in the other place into Afghanistan during the Remembrance Day recess. I believe, and at one point talked about including members of the Senate in that trip. The Liberal members on that committee did not want to go at that time because it was too close to the Liberal leadership convention, and the Bloc members on the committee did not want to go at that time because they did not want the trip to interfere with the Remembrance Day break. There was no effort whatsoever to prevent parliamentary committees from going into Afghanistan. As a matter of fact, I believe that the committee in the House of Commons is working with military officials to schedule a trip into Afghanistan in the very near future.

• (1405)

With regard to the longer question about aid to Afghanistan, Minister Verner and I spoke about the $15 million. I believe there is now a long, detailed answer to where aid money is going and to whom it is being directed, and I will try to answer that part of the question with a delayed answer.

Senator Banks: That will be welcomed, because the Leader of the Government in the Senate will be doing something that the minister has not. The minister appeared before the Standing Senate Committee on National Security and Defence and was unable to answer that question. The committee then wrote to the minister, at her suggestion, asking that specific question. The minister responded with a letter saying, "We cannot tell you that information." The undertaking in that respect of the Leader of the Government in the Senate is most welcome and I thank her for it.

Senator LeBreton: Honourable senators, I hasten to add that Afghanistan is the largest recipient of aid from Canada. Everyone in this chamber can appreciate the difficulty in getting aid to that area, particularly Kandahar province, because of the unstable situation on the ground. We are hopeful that NATO efforts continue to secure the area so that more aid can be delivered. As I said a moment ago, I will attempt to give as full an answer as possible.

Senator Banks: I am assuming that the Leader of the Government is intimately familiar with the nature of the question that was asked by the committee of the minister with respect to other means of delivering that aid "to the point of the stick," if I could put it that way. I ask the honourable leader to take that into account in her response.

[*Translation*]

Hon. Jean Lapointe: Honourable senators, I walked in just when Senator Banks mentioned my name and my participation in a possible show. If Senators Ringuette, Rompkey and I went to Afghanistan to perform, would Senator Banks agree to put the grand piano in front of us and have us sing?

PUBLIC SAFETY

ROYAL CANADIAN MOUNTED POLICE— EFFICACY OF LONG GUN REGISTRY

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, my question for the Leader of the Government in the Senate pertains to a slightly more serious matter; firearms.

When reading *Le Devoir* today, I was very surprised to find an article from the *Canadian Press* indicating that, last spring, the Minister of Public Safety wound down the firearms program advisory committee and has since established a new committee that has no representation from organizations that support maintaining the firearms registry, from the Coalition for Gun Control, or from Quebec suicide prevention organizations.

[*English*]

Perhaps the most astonishing of all is not the police organizations that are in favour of the gun registry, such as the Canadian Association of Chiefs of Police, the Canadian Professional Police Association, and the Ontario Association of Police Chiefs. We know that the police are strongly in favour of maintaining the gun registry. They use it 6,500 times a day, and they would not do that if they did not think it was worthwhile. It sounds suspiciously, as appears to have been done with the Wheat Board and in other cases, as if the government has created an advisory committee that will give it only one kind of advice, namely, predetermined advice that will be agreeable to it.

If all you will get is one side of a picture, why have an advisory committee at all? Surely, the whole point of such a committee is to point out to the government things that might have escaped its attention, that might change its perspective.

• (1410)

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I have not seen the article to which the honourable senator refers, but the Minister of Public Safety is consulting widely with many organizations.

With respect to the whole issue of gun control, there is no question that this government is very much in favour of strict gun laws. The issue here, of course, is the long gun registry. Obviously a lot of people still confuse the issue of gun control and gun safety with the long gun registry.

The fact is that I have not seen the article, and I do not know what is being referred to. Suffice it to say that this government is very committed to dealing with all issues surrounding crimes committed with guns, including a strengthening of the registry.

As I pointed out in an earlier answer with respect to the Dawson College tragedy, the young man who perpetrated those crimes had legally registered firearms. The issue lies in strengthening our laws and having mandatory minimum sentences for crimes committed with guns.

I believe that Minister Day has acquitted himself and our government extremely well on the whole issue of making our communities safer.

Senator Segal: Hear, hear!

Senator Fraser: The Leader of the Government in the Senate did not actually answer my question, but be that as it may. I draw to the minister's attention the fact that many of us believe that the registry of long guns is part of gun safety. Thousands of Canadians believe that to be the case. Many thousands of Montrealers, including victims of the Dawson College shooting, believe that to be the case. I would ask the honourable leader not to insult the intelligence of those who do not agree with the policies that her government supports.

Why have a consultative committee if the full range of opinion will not be represented on it? If a full range of expert opinion were available, the resulting policies may be improved.

Senator LeBreton: The honourable senator claims that I insult people's intelligence. I think she should assess the way in which she asks questions.

The fact is that the long gun registry cost us $2 billion, and it was cited by the Auditor General as a colossal waste of taxpayers' dollars.

The honourable senator continually cites police checks. The 6,500 checks that she refers to do not involve only the long gun registry. It forms only part of the information available to police checks.

Minister Day has consulted widely. The honourable senator makes the assumption that he has surrounded himself with an advisory group that will agree only with him. That is an unfair and arrogant assumption. Minister Day has consulted some 500 groups over the course of the period since he was made Minister of Public Safety, including discussions with the gun safety group at Dawson College.

Senator Fraser: The minister does not have to answer this next question; she can take it as notice. I would like her to provide this chamber with a list of the members of the new committee.

Senator LeBreton: I am glad the honourable senator has given me permission to take it as notice.

NATIONAL DEFENCE

AFGHANISTAN—
VISITS BY PARLIAMENTARY DELEGATIONS

Hon. Colin Kenny: Honourable senators, all I heard was the Leader of the Government in the Senate dancing around the truth in her answer to Senator Banks.

I met with the Minister of Defence on June 19, together with the chair of the House of Commons committee. At that time, the chair of the House of Commons committee said that they had no interest in travelling to Afghanistan. Subsequently, the minister approached the Senate committee on several occasions — and I can list them — asking us if we would take the chair of the House committee and his parliamentary secretary along with us on our trip, because the Commons committee was not making that trip. They have since changed their minds. Would the honourable leader care to comment on that?

• (1415)

Hon. Marjory LeBreton (Leader of the Government): The information that I provided to Senator Banks was information that I got directly from the committee in the other place, and I cannot comment on meetings that took place last June.

ORDERS OF THE DAY

FEDERAL ACCOUNTABILITY BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Andreychuk, for the 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;

And on the motion in amendment of the Honourable Senator Mercer, seconded by the Honourable Senator Baker, P.C., that Bill C-2 be not now read a 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 Commissioner for the purpose of a prosecution for";

(*b*) by deleting clause 121 on pages 103 to 109;

(*c*) by deleting clause 122 on page 110;

(*d*) by deleting clause 123 on page 110;

(*e*) by deleting clause 124 on pages 110 and 111;

(*f*) by deleting clause 125 on page 111;

(*g*) by deleting clause 126 on page 111;

(*h*) by deleting clause 127 on page 111;

(*i*) by deleting clause 128 on pages 111 and 112;

(*j*) by deleting clause 129 on page 112;

(*k*) by deleting clause 130 on page 112;

(*l*) by deleting clause 131 on pages 112 and 113;

(*m*) by deleting clause 132 on page 113;

(*n*) by deleting clause 133 on pages 113 and 114;

(*o*) by deleting clause 134 on page 114;

(*p*) by deleting clause 135 on page 115;

(*q*) by deleting clause 136 on page 115;

(*r*) by deleting clause 137 on page 115;

(*s*) by deleting clause 138 on page 115;

(*t*) by deleting clause 139 on pages 115 and 116;

(*u*) by deleting clause 140 on page 116; and

(*v*) by deleting clause 273 on page 193;

And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Atkins, that Bill C-2 be not now read a third time but that it be amended in clause 227:

(*a*) on page 175,

(i) by replacing line 32 with the following:

"**1.1** The Governor in Council may estab-", and

(ii) by replacing lines 35 to 39 with the following:

"other members to perform such functions as the Governor in Council may specify, and may appoint the chairperson and other members and fix their remuneration and expenses.";

(*b*) on page 176, by deleting lines 1 to 41; and

(*c*) on page 177, by deleting lines 1 to 20;

And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Atkins, that Bill C-2 be not now read a third time but that it be amended,

(*a*) by deleting clause 39 on page 52;

(*b*) by deleting clause 40 on pages 52 to 56;

(*c*) by deleting clause 41 on page 56;

(*d*) by deleting clause 42 on pages 56 and 57;

(*e*) by deleting clause 43 on page 57;

(*f*) by deleting clause 44 on pages 57 and 58;

(*g*) by deleting clause 45 on page 58;

(*h*) by deleting clause 46 on pages 58 and 59;

(*i*) by deleting clause 47 on pages 59 and 60;

(*j*) by deleting clause 48 on page 60;

(*k*) by deleting clause 49 on pages 60 and 61;

(*l*) by deleting clause 50 on page 61;

(*m*) by deleting clause 51 on page 61;

(*n*) by deleting clause 52, on pages 61 and 62;

(*o*) by deleting clause 53 on page 62;

(*p*) by deleting clause 54 on page 62;

(*q*) by deleting clause 55 on pages 62 and 63;

(*r*) by deleting clause 56 on pages 63 and 64;

(*s*) by deleting clause 57 on page 64;

(*t*) by deleting clause 58 on page 64;

(*u*) by deleting clause 59 on page 64;

(*v*) by deleting clause 60 on page 64;

(*w*) by deleting clause 61 on page 65;

(*x*) by deleting clause 62 on page 65;

(*y*) by deleting clause 63 on page 65;

(*z*) by deleting clause 64 on page 65; and

(*z.1*) in clause 108,

(i) on page 93, by deleting lines 38 to 41, and

(ii) on page 94, by deleting subclauses (4) and (4.1);

And on the motion in amendment of the Honourable Senator Murray, P.C., 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:

(*a*) on page 103, by replacing lines 22 and 23 with the following:

"this Act referred to as the "Director").";

(*b*) on page 105, by deleting lines 14 to 42;

(*c*) on page 106,

(i) by deleting lines 1 to 8,

(ii) by replacing lines 12 and 13 with the following:

"for cause. The Director", and

(iii) by deleting lines 40 to 42; and

(*d*) on page 107, by deleting lines 1 to 3;

And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Atkins, that Bill C-2 be not now read a third time but that it be amended,

(*a*) by deleting clause 91 on page 86;

(*b*) by deleting clause 98 on page 87;

(*c*) in clause 108, on page 94, by replacing line 5 with the following:

"**(5) Sections 65 to 82, 84 to 88, 90 and 92 to 97**";

(*d*) by deleting clause 117 on page 100;

(*e*) by deleting clause 141 on pages 116 and 117;

(*f*) by deleting clause 142 on page 117;

(*g*) by deleting clause 143 on page 117;

(*h*) by deleting clause 144 on page 118;

(*i*) by deleting clause 145 on page 118;

(*j*) by deleting clause 146 on pages 118 and 119;

(*k*) by deleting clause 147 on page 119;

(*l*) by deleting clause 148 on pages 119 and 120;

(*m*) by deleting clause 149 on page 120;

(*n*) by deleting clause 150 on page 120;

(*o*) by deleting clause 150.1 on page 120;

(*p*) by deleting clause 151 on pages 120 and 121;

(*q*) by deleting clause 152 on page 121;

(*r*) by deleting clause 153 on page 121;

(*s*) by deleting clause 154 on pages 121 and 122;

(*t*) by deleting clause 155 on page 122;

(*u*) by deleting clause 156 on page 122;

(*v*) by deleting clause 157 on page 122;

(*w*) by deleting clause 158 on page 122;

(*x*) by deleting clause 159 on pages 122 and 123;

(*y*) by deleting clause 160 on page 123;

(*z*) by deleting clause 161 on page 123;

(*z.1*) by deleting clause 162 on page 123;

(*z.2*) by deleting clause 163 on pages 123 and 124;

(*z.3*) by deleting clause 164 on pages 124 to 126;

(*z.4*) by deleting clause 166 on page 126;

(*z.5*) by deleting clause 167 on page 126;

(*z.6*) by deleting clause 168 on page 127;

(*z.7*) by deleting clause 169 on page 127;

(*z.8*) by deleting clause 170 on page 127;

(*z.9*) by deleting clause 171 on page 127;

(*z.10*) by deleting clause 172 on page 127;

(*z.11*) by deleting clause 172.01 on page 127;

(*z.12*) by deleting clause 181 on pages 131 and 132;

(*z.13*) by deleting clause 182 on pages 132 and 133;

(*z.14*) by deleting clause 183 on page 133;

(*z.15*) by deleting clause 184 on page 133;

(*z.16*) by deleting clause 185 on pages 133 and 134;

(*z.17*) by deleting clause 186 on page 134;

(*z.18*) by deleting clause 187 on page 134;

(*z.19*) by deleting clause 188 on page 134;

(*z.20*) by deleting clause 189 on page 134;

(*z.21*) by deleting clause 190 on pages 134 to 136;

(*z.22*) by deleting clause 191 on pages 136 and 137;

(*z.23*) by deleting clause 192 on page 137;

(*z.24*) by deleting clause 193 on page 137;

(*z.25*) by deleting clause 221 on pages 171 and 172; and

(*z.26*) in clause 228,

(i) on page 177,

(A) by replacing lines 21 to 30 with the following:

"**228. Sections 173 to 179 and 227 come into force on a day or days to be**", and

(B) by deleting lines 32 to 44, and

(ii) on page 178, by deleting lines 1 to 4.

(*Pursuant to the Order adopted on November 7, 2006, all questions will be put to dispose of third reading of Bill C-2 no later than 3:30 p.m. on November 9, 2006.*)

Hon. Lorna Milne: Honourable senators, during my remarks on Bill C-2 at report stage, I noted that after reviewing the access to information provisions, members of your committee believed that there were cases where the balance between the right of Canadians to know and what information needs to be withheld for the greater good was not properly struck in the bill.

Your committee committed to restoring this balance through a series of amendments that I outlined during report stage debate. One of these amendments was intended to include in the bill a public interest override. The addition of the new clause 150.1 was intended to authorize the head of a government institution to disclose information that is, for any other reason, clearly in the public interest to do so. Clause 150.1 presently reads:

> The Act is amended by adding the following after section 26:
>
> 26.1 Despite any other provision of this Act, the head of a government institution may disclose all or part of a record to which this Act applies if the head determines that the public interest in the disclosure clearly outweighs in importance any loss, prejudice or harm that may result from the disclosure. However, the head shall not disclose any information that relates to national security.

During committee meetings, the Canadian Bar Association, the B.C. Freedom of Information and Privacy Association and the Canadian Newspaper Association all proposed adding a general public interest override for all exemptions. As I noted during my previous comments, similar clauses are found in the provincial access to information legislation in B.C., Alberta, Saskatchewan, Manitoba, Ontario and Prince Edward Island.

Shortly after reviewing these changes, it was brought to my attention that this amendment, as written, may have had an unintended consequence. Clause 150.1 possibly could now be interpreted to mean that all information relating to national security should not be disclosed.

It was never the intention of your committee to include a mandatory obligation on all government institutions to refuse to disclose any and all information regarding national security. We intend the Access to Information Act to operate in the same way that it always has in relation to requests regarding national security, using the injury tests that are provided throughout the act. The original amendment at clause-by-clause consideration was to clarify that the public interest override is not to be used to reveal secrets regarding national security.

This lack of clarity was brought to our attention by both the office of the Law Clerk of the Senate and the past Information Commissioner, John Reid.

MOTION IN AMENDMENT

Hon. Lorna Milne: Honourable senators, after listening to these concerns and discussing the matter with a number of colleagues, I have decided to move the following amendment. I move, seconded by Senator Day:

That Bill C-2 be not now read a third time but that it be amended in clause 150.1 on page 120 by adding after the words: "However, the head shall not disclose", the following:

"under this section".

This amendment will serve to remove any uncertainty regarding the use of the new clause 150.1, the public interest override.

• (1420)

The Hon. the Speaker: Senator Milne has the floor on the amendment.

Senator Milne: Honourable senators, as I said I would during report stage, I will describe some of the amendments made in committee to clause 227 of Bill C-2, which establishes a public appointments commission. I believe honourable senators will find it a revealing tale of good intentions gone wrong, and inevitable compromise.

Originally, the documentation that accompanied the federal accountability act stated, "the appointment process for agencies, commissions and boards is not as transparent or merit-based as it could be." Therefore, the papers continued, "the Federal Accountability Act will create a Public Appointments Commission in the Prime Minister's portfolio to oversee, monitor and report on the selection process for appointments and reappointments to government boards, commissions, agencies, and Crown corporations."

This sounded encouraging, and I was curious to see what the new government had proposed, so I looked up the first reading version of Bill C-2 and saw a section establishing the public appointments commission. It read:

228. The Salaries Act is amended by adding the following after section 1:

PUBLIC APPOINTMENTS COMMISSION

Establishment of Commission

1.1 The Governor in Council may establish a Public Appointments Commission consisting of a chairperson and not more than four other members to perform such functions as the Governor in Council may specify, and may appoint the chairperson and other members and fix their remuneration and expenses.

That was it. There was no legislated mandate and nothing about a term in office. In fact, in order to get a better idea of how this proposed commission would operate, I had to go to a press release dated April 21, 2006 and posted on the Prime Minister's website. The press release explained that the commission as originally proposed would, first, establish guidelines governing selection processes for Governor-in-Council appointments to agencies, boards, commissions and Crown corporations; second, approve the selection processes proposed by ministers to fill vacancies within agencies, boards, commissions and Crown corporations for which they are responsible; and third, monitor, review and evaluate selection processes in order to ensure that they are implemented as approved.

A number of amendments to the provision in Bill C-2 establishing a public appointments commission were made in the other place. These amendments included a series of functions for the commission to perform, an appointment process for those nominated to the public appointments commission, a term of office for commissioners and an obligation to produce an annual report that would be transmitted to both chambers of Parliament via the Prime Minister.

Senator Murray shared his thoughts on these amendments yesterday, and we must all decide whether to support his amendments on this matter.

Be that as it may, after reviewing this expanded set of proposals in Bill C-2, your Standing Senate Committee on Legal and Constitutional Affairs suggested further amendments. The first was simply to compel the government to follow through on its commitments to Canadians to establish this public appointments commission for all the reasons they had listed when they introduced the legislation. If this was an important enough tenet of the government's agenda for nominees to be presented for consideration long before the bill was to become law, why make the establishment of this commission discretionary? If this government is truly committed to this approach as the correct one to ensure accountability and transparency in the appointments process, it should not be discretionary.

The provisions establishing the public appointments commission were silent on how one would be reappointed to the commission if one were chosen to serve for more than one term. Bill C-2 was also silent on the need for the Prime Minister to consult with anyone in the Senate or the House of Commons regarding appointments to the commission. Therefore, your committee passed amendments obligating the Prime Minister to consult with the leader of each recognized party in the Senate before recommending a person for appointment or reappointment to the public appointments commission.

Honourable senators, given that a committee of this chamber will be mandated to study the annual report of the public appointments commission once Bill C-2 is passed, your committee felt it was only proper that this chamber should have some recourse to provide input into the appointment process for this commission.

Other changes proposed by your committee will compel appointees coming from outside the public service to educate themselves about the code of practice that will be established by the commission and will extend the length of appointment for commissioners to seven years. The latter change acknowledges that it will take time for a new commissioner to become familiar with the various appointment processes they will be charged to oversee and report on. Therefore, it was felt that an extended appointment period would be prudent and would allow Canadians to greater benefit for the accumulated experience of public appointment commissioners during the latter years of their appointment.

As I mentioned earlier, the journey of this public appointments commission reveals a tale of good intentions on the part of our current government to improve transparency in the appointments process. In my opening remarks I also spoke of an inevitable compromise. This compromise is one where the government took

the first steps to improving transparency in the appointments process but then showed unfortunate signs of reneging on this commitment to Canadians.

Your committee felt that, in order for this government to fulfil its clearly stated obligation to Canadians, the bill required an amendment to ensure the appointment of a public appointments commission. I believe that compelling this government to establish this PAC, along with all the other amendments that were moved by your committee, is the reminder that the government obviously needs that a public appointments commission really is in the best interests of all Canadians, and I urge all senators to support these amendments.

Hon. John G. Bryden: Honourable senators, I rise today to join in the debate on Bill C-2, the proposed federal accountability act. I would first like to commend all honourable senators who spent so many hours studying this very long and complex bill. I was not a member of the committee during that study, but I followed its proceedings closely.

I extend my congratulations and thanks to all who participated in this important study — Senator Oliver, who chaired the committee; Senator Milne, the deputy chair; Senator Day, who took on the task of serving as the main opposition critic on this huge bill; Senator Stratton, who took on the task of representing the government's position to witnesses and committee members; and all committee members who acquitted themselves admirably during this difficult task.

I extend my congratulations and gratitude as well to all the support staff — most important, Gérald Lafrenière, the committee clerk; and also to his colleagues who stepped up to assist in managing this extraordinary file. I understand that just about half of the staff of the committees branch was involved in this file in one way or another. I also extend congratulations and gratitude to the excellent staff of the law clerk's branch. We owe a huge debt of gratitude to all of them. It is clear to me that they have done an impressive job of examining this very complex legislation and putting forward amendments that will significantly improve it. This is another example of the contribution made by this chamber to federal law and policy.

• (1430)

Senators, like everyone who has spoken on this bill, I strongly support the objectives of Bill C-2, namely, increased accountability and transparency in the federal government. I should tell you, though, that without the committee's many amendments, it is far from clear to me that this bill would have achieved its stated objectives.

I share the view of one of the witnesses before the committee, Stanley Tromp, research director of the B.C. Freedom of Information and Privacy Association. He ended his opening statement as follows:

> I close with two lines from the British television series, "Yes Minister," an episode entitled "Open Government." Sir Humphrey Appleby, the supreme bureaucrat says, "I explained that we are calling the white paper 'Open Government' because you always dispose of the difficult bit in the title. It does less harm there than in the statute books. It is the law of inverse relevance: The less you intend to do about something, the more you keep talking about it."

Accountability really means accountability to Parliament. The question, then, is: Does this bill in fact enhance the ability of Parliament to call the government to account? I worry that it does not. In fact, it may, in the long run, have the opposite effect and undermine our parliamentary democracy by actually reducing the role of Parliament in holding the government to account.

The government and a number of honourable senators opposite defend this bill by pointing repeatedly to the Gomery report. They try to paint those of us on this side as being out of touch in questioning Bill C-2, suggesting it is essential in order to prevent the problem that led to the Gomery commission.

As Senator Mitchell pointed out here last week, Justice Gomery himself has said that there is not a single feature of this piece of legislation that accommodates his recommendations. Indeed, a number of witnesses before the committee were very clear that nothing in the bill would prevent another sponsorship issue. We already had all the rules that we needed; they were already in place. The problem was that the rules were not followed, and nothing in Bill C-2 would or could have prevented that.

Justice Gomery's report does not recommend the establishment of a director of public prosecutions, or a public appointments commission or even a procurement auditor. I note that Joe Wild, senior legal counsel to the Treasury Board, admitted under questioning that this was as misnomer. The bill really creates a procurement ombudsman, a person who would have absolutely no powers to audit procurement. I commend the committee for putting that name right in its amendments.

Justice Gomery did not recommend the merger of the Ethics Commissioner and the Senate Ethics Officer into a single office. As far as I can tell, Justice Gomery did not once suggest any problems with the existing offices at all. Many of the new positions and organizations that Bill C-2 creates are not the result of the Gomery report. At the same time, many of the changes Justice Gomery did recommend — for example, on issues such as access to information and whistle-blowing — were not reflected in Bill C-2. I am proud to see that the committee amendments would remedy a number of these omissions.

The real thrust of Justice Gomery's report was summarized in the opening paragraph of his introduction when he asked: "Where were the parliamentarians?" He said this question identified "a key failure in the management of the sponsorship program: the failure of Parliament to fulfil its traditional and historic role as watchdog of spending by the executive branch of government."

Indeed, his primary recommendation was the following: "To redress the imbalance between the resources available to the Government and those available to parliamentary committees and their members, the Government should substantially increase funding for parliamentary committees."

Witness after witness alluded to this and noted its conspicuous absence from the government's proposed accountability act — and, indeed, their famous federal accountability action plan. Honourable senators, there are 13 separate sections of the action plan, in addition to an introduction and a conclusion. None of these speak of increasing funding for parliamentary committees.

Instead, this government's approach is to interpose new officers and boards, essentially to take over those functions that under our parliamentary democracy have always been and should be the responsibility of Parliament. This was noted with concern by witnesses before the committee. Peter Aucoin, the eminent professor of public administration at Dalhousie University, testified before the committee. He had written an article entitled, *Naming, Blaming and Shaming: Improving Government Accountability in Light of Gomery*. In it, he looked at the Conservative Party's proposal, reflected in Bill C-2, to improve Parliament's capacity to hold the government to account. He wrote:

> What is noteworthy here is that the capacity of Parliament to hold ministers and officials to account is considered almost exclusively in terms of Parliament's agents and not MPs themselves. And, in the Canadian tradition — a tradition that is not shared fully by other Westminster systems — these agents or officers of Parliament are deemed to be "independent," that is, not subject to direction or control by MPs. Within their statutory mandate, they perform their oversight functions of audit, investigation and review as they see fit.
>
> It is not surprising, accordingly, that the Conservatives would propose reforms to improve government accountability that draw their inspiration from the model of the Auditor General — the pre-eminent independent officer of Parliament. One could almost say that MPs have agreed to "contract out" the duty of Parliament to hold ministers and officials to account to their parliamentary agents.

Sharon Sutherland, a professor at the school of public studies at the University of Ottawa, told the committee:

> Bill C-2 is not a Conservative bill; it is a radical bill. If it is passed, we will detach ourselves from institutions that we know or could come to know again for an unknown destination.

David Smith, professor emeritus of the University of Saskatchewan, testified to his own concerns with Bill C-2's emphasis on officers of Parliament. He said,

> There is a constitutional theory, more American than Canadian or British, that sees auditors and officers such as the officers of Parliament as constituting an integrity branch of government. The phrase is Bruce Ackerman's, a professor of law at Yale.
>
> Whatever its validity in another political system, the concept of an integrity branch of government, which uses agents of Parliament as its components, does not fit well with the Canadian Constitution.

Honourable senators, I am concerned about the direction in which this bill and this government are taking the institutions of Canadian parliamentary democracy. I am particularly concerned that this government may not fully understand the potential consequences of the changes it is introducing.

Arthur Kroeger, the eminent former mandarin who served with great distinction as deputy minister for a number of departments, and whose knowledge of our system of government is, I think, universally recognized, told the committee that there were a number of elements in Bill C-2 that, as he graciously expressed it, "might have come out differently" had they been written "by a government with more experience in office."

I echo his concerns and add my own. Do we know what we are setting in motion with these changes, honourable senators?

Professor Smith also voiced these concerns, using the example of the proposed creation of a single ethics commissioner for the two chambers of Parliament.

• (1440)

He told the committee:

> Something more fundamental is at stake than a lack of recognition of difference in personnel. As well, there is disregard for the corporate and cultural distinctiveness of the two Houses of the Canadian Parliament. In other words, there is an inadequate recognition of the imperatives of bicameralism. Symbols are important in politics, and the bill communicates a disregard for the distinctiveness of the two chambers.

He later continued:

> To those unfamiliar with political institutions and the Constitution, the number of ethics overseers may seem an inconsequential matter. The preceding argument suggests otherwise. There are practical and symbolic reasons to recommend against the introduction of a single ethics commissioner for both Houses of Parliament.

Professor Sutherland succinctly expressed my own concerns with this bill when she said:

> What alarms me is that the proposed legislation may just put the system into motion in ways that we cannot anticipate.

There are elements in Bill C-2 that I believe could assist parliamentarians to do their job better. For example, the proposed parliamentary budget officer could be of enormous assistance in better positioning parliamentarians to hold the executive to account, but — and this is a big "but" — it will depend whether the officer is given the resources he or she needs to be able to fulfil the promise of the position. Simply creating the office is not enough.

Mike McCracken, the Chair and Chief Executive Officer of Informetrica, told the committee:

> If you want to be serious, you should be looking at a staff in the order of 50 to 150, consulting budgets, subscription services, a website to run it and a budget of about $15 million.

Senator Day asked Bill Young, the Parliamentary Librarian under whose auspice this officer will work, about the estimated budget for this office. He was told that the Library had been

looking into this but was "really drawing numbers a bit out of the clouds." That sounds to me a little like a nice idea, but one that had not been fully thought through or costed out, even five months after Bill C-2 had been tabled in the other place.

This makes me ask: How serious is the government, really, about better equipping Parliament to hold the executive to account? The numbers that were discussed were a small fraction of Mr. McCracken's $15 million.

Honourable senators, I worry that this, as one witness described another part of Bill C-2, is really smoke and mirrors. Perhaps this government learned the wrong lesson from Sir Humphrey Appleby and indeed decided to focus on the title of the act and make loud speeches about accountability, but when you look at the nuts and bolts of their proposal —

The Hon. the Speaker: Senator Bryden's time has been exhausted.

If he were to ask —

Senator Fraser: May he have five more minutes?

Senator Stratton: Five minutes.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Bryden: Honourable senators, perhaps this government learned the wrong lesson from Sir Humphrey Appleby, and indeed decided to focus on the title of the act and make loud speeches about accountability, but when you look at the nuts and bolts of their proposal, true accountability and transparency is seriously lacking.

Congratulations to our Senate committee. They have done what they could to see that accountability and transparency are actually reflected in this bill. Because of their excellent work, I will support this bill.

Senator Corbin: The problem is that the bolts do not have nuts.

Hon. A. Raynell Andreychuk: I rise to speak at third reading stage of Bill C-2.

Before proceeding, I want to thank the clerk of the Standing Senate Committee on Legal and Constitutional Affairs and all the staff, too many to be named in this chamber, who worked under very unusual circumstances and extensively long hours to accommodate both sides of this chamber.

We have been through a very long process with this bill in the Senate. We received it on June 22 following extensive study and amendment of over 100 clauses in the other place. The bill was given due consideration at second reading stage and then went to the Standing Senate Committee on Legal and Constitutional Affairs, where we began examination on June 27, 2006.

That was the first of 28 committee meetings held from the end of June through September, including the three weeks that we are normally on break, and then through October. During that time we heard from 158 witnesses, well over twice the number who appeared before the committee in the other place.

Much has been said about our role in legislation. From my perspective, I wish to reiterate that the Legal and Constitutional Affairs Committee scrutinizes bills that come from the other place in order to ensure the effectiveness of the legislation, to ensure its viability, operability and legislative and constitutional compliance. We seek to determine if a bill is in proper order; if it complies with the Constitution and the Charter; if it is consistent with good legal drafting practices; and if there are associated unintended consequences that we need to deal with.

We consider legislation with an eye to improving it, not to changing the policy intent behind it. We do not tread on the will of the government, nor do we change the methodology chosen to exert that will. If we do, we are entering into partisan politics, and we say in this chamber that we are independent.

Senator Mercer: Welcome to fantasyland.

Senator Andreychuk: In support of these principles and approaches that guide our behaviour, I would like to join with my colleagues who have spoken before me, Senators Nolin and Joyal, when they spoke at the report stage and referred to *Protecting Canadian Democracy*. In particular, I want to quote the Right Honourable John A. Macdonald, who said about the role of the Senate:

> It must be an independent House, having a free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill-considered legislation which may come from that body but will never set itself in opposition against the deliberate and understood wishes of the people.

Rather than focusing on this principle and the admonition embedded in the use of the word "never," Senator Joyal, I believe, focused on the 44 instances that this chamber has set itself in opposition to the wishes of the people. If I am correct, he then took guidance from those instances and made his case for one substantive amendment to Bill C-2.

Honourable senators, I want to now discuss whether this bill is an instance where the chamber should set itself up in opposition to the wishes of the people. In fact, many of the technical amendments arose as a result of the swift changes in the House. Clearly, these types of amendments go to improving the bill upon reflection, and no doubt, as we in the Legal and Constitutional Affairs Committee have often noted, once a practice is instituted by way of implementation of a bill, other improvements are always noted. No piece of legislation remains static.

As I said in my comments at report stage, many of the amendments put forth by both sides of the committee were technical in nature; they either improved the administration of the bill or clarified its language. Since no bill is perfect, I am pleased that honourable senators on both sides of this chamber were able to work together to improve the legislation in this way.

I want to point out that the curious indication that this bill would not be subjected to the usual good scrutiny that the Legal and Constitutional Affairs Committee routinely gives to bills was noted when Senator Day did not wish these amendments to be called "technical." In retrospect, what was to come by way of amendments — and the sheer volume of them — could be construed, if spun mischievously, as saying that these amendments proved the need to dramatically overhaul this piece of legislation, and this is not so. In fact, the sheer number of amendments, stripped down, point out that there were some good, technical amendments for simple clarification of the bill, while not changing the direction or the content of the bill. These, in turn, led to a whole host of amendments that are simply consequential amendments. For instance, if you change the words "senior public office-holder" to "designated public office-holder," a series of consequential amendments is necessary. However, interspersed with these technical amendments grew an accelerating number of substantial changes to the bill, both in committee and now on the floor of the house, which separately might not change the purpose of the bill and the methodology of the public policy that the government had chosen. However, honourable senators, make no mistake that if these amendments are passed in total, there can be no dispute that we have interfered and attempted to govern and usurp the executive's role and, as a result, have clearly thwarted the government's wish to bring accountability as they perceive the people's will and as they perceive they could accomplish it.

• (1450)

I would like to set a couple of examples before honourable senators. The Liberal senators amended the bill to permit the disclosure of the Auditor General's working papers created or obtained during the course of an audit. On this point they decided to take the advice of Alan Leadbeater, Deputy Information Commissioner, while completely ignoring the Auditor General's warnings. She pointed out that his recommendations would put a chill on her work. She told the committee:

> We also take exception to the Deputy Information Commissioner's statement that the quality of our audit work can only be assured through the public access of journalists and others to our audit papers. This view does not recognize the many internal and external mechanisms that we have to ensure that we maintain the highest professional standards and quality in our audit work.

She further stated:

> What particularly concerns me is working papers being released while an audit is going on, or shortly after an audit, which is the case now. People have not been able to validate those things and erroneous information could be made available. As long as the audit is protected while it is going on, and for some period of time afterwards, that would be fine.

Clearly, this Liberal amendment intends to improve openness but has precisely the opposite effect.

Another amendment made by Liberal senators on the committee was to protect the priority status of exempt staff for one year after they leave their position. This runs completely contrary to the government policy of eliminating the priority list for exempt staff that enables them to go into a public service position without having to compete for it, effectively giving them, in my opinion, a free ride into the public service. There is more than a hint of entitlement in this amendment because it will benefit former exempt staff under the previous Liberal government. As Senator Day told the committee:

> They would lose their earned priority status. That is what we are trying to avoid.

However, he did not explain how a staffer "earns" his priority status.

Senator Day also pointed out that the purpose of the amendment was "basically to preserve." I would suggest that most Canadians would not support preserving this kind of policy. We want our public service to be based on merit. While our Liberal colleagues have said that they support accountability and, in fact, on the record support this bill, I would ask whether it is their version of accountability from previous practices that they support or the new government's version. The Conservative government has promised to change a culture of entitlement and establish a new strategy for addressing the problem of lack of accountability in Canada. The substantive amendments proposed by the other side of this chamber substantially change, obfuscate, dilute or extinguish the new government's plan of accountability. Honourable senators, I sat in opposition for many years and there were often times when I disagreed with government bills and their approaches; so I know the temptation. However, the principles, conventions and our role in the parliamentary process are important. We cannot deliberately set these aside for partisan purposes.

I have already stated my deep concerns for the extensive amendments and the 59-page document that was attached, by force of majority, as observations of the Legal Committee. Clearly, these could be nothing more than a report in support of amendments brought into play in a partisan way. These observations can best be described as 59 pages of politically charged rationale on why the Liberal members of the committee substantially changed the bill. To point this out by way of example, I touch on the section regarding the proposed director of public prosecutions, which raised several matters, such as the opposition's perceived lack of need for a DPP, especially to deal with prosecutions under the Canada Elections Act, and the appointment process for the position. This matter of the DPP was also raised during committee hearings. Yesterday, Senator Mercer and Senator Baker spoke to the subject of the DPP once again, with Senator Mercer commenting, "If it ain't broke, don't fix it."

With all due respect to my honourable colleague, as the Justice Minister told the committee back in June, the position has not been created to correct a problem that has already occurred but to "prevent problems from arising in the future." Some comments and related amendments reflect an underlying attempt to draw an equation between the American-style special prosecutor and the proposals here. Honourable senators, this is based at best on a misunderstanding of the issues. Robert Frater, Senior General Counsel, Justice Canada, tried to clarify this when he told the committee on June 29:

> Bill C-2 does not adopt an American-style prosecution whereby DPPs would have their own investigative force to prepare the investigation, after which the charge would be

initiated. Things would be just as they are now where the police or other investigative agency would do the work, come before the Attorney General and have the Crown review the charge, depending on the jurisdiction, before it is laid. The bill is not intended to signal any kind of change in that respect.

He further stated:

There is nothing about the bill that ought to be perceived as affecting the independence of the police or other investigative agencies.

As honourable senators are aware, the DPP is found in Commonwealth nations such as the United Kingdom, Kenya and Australia. It is the example of Australia, not the United States, that provides the model for the position of the proposed DPP as provided for in Bill C-2. On its web page, the Australian Office of the Commonwealth Director of Public Prosecutions describes the position as "an independent prosecuting agency."

The Hon. the Speaker *pro tempore***:** I am sorry to interrupt but the Honourable Senator Andreychuk's time has expired. Is she asking for leave to continue?

Senator Fraser: Five minutes.

The Hon. the Speaker *pro tempore***:** Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Andreychuk: It further notes that "...the Office operates independently of the Attorney-General and of the political process." I could continue but I believe I have made my point. The proposed director of public prosecutions is based on sound principles. It is a position that I believe we could adopt to solve problems before they arise.

Before I finish my remarks, there is one more matter that must be dealt with today. It has come to my attention that there is a technical amendment that should be made to Bill C-2. This matter was raised at committee but defeated by a show of hands. I must point out that, at the time this motion was submitted, not everyone had a copy of the amendment and there was some confusion between this motion and another being tabled by the opposition. Unfortunately, the explanation given to the committee by Treasury Board officials about the impact of this amendment was not as complete as it could be and no illustrations were provided that would have helped us to better understand the amendment.

The analysis that opposition senators used to decide whether to support the amendment was based on the assumption that this amendment conflicted with another amendment presented by the opposition. The amendment conflicted because it referred to a section of the bill that the opposition later moved to delete, specifically where the amendment refers to subsection 6(2) and sections 21 and 30, which were deleted and explains why the opposition would not want that portion of the amendment included.

• (1500)

MOTION IN AMENDMENT

Hon. A. Raynell Andreychuk: To assist the members of the opposition and the government, I move:

That Bill C-2 be not now read a third time but that it be amended in clause 2 on page 32, by replacing lines 23 to 25 with the following:

"**64.** (1) Nothing in this Act prohibits a member of the Senate or the House of Commons who is a public office holder or former public office holder from engaging in those".

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

Senator Andreychuk: Without this amendment, honourable senators, a former cabinet minister who ceases to be a cabinet minister but remains a parliamentarian would not be prohibited from working with the department of which he or she was once head on behalf of his or her constituents. The problem with the bill as it exists is that a provision of the Conflict of Interest and Post-employment Code for Public Office Holders was not carried over into the conflict of interest act. Without this amendment, some MPs and senators would be placed in a conflict of interest by virtue of the office they hold. For example, the Honourable Ken Dryden would not be able to contact Social Development on behalf of any constituent who had not received his or her old age security cheque. I do not believe we want this unintended consequence. This was clearly an oversight, and I would urge parliamentarians to support the amendment.

Honourable senators, the bill before us today is a heavily amended version of the one we saw last June. It remains to be seen how the Senate efforts will be seen by the people of Canada in strengthening accountability.

Hon. Lowell Murray: The honourable senator sought and received an extension of five minutes to her time. I believe she still has a little bit of time left. Would she accept a question?

I believe the honourable senator has a notice of inquiry concerning the practice of appending observations to legislation. I agree with her concerns about that and I hope to take part in the debate, with a view to regularizing the process and putting parameters around it. This is a matter we have returned to not infrequently over the past 15 or 20 years.

Second, I agree with the honourable senator concerning the amendment by the committee that would force the Auditor General and government departments to disclose internal working audits. I wish, therefore, that she would join in supporting my amendment to remove all the provisions relating to access to information and privacy until we have had an opportunity to stand back and see what we have wrought over the past 20 years or so with some of these officers and agents of Parliament.

Where did the honourable senator ever get the notion — and she is not the first to have brought it up in this debate — that the Senate ought not to impinge on the policy priorities and prerogatives of the government in our activities, in our

amendments and in our votes? If we were ever to have accepted such advice, I and she would have remained mute in a number of debates in which both of us expressed ourselves by way of amendment or vote; in my case, the patriation of the Constitution and the National Energy Program, and in all our cases, amendments to the Unemployment Insurance Act, the attempt to postpone redistribution, the Pearson Airport matter and the gun registry. All of these matters were put forward as policy priorities, in some cases even election promises by one Liberal government or another, and I felt no compunction at all, and would still feel no compunction, about amending them or voting against them.

Senator Andreychuk: I think I prefaced my remarks by saying that the Senate has in fact moved in on public policy, but we have to do it sparingly and cautiously. I have come to the conclusion that we have to understand, as my colleagues in this chamber for 13 years have reminded me, that we are appointed senators and that when we move into direct confrontation with the government on its policy, we should do it in a measured and cautious way and not at every political opportunity.

I have no problem with voting down legislation if it is a question of conscience, fundamental belief or constitutionality. However, if it is to trade one political partisan imperative for another, I question whether we can survive in this day and age as an appointed house.

Hon. Terry M. Mercer: Perhaps the honourable senator could answer another question. At the beginning of her speech she thanked the committee, the staff and everyone involved and talked about when the bill came to this place and when it went to committee. I was impressed by that. Then I consulted my own notes and noticed that we have had 140 witnesses before the committee, through 98 hours of meetings.

Would the honourable senator consider this chamber to be dragging its feet, if she praised the good work of the committee, which heard 140 witnesses in 98 hours of meetings?

Senator Andreychuk: Senator Mercer, I do not intend to go into whether the committee or the opposition are dragging their feet. I think others will make those judgments. I think we sat for an unduly long time. We had a process that we need to reflect upon. I recall a number of bills that were as complex as this.

The Hon. the Speaker *pro tempore***:** I am sorry, Senator Andreychuk. Your time has expired.

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, with the introduction of Bill C-2, the government took on an extraordinary challenge, that of renewing the people's confidence in their public institutions, specifically those that operate in the sphere of federal activity. The debate on this government bill was highly politicized, and I feel that, in this very partisan discussion, we have not really managed to raise the level of debate.

One important fact remains for anyone interested in governance issues. It is not simply a matter of being for or against; it is about knowing how to institute good governance.

Over a year ago, we all experienced the repercussions of the Gomery commission report. In his first report, Justice Gomery focused on attributing the responsibility shared by the various players administering the sponsorship program. His second report made suggestions and recommendations to both modernize and reconfigure Canada's federal governance structure.

With more than 300 clauses, 264 pages and 13 themes, the Federal Accountability Act is ambitious and, above all, complex. Its vision of ministerial accountability is old-fashioned because, over time, the size and complexity of the state have changed considerably.

• (1510)

This concept of governmental responsibility needed to be re-examined, to go beyond simple blame and to come back to the intrinsic concept of accountability. Most of all, the theatrics needed to be dropped from Question Period, which is often unproductive. In that sense, the bill has the merit of clarifying and reinforcing the accountability of senior officials, deputy ministers and agency heads, and outlining a methodology to promote such disclosure.

We can see real progress in a number of aspects. To those who are already decrying the harmful effects of certain measures, to those who maintain that the problems raised by the bill exceed its positive consequences, I gladly quote to you the former President of the French Republic, François Mitterrand, who said:

> We must wait for time to do its work.

Through this bill the government is proposing the implementation of certain necessary benchmarks to consolidate a collective definition of governance and public ethics.

Internationally renowned Quebec sociologist Fernand Dumont, in his book *Raisons Communes*, maintained that public ethics are a demonstration of the quest for compromise found within our communities, seeking to counter the threat of fragmentation and confrontation, which weaken the ability to live as a community.

He said that the discovery of these new collective reasons, or "raisons communes," gave new meaning to collective life, life as a citizen. For everyone in political life, battered by the troubles of the past few years, we truly need to put in place a new approach that will ensure our social cohesion.

We have seen that the lack of trust affecting the relationship between power and the public paralyzes community action by constantly casting doubt on choices and disputing its legitimacy. It is true that, in a sense, public ethics is part of a democratic reconfiguration movement trying to compensate for the crisis of legitimacy in the political system. That is why this bill was introduced.

There is more, however. Contrary to the comments made by the Institut québécois d'éthique appliquée, I believe that Bill C-2, although far from perfect, responds in its own fashion to the unification of three important values, namely, responsibility, respect and equity.

Certain provisions of the bill cleverly lead us into the field of ethical responsibility, an area that is related to accountability. While accountability provides a minimal normative framework, responsibility ensures the freedom of action that everyone needs.

In a certain sense, we have managed to successfully reconcile freedom of action and accountability. As for the need to take a second look at an issue in order to avoid unnecessarily offending someone or certain parties, the bill has established a system concerning the individuals affected by the application of this new measure, by creating a new way of operating and reporting.

Finally, with respect to equity, which is a fair evaluation of what each person deserves, this bill will become a crucial addition to the various standards, rules and legislation that govern the day-to-day decisions of public office-holders.

With this bill, the government's new approach succeeds in defining and reconciling three concepts, namely, departmental responsibility, democratic governance and on-going financial auditing. The government was able to avoid the pitfalls, such as restructuring public administration to provide checks and balances on political power. At a time when administrators' remarks disregard the complexity of values, power, decision-making practices and public institutions, one must be wary of the notion of systematically weighing the results against the processes.

In a democracy, however, the processes are no less important than the results. Canadians will not tolerate problems with the election process, yet some of our citizens are completely indifferent to the results.

Part 1 of the bill addresses significant political reforms designed to ensure that elected representatives and public office holders make decisions in the best interest of Canadians.

These proposals enact various conflict of interest codes and give the new Conflict of Interest and Ethics Commissioner the authority to administer those codes. Through changes to the Canada Elections Act, the bill considerably reduces the influence that money may have on the political process and returns that influence to the voters.

By entrusting the mandate of enforcing the proposed lobbying act to the Commissioner of Lobbying and by prohibiting ministers, ministerial staffers and senior public servants from lobbying the Government of Canada for five years after they leave their positions, the bill guarantees that lobbying will be more transparent and more ethical. Bill C-2 establishes new public spaces, to quote Professor Dumont once again:

> ...where the freedom of some does not trample the freedom of others, where value is attached to the advancement of individuals for a common good that all may partake of but not appropriate for themselves.

We are entering an era where public decision makers are self-regulated. These various mechanisms, processes and institutions must remain fundamentally functional, and not subject to challenges. We should not consider public ethics and governance as foretelling the end of the political; they should be considered instead as tools to assist with political decision making.

To paraphrase Montesquieu, we must strive for a healthy balance of power. Ethics cannot replace the political but it provides a contemporary interpretation of the new democracy sought by the population. In a collective works on public ethics, author Yves Boisvert offers the following:

> The resumption of dialogue between the political system and its social environment and the self-regulation of society are the factors required for the logic inherent in a functional democracy to exist in our societies that are conditioned by the pluralism of morals and ideologies.

Honourable senators, it is our parliamentary responsibility to facilitate the establishment of mechanisms and structures that will help encourage the development of an individual and collective maturity underlying the principle of good governance and public ethics.

This bill establishes what one might call the ethics of structures. It will be necessary in future to conduct an on-going review of the ethics of government practices. This debate calls us to reflect on a series of major themes revolving around this concept of ethics: conviction, accountability, constraint and freedom, the individual and society, conscience and necessity.

I promised the committee that I would propose an amendment, which I will table. I would like to explain what is involved before tabling the amendment.

• (1520)

On page 176, in clause 227 of the bill, the expression used in French to translate "Code of practice" was incorrect, as I think we all agreed in committee. The expression used was "code pratique."

The article "de" was missing, which changed the entire meaning of the word that followed. Was it supposed to be an adjective or a noun? I asked the law editor to review the issue and to draft an amendment, and he obtained, backed by his research, a linguistic opinion from experienced staff at Parliament.

I want to warn you that I am going to read the findings of this notice, but first I would like to sum up what it is about. In Canadian French, we mainly use the expression "code de pratique." In the federal Canadian legislative corpus, we will only find the expression "code de pratique," while the expression "code pratique" does not exist. It is nonetheless used sporadically in certain regulations, but the expression "code de pratique" is used much more frequently. In Europe, the opposite is true. They use the expression "code pratique" as an equivalent to our expression "code de pratique."

That is why the linguists found:

> In light of this research, I find there is a notable difference between Canadian usage and international usage. In Canada, those who draft bills seem to prefer the expression "code de pratique", while in Europe their counterparts seem to prefer the expression "code pratique". In my opinion, both expressions are correct on a linguistic level and their usage is legitimate.

In Bill C-2, the expression "code pratique" is, in my opinion, properly used to render the English expression "Code of practice," even though it departs slightly from traditional Canadian usage.

Honourable senators, despite all that, I have decided to table the amendment because it seems much more straightforward, at least for francophones reading this legislation, to see in the French version an expression we are used to seeing even though our European counterparts are used to another way of doing things. I preferred to table the amendment.

MOTION IN AMENDMENT

Hon. Pierre Claude Nolin: Regarding the French version of the expression "Code of practice," I move:

That Bill C-2 be not now read a third time, but that it be amended, in clause 227, in the French version,

(*a*) on page 176,

(i) by replacing line 19 with the following:

"*c*) établir un code de pratique régissant les",

(ii) by replacing line 29 with the following:

"l'observation du code de pratique",

(iii) by replacing line 31 with the following:

"tion du code de pratique par le gouvernement et ",

(iv) by replacing line 40 with the following:

"lement de mandat relevant du code de pratique"; and

(*b*) on page 177, by replacing line 9 with the following:

"tout incident de non-observation de son code de".

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Nolin, seconded by the Honourable Senator Andreychuk, that Bill C-2 be not — May I dispense?

Hon. Senators: Dispense.

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, would Senator Nolin answer a question?

Senator Nolin: Yes.

[*English*]

The Hon. the Speaker: Senator Nolin's time has expired. Perhaps he wishes to ask for leave to extend his time.

[*Translation*]

Senator Nolin: Yes, I am asking for leave to extend my time so I can answer questions.

Hon. Senators: Agreed.

Senator Fraser: Honourable senators, this debate is fascinating. I am an anglophone, so when people talk about language problems, I try to think of what the English equivalent would be. When you talked about the difference between "code de pratique" and "code pratique," the translation that leaped to mind for "code de pratique" was "code of practice," but "code pratique" would be "practical code," that is, something doable, practical, and realistic to the point that it can be put into practice and used. Do you think that is an appropriate interpretation?

Senator Nolin: That is precisely why I am proposing this amendment, because all members of the Committee on Legal and Constitutional Affairs and I agreed with that interpretation. I agreed to introduce the amendment at the third reading stage specifically because that gave me time to find out more. I was surprised to read the language advisors' opinion. That said, I still come to the conclusion that we cannot, at least not in this example, use a noun to describe an attribute of the code. I would hope a "code de pratique" would be practical, but it is a "code de pratique." I think there would be a similar nuance in English.

[*English*]

We hope that the code of practice would be practical.

[*Translation*]

That is how an adjective, epithet and noun differ. I agree with you. That is why I decided to propose the amendment notwithstanding. In all our wisdom, if there is a way to insert it, we will find that way.

[*English*]

Hon. Lorna Milne: These are several amendments that we were discussing in committee. The honourable senator brought them up several times. At the time, I was expecting the honourable senator to move an amendment, but he is moving it now at third reading. Is that correct?

Senator Nolin: That is right. I waited for third reading because I was not sure of the real intent of the English words "code of practice" and the French words "code pratique," and it came to me as evidence that there were two meanings; one in English, which I believe was the real intent of the government, and the other in French, which was not the real intent.

Now, we all want that code of practice to be practical.

[*Translation*]

In French, yes, we want the code of practice to be practical, but those are two different things.

Hon. Céline Hervieux-Payette: Honourable senators, this is not the first time I have spoken to a specific part of this bill that has already been addressed individually by our colleague, the chair of the committee, during the debates on Bill S-13, and on Bill C-11 introduced by the previous government, and when this measure was announced by this government during the Speech from the Throne.

My principles have not changed since then, nor have I changed my mind, which is why I asked to speak today, to share my thoughts with you. Even though I have something to say about the remainder of the bill, without a doubt, my colleagues did excellent work in committee.

I sit on the Standing Senate Committee on Banking, Trade and Commerce, which addressed certain questions concerning whistle-blowing. I touched on these issues in a roundabout way. Why do I oppose this notion of whistle-blowing? This measure goes against Canada's democratic process and leaves me feeling uneasy. Personally, I believe this measure goes against the very foundation of a civilized society. It will result in the destruction of the most fragile aspect of relationships among Canadians, that is, trust.

The notion of whistle-blowing assumes that most Canadians have dishonest intentions and that, in order to protect the integrity of the system, we must implement a measure that I find iniquitous. It calls upon our most vile emotions by denouncing those acts that appear to be in conflict with the laws and procedures of our country or our government. This measure is likely to paralyze all initiative, because people will no longer be appraised based on their creativity and initiative, but rather on how well they follow the rules, which are now endless and limiting, within a large administrative body that will operate based on process and not on results.

• (1530)

Institutionalizing whistle-blowing also leads to the abolition of a cardinal rule of criminal justice; the presumption of innocence, which goes along with proof beyond a reasonable doubt.

In short, the whistle-blower can ruin the reputation of a superior or a rival for a position. If the investigation finds that the whistle-blower's victim merely made an ill-informed decision or that the victim did not have the tools to do his or her job properly or simply committed an error in good faith, that person's reputation would still be ruined forever.

The introduction of this system scares me, as a middle-aged person, and makes me think of a system described in books, where witches — the most famous being Joan of Arc — were denounced for the good of society. A person accused of being a witch was sacrificed because that suited everyone's purposes.

I think that whistle-blowing has no place in an enlightened society. It is a dangerous tool, and there is no remedy for the damage done to the reputations of people who are wrongly accused. Innocent victims will be stigmatized for the rest of their lives.

My vision of justice is based on the principle that it is better to be the victim of a dishonest act than to destroy an honest man's or an honest woman's reputation.

In my opinion, whistle-blowing can be likened to the Haggard syndrome, an expression I recently discovered. Haggard, an American pastor who was leading a double life and was called to account for his actions, persisted in acting like an honest person who preached honesty and had nothing to hide. He gave speeches and sermons, wrote books and appeared on television programs, always cloaked in the white gown of purity and honesty. There is an expression that aptly sums up this sort of situation: a whited sepulchre. It looks good on the outside, but it is rotten inside.

I feel that the clauses in Bill C-2 that pertain to whistle-blowing are a vile smokescreen our society does not need. Our friends the French say that making whistle-blowing mandatory amounts to downloading the employer's responsibility for obeying the law onto the employees.

It could also be said that requiring individuals to inform on others is contrary to the labour code in France, as it is a measure disproportionate to the objective sought. Our European friends do not regard this measure as helpful in ensuring the integrity of the system.

In the United States, however, whistle-blower legislation has existed for over 30 years. Did these measures prevent WorldCom or Enron from committing fraud?

As a result, our neighbours recently adopted the Sarbanes-Oxley act. Do they believe that the financial sector will be a beacon of honesty and transparency in the years to come? No one believes that this law will imbue the financial sector with higher morals.

American companies are introducing despicable systems. I would like to share some information in this regard with you. A company that I will not name says that it has established a telephone and Internet monitoring system that operates 24/7. This system makes it possible for employees and third parties to report, in confidence and anonymously, misconduct in the work place, as well as their concerns, disagreements and suggestions.

The company's solution is technology-based in order to provide employees with a means of reporting misconduct in strict confidence and to feel more engaged with and connected to their organization.

This anonymous and confidential system for reporting misconduct was designed to meet the needs of users and to provide a real-time, integrated case management system enabling managers to examine, on-line, the anonymous reports made by employees. I am speaking of a system that exists, that is being used at present and that is advertised. It is available to our Canadian companies.

Honourable senators will understand that a society cannot move forward with this type of system.

I will return to the reasons for adopting legislation that supports whistle-blowing. Together with my colleagues, I would like to examine this from the ethics perspective.

I want to speak again of the meaning or description of the term I was looking for previously and that I would like to share with you a second time.

It is important, as my colleague pointed out, to remember the meaning of words. In the dictionary *Le Petit Robert*, "denunciation" is associated with slander and malicious gossip; the definition is "to denounce, betray and sell out". In the same definition, on page 180, it says: "to develop, as all dictatorships do, a despicable mentality of denouncing and discord." Again, that was in *Le Petit Robert*.

Honourable senators, Canadians who were born here and new Canadians do not want a country of denunciators. When you have the audacity to suggest, in the name of ethics, adopting measures in legislation that would reward denunciators, like certain American laws do and this bill would do, I am saddened and distressed.

The government must treat every one of us with respect and believe that every Canadian citizen is a positive element of our society, and that leaders can rely on such people who, for the most part, are upright, honest and able to surpass themselves for their country and their family.

Our democratic system has been centuries in the making and has cost the lives of millions of citizens who were denied freedom and even executed as a result of denunciation. Today, some would have us believe that we need to systematize denunciation, the most heinous weapon of totalitarian regimes.

Another author, Michel Labourdette, a professor of moral theology, discussed denunciation. According to him, it is not a legitimate tool for a government and that using it can only be a base act.

Certainly it is often a temptation for an authority, in order to take unawares people who do not otherwise stand out. It is an easy solution, and therefore always tempting.

In his criminal law dictionary, Canadian professor Jean-Paul Doucet mentions that requiring the denunciation of an act must be reserved for situations that are particularly serious in a liberal democracy. Only leaders of totalitarian states would want the masses to live in a climate of denunciation.

It goes without saying, honourable senators, that these reflections by important thinkers in our society are behind my decision not to support this section of the bill.

While the current government, by tabling its bill, cloaks itself in honesty, integrity and ethics, I have learned, in the meantime that, at the advisory committee on judicial appointments, the Minister of Justice is preparing to appoint another member of the committee in order to politicize the selection process. I did not learn that from a denunciator; I found that out in the course of a conversation.

This brings me back to the Conservative government's Haggard syndrome, which causes it to preach and legislate about ethics while acting otherwise.

I will not be proposing any amendments to Bill C-2 and I am pleased to participate in this debate. Nevertheless, I give notice that I cannot support this bill because it is not in the best interest of Canadians; it Americanizes Canadian society and it forgets too easily that Nazi and fascist regimes relied on denunciation to control the people.

In the name of ethics, I would ask honourable senators to give serious consideration to the dramatic consequences of a law based on denunciation.

[*English*]

Hon. Hugh Segal: Would the honourable senator accept a question?

Senator Hervieux-Payette: With pleasure.

Senator Segal: I noticed during the translation of the honourable senator's comments —

[*Translation*]

Our translators have used the word "denunciation" in English for "dénonciation" in French.

[*English*]

— denunciation, whereas I think the meaning in the act is, in fact, whistle-blowing. Certainly, to take Senator Fraser's sensitivity on these issues, the meaning of whistle-blowing is substantially different from the meaning of denunciation, en anglais. For example, the honourable senator made reference to a third-party organization in the private sector that accepts denunciation.

• (1540)

In fact, what has happened with many of the changes in securities legislation, Sarbanes-Oxley, is that many corporations have set up, as you will know, legitimate whistle-blowing processes whereby employees who become aware of what they think may be a misdeed, a misrepresentation of facts, or a lack of compliance with the law, have an independent person to whom they can register that concern so it can be looked at appropriately within the context of due process. The fact that a third party organization might be contracted outside a company to do that sort of activity is an effort on the part of many companies to ensure that they are absolutely even-handed and transparent in the management of these kind of complaints, however well-founded they might be.

The question I put to the Honourable Senator Hervieux-Payette is as follows: The reference to fascism and the use of "denunciation" is pretty strong and compelling language, all of which is to make all of us reflect on the very seriousness of the proposals and concerns that the honourable senator is addressing.

Does the honourable senator believe that a constructive regime to protect whistle-blowers, to enhance the capacity of whistle-blowers to engage in the process without facing immense personal risk, is in and of itself a violation of both civil liberties and good public process with respect to the public administration in Canada?

[*Translation*]

Senator Hervieux-Payette: Honourable senators, first, I would say that the words "dénonciation" and "délation" are synonymous in French, so the nuance the honourable senator is making would not convince me to agree with the provisions in the Sarbanes-Oxley act.

As I said, honourable senators, the French recognize that this measure, which is intended to ensure that a company is well-run, that all employees are doing their jobs and that nobody is committing fraud, is the employer's responsibility, not the employees'.

For me, this is a question of violation of privacy. I tend to agree with Privacy Commissioner Jennifer Stoddart, who also had a lot of concerns about this process.

As I see it, we already have a whistle-blowing procedure that is recognized in penal law: people who are aware of an offence can simply go to an officer of the law and tell him or her about it.

In turn, that sets in motion a process is set in motion — unlike the whistle-blowing process described in the bill — where there must be proof beyond a reasonable doubt and the person is presumed innocent as long as such proof is not established. In this bill, the truth only comes to light much later. I can think of specific cases here in Ottawa where people's reputations, their health, even their lives have been threatened because a thorough investigation was conducted in response to whistle-blowing, but nothing was found.

The victims never received any sort of compensation. I do not believe that, as parliamentarians, we should be introducing this sort of process into our system. If there is fraud, if money is misappropriated, the Canadian justice system can deal with it. We should not have a system with rules of evidence parallel to those in the criminal law.

[*English*]

Hon. Daniel Hays (Leader of the Opposition): Honourable senators, I should like to begin by adding my voice to the many in this chamber who have thanked the members of the Standing Senate Committee on Legal and Constitutional Affairs for their outstanding work on Bill C-2. It is a highly complex piece of legislation that should have come to us as several bills, each of which would have merited extensive study. Ned Franks, whose powerful intellect I have admired, said to the committee, "The act is so big that I do not know of any single person who can digest it. I certainly have not and could not."

[*Translation*]

We know that this omnibus bill was drafted in just six weeks, which is a very short time. I would like to thank the committee members who devoted so much time and energy to analyzing Bill C-2. They identified the benefits of the bill, pointed out its deficiencies, assessed the many comments and criticisms from the witnesses and drafted amendments with a view to improving the bill.

I want to congratulate Senator Oliver on chairing the committee, Senator Milne, who served as vice-chair; Senator Day, who served as spokesperson, and all the senators on both sides of this chamber who took part in this study.

[*English*]

I should like to acknowledge and thank the staff of the committee. The scope of the bill is reflected in the fact that the Library of Parliament assigned not just one or two but an entire team of researchers to assist the committee. The Committees Branch of the Senate also assigned significant resources to the task and, during clause-by-clause consideration, had a team of people in the room working to keep track of the many clauses and proposed amendments. I understand that near the end of the process several people worked some 38 hours straight to prepare the report for this chamber. Please know how much your devotion is appreciated.

As well, I want to recognize the efforts of our Law Clerk's office. I understand that the combination of the size of this bill and the large number of amendments put forward may be unprecedented. Our Law Clerk's office, which is not very large, as honourable senators know, was a model of grace under fire. Thank you. Your legal knowledge and drafting skills have significantly improved this bill.

Honourable senators, the work on Bill C-2 was conducted at a time when there was much focus on the role and future of the Senate. It is not easy to labour under the spotlight of a government continually questioning the need for any additional study whatsoever by the Senate. The government claimed that since Bill C-2 had already been examined under a microscope in the other place, there was little left for our chamber to do. We have all been aware of the various op-ed statements in the other place and press conferences charging that we have taken an inordinate amount of time with the bill.

John Geddes wrote an article in a recent *Maclean's* magazine in which he told how the Treasury Board president has taken to hiding behind our study of Bill C-2 as a means to avoid answering hard questions about the government's policy on important public issues. He described Question Period in the other place as follows:

> Pressed by the NDP to launch further investigation into the Maher Arar case? "What we need is support from the Liberal Senate to finally pass the federal accountability bill," Baird responds, "and finally let the corrupt practices of the previous Liberal regime be a part of Canadian history."

This is surely not an approach worthy of a cabinet minister; yet it has been a spectacle that has been exploited relentlessly and, indeed, is still continuing, as was seen in the question put to the President of the Treasury Board Monday of this week.

[*Translation*]

Honourable senators, responsibility and transparency are very important issues. Bill C-2 raises a number of public policy questions that will have a decisive influence on the federal government for many years to come.

The government's actions are unacceptable in this respect and Canadians deserve better. The government's behaviour prompted Susan Riley, a journalist with the *Ottawa Citizen*, to write an article under the headline "An ineffable scumminess", in which she describes the Treasury Board president's behaviour as more befitting of primary school than Parliament.

[*English*]

In this chamber, we make it a point to focus on serious studies of proposed legislation and public policy. Far from casting doubt on the value of the Senate, I believe the study to date of Bill C-2 has demonstrated beyond question the merits of this parliamentary institution.

My own understanding of the bill and the amendments made to it in committee confirms that we have significantly improved the government's bill. Measured by this government's own professed standard of improving accountability and transparency Bill C-2 is now a better bill.

[*Translation*]

Other senators have discussed many amendments in detail and I see no need to repeat what has already been said. However, I would like to underscore a few ways in which we improved this bill and how we have made progress with the issues of accountability and transparency.

[*English*]

The first part of the bill contains the new conflict of interest act. While government witnesses suggested that this act simply puts the current conflict of interest code into statute form, on close examination our committee realized that this was not the case.

• (1550)

For example, while conflict of interest codes for the past 20 years have always referred to "real, potential and apparent conflicts of interest," this bill would have casually eliminated any concern respecting cabinet ministers and other public office holders who allow potential or apparent conflicts of interest to arise. In other words, for the first time in over 20 years, it would have been perfectly acceptable for a cabinet minister to grant a contract, or make a case behind closed doors around the cabinet table, on a matter where he or she had a potential or apparent conflict of interest. We have fixed that, honourable senators. I challenge anyone to make a persuasive case that these amendments weaken the proposed conflict of interest act.

There were numerous problems with the proposed conflict of interest act. As drafted, a prime minister could have asked the new commissioner to investigate conduct by one of his ministers or other public office holders, and even if the commissioner conducted an investigation and found that the minister had violated the proposed conflict of interest act, that report could have remained secret, disclosed only to the prime minister. Indeed, there was nothing in the bill that would have prohibited a prime minister from altering that report prepared by the commissioner.

Honourable senators will recall that a major plank in the Conservative Party's platform in the last election was a promise that a Conservative government would:

> ...prevent the Prime Minister from overruling the Ethics Commissioner on whether the Prime Minister, a minister or an official is in violation of the Conflict of Interest Code.

It is a simple fact that, as drafted, Bill C-2 would have broken that promise.

Our committee rectified that error, honourable senators. Now, a prime minister will still be able to ask the commissioner for confidential advice about one of his public office holders — and we recognize that it is perfectly appropriate for a prime minister to be able to turn for confidential advice to the commissioner. However, if the commissioner concludes, after conducting an investigation, that a breach of the act has occurred, then that conclusion must be publicly disclosed. We have amended the act to prohibit anyone, including a prime minister, from altering a finding by the commissioner.

In their election platform, the Conservatives also promised to allow members of the public, not just politicians, to make complaints to the Ethics Commissioner. Bill C-2 does not actually expressly provide for this. Arguably, however, it is permitted since, under the bill, the commissioner would be able to initiate an investigation at his or her own volition if the commissioner has reason to believe there has been a violation of the act. Presumably, that reason can come from a member of the public. The explicit vehicle in Bill C-2, however, envisages a member of the public giving information to a senator or a member of the other place, indicating that there has been a contravention of the act.

Senators were gravely concerned to see a clause in Bill C-2 that then prohibited the senator or member of the other place, while considering whether to bring that information to the attention of the commissioner, from disclosing that information to anyone — meaning party leaders, staff or even a spouse. This is a gag order, which would apply only to parliamentarians but not to members of the general public, or even to the persons who brought the information to the attention of the parliamentarian in the first place. This would have continued until the commissioner's report was issued, whenever that would be.

Honourable senators, this is not appropriate. Moreover, it would be a violation of one of the tenets of parliamentary privilege, namely our freedom of speech. This restriction on freedom of speech has now been removed, honourable senators. I sincerely hope that the government supporters in the other place will not attempt to insist that we agree to muzzle parliamentarians when they learn of wrongdoing in government.

Another matter that is worthy of note is the proposed treatment of gifts under the proposed conflict of interest act. The code of conduct under Prime Minister Martin flatly prohibited the acceptance of gifts that could influence public office holders in the performance of their official duties. In the case of any doubt as to the propriety of accepting a gift, public office holders were required to consult the Ethics Commissioner.

Bill C-2, as we received it, had a very different provision. It explicitly permitted the acceptance of any and all gifts given by relatives or "friends," even where the gift:

> ...might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function.

Subsection 11(1) of the proposed new conflict of interest act provides the general rule that reads as follows:

> No public office-holder... shall accept any gift... that might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function.

This is common sense. However, the very next paragraph, subsection 11(2) states:

> Despite subsection (1) —

— meaning something that could be "reasonably seen to have been given to influence the public office holder" —

> a public office holder... may accept a gift... that is given by a relative or friend.

Those are the words of subsection 11(2), Thus, even if the gift could reasonably be seen to have been given to influence the behaviour of a public official, that gift is perfectly all right as long as it comes from a "friend." Furthermore, the proposed act specifically exempted these gifts from disclosure, even to the commissioner. As witnesses and members of the committee acknowledged, in politics everyone is a friend. This was a loophole, honourable senators, and there were no limitations whatsoever.

A cabinet minister would have been absolutely free to accept a gift of money and cash so long as he or she decided that the person presenting the gift was a friend. This would have been openly permitted under Bill C-2 and nothing could have been done about it. Indeed, no one would need to know that it ever happened.

The amendments passed by our committee — though opposed by the Conservative senators, who argued in favour of the "friend" loophole — fixed this point. The language was tightened up and, most important, gifts from friends are now brought within the disclosure regime. The commissioner will have to be told of any gifts over $200 in value, and those gifts would be disclosed on the public registry.

These are just a few of the amendments that we have made in the proposed conflict of interest act. As you can see, they strengthen the bill by enhancing accountability and transparency. Bill C-2 had a number of significant loopholes and weaknesses; those have been fixed. I am confident that the government and members of the other place will agree that these amendments improve the bill. I frankly find it difficult to imagine that they could reject these changes.

There were also a number of gaps and serious flaws within the proposed whistle-blower provisions that our committee uncovered. Indeed, the provisions of Bill C-2 were so flawed that Joanna Gualtieri, the well known former employee of the Department of Foreign Affairs, urged the committee to simply scrap the provisions and start afresh. However, that would not have been within the scope of the committee's mandate, so honourable senators did what they could. I believe that the bill has been significantly strengthened as a result.

To highlight just a few areas, while as recently as October 21 the Treasury Board President had proclaimed that Bill C-2 extended whistle-blower protection "to all federal bodies," on close examination it turned out not to be so. The bill would not apply to employees of CSIS, the Canadian Security Intelligence Service; CSE, the Communications Security Establishment and the Canadian Forces. It was not possible, within the scope of Bill C-2, to remedy this application with respect to the Canadian Forces. However, under our amendments, whistle-blower protection will now cover employees of CSIS and CSE. Again, this strengthens the bill and, in fact, makes good on promises made by the Conservative government.

The amendments broaden the definition of "reprisal," making it open-ended, as recommended by Justice Gomery in his report, and as was strongly urged by witnesses before the committee. Again, this strengthens the whistle-blower protection, thus strengthening the bill.

Bill C-2 imposes a statutory upper limit of $10,000 that could be awarded by the new public servants disclosure protection tribunal for pain and suffering sustained by the whistle-blower. Ms. Gualtieri characterized this limit as "another provision in the bill that is an assault on public servants." The amendments remove this mandatory cap on damages and leave the matter to be decided in the discretion of the tribunal. If we trust the tribunal to adjudicate these issues, then surely we must trust them to assess damages fairly, including damages for pain and suffering.

Committee members and witnesses were surprised to see that Bill C-2 limited reimbursements for legal fees to $1,500 — or, in exceptional circumstances, to $3,000. Those of us who are lawyers or who have sought the advice of lawyers know that this amount will not go far. The purpose of reimbursing legal fees is to level the playing field between the whistle-blower and the employer whose actions are the subject of the complaint. The amendments, therefore, authorized the commission, in its discretion, to order reimbursement in an amount equivalent to that provided in Treasury Board guidelines. Again, honourable senators, these are just highlights of some of the amendments on this important issue.

As you can see, Bill C-2, as presented, fell short of the government's own promises in a number of significant respects. Our amendments correct shortcomings and improve the bill.

• (1600)

[*Translation*]

The amendments that Bill C-2 would make to the Access to Information Act clearly demonstrate the gap between what the government claimed to offer and the reality of what it created. Rather than making the government more accessible to Canadians, and making it more accountable and transparent, Bill C-2 would have prevented a great deal of information from being disclosed, permanently in some cases. Cabinet documents become available after a certain number of years. However, this government would have prevented them from ever being made public.

[*English*]

The provisions of Bill C-2 that deal with access to information were so regressive that they prompted Geoffrey Stevens, former managing editor of the *Globe and Mail* and now with Wilfred Laurier University, to write: "It is a dreadful, retrograde piece of legislation. It would actually make the government less open, less transparent and less accountable."

Honourable senators, I am pleased and proud to say that the amendments passed by the Senate would go a long way to fixing the deficiencies that Mr. Stevens wrote about. There is now a

"public interest override" that will authorize the disclosure of information where it is clearly in the public interest to do so. This is a critical provision that was strongly recommended by a number of witnesses before the committee. It is an important statement of principle: that the public interest is supreme.

Our amendments also open access to draft audits and working papers once the audit or investigation is completed. This is another important change that was strongly recommended by a number of witnesses. Will it be controversial? Yes, I am sure it will. We know, as we heard from Senator Andreychuk, that the Auditor General does not support this change with respect to her own office. However, does this amendment open the process and make for more transparent in government? Yes, it does.

[*Translation*]

The government and the senators opposite stated that the proposed amendments run counter to the spirit of the bill, as the Access to Information Act would no longer apply to the Canadian Wheat Board.

Honourable senators, I was surprised to hear the government use this argument. The Canadian Wheat Board was not originally part of this bill and its presence is the result of an amendment proposed by an NDP member of Parliament. That is the amendment that runs counter to the bill as originally drafted. Our amendment restores the original intent.

[*English*]

More important, honourable senators, the Wheat Board has no business being under the Access to Information Act. The purpose of the act is not to open access to any organization about which a member of the public may wish information. The concept is to open up government and government institutions to the public so that members of the public can see how their money is being spent.

The Wheat Board is not a Crown corporation, nor an agent of the Crown, nor does it receive federal funding in the normal course. The fact that members of the government — no friends of the Wheat Board — would like access to its information is neither a sufficient nor a valid reason for bringing it within the scope of the act. To the contrary, I believe one could argue that it would be an abuse of the act. Our amendments correct this approach.

Time does not permit me to list all of the amendments made to the Access to Information Act. I am satisfied that the amendments were made carefully, in an effort to enhance accountability and transparency, to be balanced and reasonable and in accordance with the established principles of access to information in this country.

Honourable senators were concerned to learn that there were aspects of the bill that were applied retroactively, or "retrospectively" as some would prefer to describe it. The Access to Information Act provisions were one area where this occurred. Witnesses told our committee that information had been given to organizations in the belief that it would not be disclosed to third parties. Under Bill C-2, not only would information given henceforth be accessible, but all information in the possession of these organizations could be accessed by members of the public, including business competitors.

This is not right, honourable senators. We in this chamber have a long tradition of resisting attempts by the government of the day — of whatever political stripe and for whatever good intention — to pass retroactive legislation. The amendments correct this approach. In his speech at report stage, Senator Stratton questioned the need for these amendments. He said that the committee was told by legal counsel that "This is a departure from the past practice of including all records under the control of an entity at the time it became subject to the act."

[*Translation*]

Honourable senators, I do not doubt that Joe Wild, legal counsel for the President of Treasury Board, said that. During the clause-by-clause consideration of the bill, he attempted on many occasions to defend the government's position with regard to the amendments we were proposing. However, his arguments were not exactly applicable in this case. In fact, when the Access to Information Act was adopted, many complex transitional measures were incorporated for the specific purpose of providing an extended transition period for the government organizations falling under the legislation.

[*English*]

The act received Royal Assent on July 7, 1982. However, the vast majority of its provisions were not proclaimed into force until July 1, 1983 — a year later. Even that was not considered to be sufficient adjustment time. The transitional provisions allowed the head of a government institution to refuse to disclose certain information that it already had in its files. For example, during the first year after the coming into force of the act, if the record requested was in existence for more than three years before the coming into force of the act, it would not be disclosed; during the second year after the coming into force of the act, if the document requested was in existence for more the five years before the coming into force of the act, it, too, would not be disclosed; and during the third year after the coming into force of the act, if the record requested was in existence for more than five years before the coming into force of the act and, in the opinion of the head of the government institution, to comply with the request would unreasonably interfere with the operations of the government department, it would also be exempt.

These are very complex transitional provisions, and it took me some time to figure out how they actually worked. The committee's amendments to Bill C-2 were much cleaner and more straightforward. Moreover, they provide certainty for those third parties who provided information in the past to the various Crown corporations and foundations, without any knowledge or advance warning that the information would subsequently be accessible by third parties.

This was also the issue with the amendment that the committee made with respect to the so-called priority status issue. This is not a case of refusing to accede to the government's policy to do away with priority status. No amendments were made to those provisions of the bill. However, the transitional provisions of the bill would have applied this retroactively, by eliminating earned rights, and that is simply wrong. Again, these are positions of principle, and I am proud to stand for these principles and defend those amendments.

Honourable senators, Bill C-2 is a very lengthy and complex measure, and I could speak for a long time about its merits and substance. The thoughtful amendments that the committee has made to this bill are in place. The work of the Standing Senate Committee on Legal and Constitutional Affairs and the work of this chamber as a whole on Bill C-2 will enhance both accountability and transparency in the federal government. The bill is significantly better because of the amendments passed by the committee.

Honourable senators, we did what constitutionally we were created to do: We stood firm against pressure being exerted by the executive and took a careful, sober, second look at the government's proposal. We fulfilled our role and, in so doing, we have improved the accountability bill.

If the government is serious about its proclaimed desire for more openness, transparency and accountability in government, it will give the message it receives from the Senate tomorrow on Bill C-2 serious and thoughtful consideration. Our amendments are grounded in the thoughtful evidence presented by more than 150 very serious witnesses who made time in their lives to appear before our committee to share their views and assist in our work.

I cannot agree with government claims that the committee heard witnesses simply for the sake of hearing them. If they can identify witnesses whose testimony was not valuable, then the government should name them and accept responsibility for that claim. Their views — that is, the constructive views of knowledgeable and concerned Canadians — may not be summarily dismissed or their motives publicly questioned simply because they do not agree with the government's position. That is not the way to pursue the public good, nor is it the path that should be followed if one is serious about striving to make government more accountable to the people.

• (1610)

Accountability, which means many things, also means listening. I hope the self-styled "New Government of Canada" is not too proud to listen to what Canadians told Parliament when they were finally given a real opportunity to be heard by the Senate of Canada.

Hon. Lowell Murray: Would the Leader of the Opposition accept a question?

Senator Hays: I will do my best to answer.

Senator Murray: Honourable senators, yesterday I deplored the practice of implicating Parliament in decisions, such as appointments, that are the prerogative of the executive government, and in respect of which our job, rather than participating in the process, was to hold the executive government accountable.

Today, I would like to draw to the attention of honourable senators the provisions of the bill respecting the proposed new parliamentary budget officer. That person is to be selected by the Governor-in-Council from a list of three names submitted in confidence through the Leader of the Government in the Commons by a committee formed and chaired by the parliamentary librarian. The problem is that the proposal is to involve the cabinet in a matter that should be solely our prerogative, as parliamentarians. Obviously the person would have to be appointed by Governor-in-Council, but why should the cabinet have the final decision on choosing our parliamentary budget officer from among three names submitted by a committee, the chairmanship of which goes to the parliamentary librarian but the membership of which is not specified?

I wonder whether my friend has thought about this matter or whether, to his knowledge, the committee focused on this facet at any time. It seems to me that just as we are somehow involving ourselves in prerogatives that properly belong to the government, they would be involving themselves in something that properly belongs to Parliament. I do not want them to have anything to say about who our budget officer is to be.

Senator Hays: I may have to ask Senator Murray to wait for our critic to speak in order to afford a better answer than I can give. I do, however, remember a conversation on this matter, although not as well as I would like in terms of being able to respond, but my recollection is that it was thought to be important that there be a fairly broad consultation on the names of potential candidates to fill this very important role. We also had discussions on how well funded that office would be. I think there are some amendments on that aspect in terms of increasing the budget allocation. Even as amended, there were concerns on the part of some of the senators on our side who served on the committee as to its adequacy.

Senator Murray said that he had looked at the proposed act and that it identifies the parliamentary librarian and two others. I am not sure, but I thought it was more specific than that, and I may have to wait. He is reading it as it is unamended.

The amendment that was brought forward in committee reads:

101. Clause 116, page 97: Replaces lines 30 and 31 with the following:

> Commons, by a committee composed of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, the Leader of the Government in the House of Commons, the Leader of the Opposition in the House of Commons, and the Parliamentary Librarian.

In other words, there are to be more people involved than he described in the section that he read. It is true that some of them are members of the government, and I am not sure how you avoid that, particularly in our chamber, where the Leader of the Government in the Senate is a minister. However, I think there is sufficient protection in the broad group that it should result in a good selection, or at least have the best chance of having a good selection, of a parliamentary budget officer based on the input from these kinds of sources.

Senator Murray: I appreciate the reply of the Leader of the Opposition. I had not focused on the amendment the committee brought forward. I have no objection at all to the Leader of the Government in the Senate or the Leader of the Government in the House of Commons taking part in such a committee. Perhaps I am being too much of a purist, but I do not believe that the cabinet should have the last word in choosing among three nominees. The process should produce one nominee.

We have, also, not found an appropriate way to see to the funding of the various servants of Parliament. This is an issue that has been discussed many times, and it is a real problem that these servants of Parliament, most of whom have to sit in judgment on various activities of the government, must go, hat in hand, to the Treasury Board for their budgets. We have never found a satisfactory way to deal with that, and we should try to settle it.

On another point, I was interested in what my honourable friend had to say about access to information and the public interest override clause. As I understand the situation, whether it is by law or policy I am not certain, but ministers of the Crown, their ministerial staffs and senior public servants are now obliged to post their expenses on the Internet. Also, as I understand it, it is not just the global amounts that they may have spent on travel, accommodation and so forth that must be posted, but the details. I must confess I have never had enough curiosity to go to the website to see, but judging by media reports, ministers and others are required to post the details of their expenses with regard to flights, hotels and entertainment.

The situation with members of the Senate and House of Commons who are not ministers, as my friend knows, is that at the end of the fiscal year, the public accounts carries alongside each of our names the amounts that each of us has spent on travel and accommodation, or whatever it is called.

If I understand the position taken by my friend's counterpart, the Leader of the Government, on behalf of the government during Question Period the other day, this information ought to be accessible to the public because, as she keeps pointing out, it is public money. My question, therefore, is: Should the Access to Information Act be amended, or should this bill be amended to regularize the situation that she has described, namely, that a member of her staff called a hotel in order to obtain the individual hotel bills of several senators? This is information which, in the view of the government, ought to be accessible to the public. Should that be regularized in some way in a statute? Even if it is not, is it my friend's view that the public interest override renders this information accessible, perhaps retroactively, as she would have it?

• (1620)

Senator Hays: First, I will comment on the funding of officers of Parliament. The honourable senator is correct in saying that it is a difficult problem. My comment is directed to the position of Senate Ethics Officer, which, while not the same as an officer of Parliament, is similar. When provision was made in the legislation for funding, it was left with the functionary to determine what the needs would be and to come forward and to consult. In this case, the Speaker was thought to be the equivalent of a minister vis-à-vis the Senate Ethics Officer, so there is a consultation. I was in the post at the time and found it an interesting approach. There is consultation, discussion, and possible referral of the individual to others who might be helpful in terms of seeking a reasonable amount. In the end, the office-holder has great power in determining what he thinks he needs in this case and, basically, that is what you end up with. Is that satisfactory? I am not sure. Is it satisfactory that they go to Treasury Board? Probably not. Wherein the answer lies, I am not sure.

It is my understanding that the public office-holders' requirement to disclose expenses and the obligation of parliamentarians to disclose similar expenses is the same as that of senators. It is my view that parliamentarians have a better guideline and practice than public office-holders. It can be a great distraction, as we have seen in recent days in the Senate, to have that kind of information the focus of public attention rather than what parliamentarians might be about. There is a fascination with it and it has a currency in the public domain. I do not know the genesis of this frank disclosure requirement that Senator Murray describes for public office-holders. It is there. I do not believe that the Privacy Commissioner would find it in the public interest to have this kind of information released to the public, provided always that the organization to which the parliamentarian belongs, in our case the Senate, has good checks and balances, revision and rules on budgeting and what expenses will be reimbursed and what expenses will not be reimbursed. This is an adequate protection against abuse of the process. Senators have the Internal Economy Committee and members of Parliament have their Board of Internal Economy. That approach is better than leaving it in the public domain, available for reading on websites, et cetera, and could be the guiding way in which to determine whether the expenses of public office-holders are appropriate.

Senator Murray: I appreciate the answer and I agree completely with the Leader of the Opposition's position on this matter. However, I think the inescapable conclusion that one reaches from the position taken by the Leader of the Government in the Senate the other day is that the specific information respecting senators' travel and accommodation ought to be accessible because it is public money. I do not think Senator LeBreton was suggesting that only the government should be able to obtain that information. Her position was that it ought to be publicly accessible. If that is the position of the Government — and I suppose I should be asking the government — then I do not want to anticipate the motion that Senator Banks has down, and it should be regularized so that everyone knows the ground rules.

Senator Hays: The Senate should be careful in this debate, because it might be of interest for other reasons. However, I stand by what I said, with which the honourable senator agreed. If there is a proper way of ensuring that public monies are properly spent, a never-ending quest, the Senate must be vigilant and pursue all means to ensure that happens. When monies are ill-spent, then there are ways of dealing with that. Such measures are in place here and if they are not in place, then that should be done. Failure to do so would be a failure of senators. I cannot agree to post expenses with the Canadian Taxpayers' Federation.

On motion of Senator Fraser, debate adjourned.

CONSTITUTION ACT, 1867

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

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

Hon. Francis William Mahovlich: Honourable senators, I rise today to speak to Bill S-4, focusing on three issues: term limits, Senate elections and seat allocation.

First, I will address the issue at the heart of Bill S-4; senator term limits. Bill S-4 recommends that senators' terms not exceed eight years. While I support term limits for senators, I feel that 12 years is more appropriate. The Senate is known for its institutional memory. During its deliberations, the Special Committee on Senate Reform heard from a number of witnesses who stressed the importance of maintaining that institutional memory. One witness in particular who caught my attention was Professor Andrew Heard, who stated that "eight years is too short a period...it threatens the erosion of the strong institutional memory created by long-serving senators." Professor Heard further discussed the benefits of longer terms for senators by drawing attention to the fact that currently an informal recognition exists that it takes more than eight years to develop the expertise and knowledge needed to serve in a leadership or committee chair position. While this might not be the case in all situations, we cannot deny that it takes time to become comfortable in the role of senator, to gain the confidence and trust of one's peers and to be placed in such leadership positions. Currently, the average length of a senator's term is about 11 years; therefore, the longer term reflects the current reality of this chamber. Also, as a committee report stated, a shorter term would "curtail the already limited number of highly experienced senators and could deprive the Senate of an existing source of strength and distinctiveness."

On this particular issue of term lengths, I would like to point out a recent article in the *The Times* of London concerning a proposal for the reform of the House of Lords in Britain. One of the reform initiatives limits the length of the term of a Lord to 12 years. The proposal states, "12 years would ensure a regular injection of fresh talent, while retaining some of the benefits of continuity and experience." It is for the reasons I have stated that I feel that a 12-year term would be more beneficial than an eight-year term.

In the first report of the Special Committee on Senate Reform, the issue of advisory Senate elections was discussed. The election of senators is a predominant issue when discussing Senate reform and, therefore, I feel that I should discuss it here today. I am of the belief that an appointed upper chamber is of greater benefit to the people of Canada. An appointed chamber ensures that minority groups are represented in Parliament and that diversity is heard among the voices in the legislative process. The need for diversity and representation is an issue that plagues many upper chambers. For example, one of the reform initiatives in the aforementioned House of Lords reform proposal is the introduction of quotas for women and ethnic minorities. While I do not feel such quotas are necessary in Canada, I wish to highlight that diversity is a benefit that is better ensured in an appointed system.

• (1630)

Furthermore, having an elected Senate, or even advisory elections, could politicize the chamber of sober second thought and take away from the cooperative nature of the Senate. In the United States, both elected bodies are political and are often butting heads, sometimes resulting in a stalemate on legislation. I think it would be to Canada's detriment to have two elected chambers performing the same function. It would be considered an overlap, and I feel it would take away from the Senate's key role as a body of sober second thought.

While I realize that the issue of seat allocation is not directly mentioned in Bill S-4, it is the focus of the second report of the Special Senate Committee on Senate Reform, and I wish to address my concerns now. Two of the motivations behind increasing the number of seats for the Western provinces is that, in general, the Western provinces have long been under-represented as a region, and that the population of these provinces, particularly British Columbia and Alberta, have greatly increased.

Further to this notion of population increase, it is hard to deny that the proportional population of Ontario has also greatly increased since the number of seats was first distributed in 1867. As such, perhaps more consideration should be given to the number of seats Ontario holds in the Senate. Although I realize that the lower House is the place to recognize population distribution and the Senate is the place to represent the regions, we cannot ignore the fact that this motion recognizes the increased population in the Western provinces, but fails to do so for Ontario. I feel that all provinces should be treated equally, which is certainly not the case in this situation.

I agree that some reforms need to be made; evolution does need to take place. The Senate needs to adapt to the growing needs of the regions of Canada. However, I caution that reforms that are not carefully contemplated and reforms that would fundamentally alter the Senate as envisioned by the Fathers of Confederation could bring forth a whole new set of problems.

Therefore, in conclusion, I believe that a term of 12 years best balances the need for continuity against the goal of having new and fresh ideas in the Senate. Furthermore, while I can appreciate the merits of exploring the idea of Senate elections, I feel the diversity and role of sober second thought can best be achieved through an appointed body.

Finally, I agree that it is important to increase the West's seats on the basis of increased population, but I feel that this should apply equally to Ontario, which has experienced significant growth as well.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Would the honourable senator accept a question?

Senator Mahovlich: Yes, I will try to answer it.

Senator Comeau: I was listening to the speech of the honourable senator, most of which concerned the question of 12 years versus eight years. However, he went into the area of Senate reform, which would mean elections, et cetera, and would actually be encompassed in the report that was made to the Senate by way of the work of the committee — a committee, incidentally, that I think did a great deal of good work in looking at the future. I applaud the Leader of the Opposition for having gone into that new ground.

With that in mind, would the honourable senator support the continued work of that committee if it were to look at what I think he was referring to, which is the concept of having either an elected Senate or an appointed body?

Senator Mahovlich: I feel that an appointed Senate is appropriate. If the committee decides to do more work and study on that aspect, then that is fine.

Senator Comeau: That was exactly my line of questioning. I noticed that Senator Mahovlich decided to speak on Bill S-4, which refers specifically to tenure. The committee had identified some other important areas to look at. My understanding is that the committee is now in limbo and may not proceed. I get the impression that Senator Mahovlich thinks that, considering the work the committee has done, it might be a good idea to proceed. Could I categorize this speech as a yes?

Senator Mahovlich: Yes.

Hon. Gerry St. Germain: My question relates to the elected Senate. There is merit in appointed senators, because there are people in this place who would never have arrived here if they had had to depend on the electoral process. In some areas, they have opted for a certain portion to be appointed and a certain portion to be elected.

In the region from which I come, from which Senator Banks also hails, there is a deep commitment on the part of the public — and I stand to be corrected on this — that it is time that the process of having people come to this place is looked at seriously. We saw the rise of a particular political party, and the ability of that party to rise from the ashes, so to speak, was based to a large extent on the promise of a Triple-E Senate. Not that I have ever agreed with having a Triple-E Senate as such, because I believe that is an oversimplification of the situation.

Has the time not come when a region like the West, which has been grossly under-represented for so long, should be given at least the courtesy of a full, thorough examination and re-evaluation as to how senators are chosen?

Senator Mahovlich: To be fair, I think that that should certainly be looked at. However, I feel that an appointed Senate is very fair. We are trying to adopt a position which is fair for the country. Certainly, it has been unfair over the past few years. As we conduct the study, we should look across the country to ensure that we adopt a solution where regional representation is taken into consideration, and all provinces should have input on how many senators are appointed. This is the direction in which we are moving.

However, having an elected Senate and an appointed Senate is not a good mix. When I first arrived here, people were arguing about an elected Senate, and that was eight years ago. This was the big issue at that time.

I think that the Senate works well the way it is now. I believe that there should be more senators, because the regions have expanded, not only in terms of population; the regions themselves have expanded. Ontario and British Columbia have expanded and are still expanding. The Senate should expand as the country does.

Senator St. Germain: The view in the West is that democracy is denied by virtue of the fact that we do not have proper representation.

There are strong feelings on this in British Columbia and Alberta. Would the honourable senator concede that there is a real desire to examine seriously the methodology of selecting senators, whether by election or not, to determine whether there is a solution?

Senator Mahovlich: I can tell the honourable senator that I myself have done a study. One can look to the United States of America and see some of the problems they have had. We would not want that here. A Triple-A Senate, the way we have it now, appointed, anointed and absolute, is fine.

On motion of Senator Fraser, debate adjourned.

• (1640)

HERITAGE LIGHTHOUSE PROTECTION BILL

SECOND READING—DEBATE CONTINUED—
ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Carney, P.C., seconded by the Honourable Senator Murray, P.C., for the second reading of Bill S-220, to protect heritage lighthouses.—(*Honourable Senator Comeau*)

Hon. Lowell Murray: Honourable senators, as the seconder of Bill S-220, and as an Ontario senator with a great interest in our coastal heritage, may I ask the Deputy Leader of the Government how he is coming along with consultations with regard to referring this bill to the Standing Senate Committee on Social Affairs, Science and Technology? That would be the dearest wish of its sponsor, Senator Carney, as well as its seconder and one of its original proponents, our late colleague Senator Forrestall.

Hon. Gerald J. Comeau (Deputy Leader of the Government): I will take Senator Murray's question as a very forceful representation that we proceed with this bill as expeditiously as possible.

I can assure Senator Murray that we are following a process that is fair and equitable, which is what we do with all private member's bills in the Senate. This one will be trated equitably as all other bills.

Senator Murray: Deferential as well.

Senator Comeau: There will be no indifference at all on the treatment of this bill.

Order stands.

[*Translation*]

STATE OF LITERACY

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Fairbairn, P.C., calling the attention of the Senate to the State of Literacy in Canada, which will give every Senator in this Chamber the opportunity to speak out on an issue in our country that is often forgotten.—(*Honourable Senator Robichaud, P.C.*)

Hon. Claudette Tardif: Honourable senators, I rise today to address Senator Fairbairn's inquiry into the state of literacy in Canada. Speaking as a relatively new member of the Senate and as something of a novice when it comes to the measures and nuances associated with this government policy issue, I have found the debate and discussion during Question Period and Orders of the Day over the past six weeks extremely enlightening. I would like to thank Senator Fairbairn and many other senators for having awakened and maintained interest in this public issue.

[*English*]

It is my belief, honourable senators, that most Canadians take it for granted that we are a literate nation. If you were to ask the average Canadian about the definition of literacy, I am certain most would respond with the same answer: The ability to read a book.

We have good elementary and secondary schools, our post-secondary education system and institutions continue to graduate students at a record pace, and we are prosperous. As such, many would not believe it if they were told that 9 million people in this country between the ages of 16 and 65 — and 12 million, if you include those over 65 — are below the internationally accepted threshold for coping with the increasing skill demands of a knowledge society; nor would they believe that the number is even greater for those failing to meet the desired threshold in numeracy at around 55 per cent of the Canadian population. They would not believe it, yet that is the case.

The fact is, our conception of what literacy means has fallen far behind what being literate actually entails. It is not enough now to know how to read a book and operate some basic machinery. In a day and age where technology and knowledge accelerates at such a rapid pace, the essential skills required to function and prosper continually shift and transform.

Can an individual program their VCR or DVD? Can they type up a resume on the computer? Can they surf the Internet for a job? Can they problem-solve in situations where no obvious solution exists? These are all skills, amongst others, that are now essential in our knowledge-based society. One cannot exist without them and hope to lead a happy, healthy, successful life.

Robert Yagelski's book, *Literacy Matters: Writing and Reading the Social Self*, says that literacy is a matter of individual empowerment in the way it can enable one to negotiate the complexities of life.

The 2003 International Adult Literacy and Skills Survey measured proficiencies in four different domains: prose literacy, document literacy, numeracy and problem-solving. An individual's proficiency was then ranked on a scale of one to five, with one being the lowest and five the highest. It is commonly accepted that level three is the desired threshold for those living in a knowledge-based society such as the one that exists in Canada. It is below this level, as I stated earlier, where 48 per cent of our citizens over the age of 16 exist today in prose literacy, and 55 per cent of our population exists in numeracy, which is basic math.

[*Translation*]

It is essential that people who have trouble with reading, writing and math have access to services that can help them improve their skills so that they can make a greater contribution to the country's economic development.

In many cases, such as in the oil industry, the ability to read new safety information is essential. Imagine working in a Fort McMurray oil field and being unable to read posted safety information. This could endanger your personal safety or, worse yet, your life and the lives of others.

[*English*]

In my home province of Alberta, honourable senators, efforts are being made to address this deficiency head-on. Despite being one of the more literate provinces in the country, there are still problems.

According to a recent Literacy Alberta document, 40 per cent of adult Albertans and 35 per cent of working age Albertans do not have the literacy skills necessary to reach their own potential in our increasingly knowledge-based economy. Moreover, 44 per cent do not have the numeracy — basic math — skills needed, and almost 50 per cent have lower-level problem-solving skills. This is all augmented by the fact that 25 per cent of Alberta's students do not complete high school within five years and that 90 per cent of those students who do not get a high school education have low-level problem-solving skills. In the key 16 to 25 demographic, the future of the province of Alberta, 36 per cent have literacy skills below level three.

Why is this important, honourable senators? Why are these numbers and this situation so unsatisfactory? This situation is unsatisfactory to the people of Alberta because these percentages limit the social and economic potential of our citizens. It is unsatisfactory because these percentages lead to stagnation and eventually a decline in our way of life.

• (1650)

Literacy Alberta has created wonderful fact sheets about many of the key areas affected by low levels of literacy. They include work, family, health, employment, poverty, seniors, people with disabilities, citizenship and justice. They are excellent documents as they provide us with insight into the full impact that illiteracy or literacy have upon a society. The numbers are simply staggering. A 1 per cent increase in average literacy rates would result in a 1.5 per cent permanent increase in GDP. In Alberta alone, that is a permanent increase in GDP of $3 billion. Almost 20 years ago, with literacy rates similar to what they are now, the

Canadian Business Task Force on Literacy estimated low literacy annually cost businesses $1.6 billion in lost time due to workplace accidents and $2.5 billion in productivity. By 2020, it is estimated that Canada will have a shortage of 1 million skilled workers — that is to say, we will be short 1 million workers who are literate enough to fulfil basic job requirements.

These are the realities that we face, honourable senators, and I can provide many more. The Government of Alberta has undertaken to address the issue of literacy. Beginning in January 2005, the Minister of Advanced Education began a series of consultations that would re-evaluate Alberta's current advanced education system. As a part of that process, a member of Alberta's literacy committee was invited to sit on the A Learning Alberta Steering Committee, and one of the subcommittees reporting to the larger steering committees would focus its work on foundational learning and diversity.

The A Learning Alberta Steering Committee recognized that literacy is critical to the desired achievements of Alberta's post-secondary system and therefore critical to Alberta's future productivity and prosperity. I would go so far as to suggest that the steering committee also recognized that we do not have a labour shortage in our province, but a skills shortage.

Just as the Government of Alberta has recognized that literacy has a tremendous impact upon the productivity and prosperity of the province, so too should the Government of Canada recognize the impact it has upon the productivity and prosperity of the nation. It is therefore extremely disappointing to see these $17.7 million in cuts to literacy recently announced by the federal government.

In May of 2006, Toronto Dominion Economics released a special report on the 2006 federal budget. Within that report, tied to the government's commitment to "promote a more competitive, productive Canada for the benefit of all Canadians," was a section on literacy. The report states, "public and private spending toward the improvement of literacy skills is justified by several studies, which suggest that literacy matters for economic well-being." The report then goes on to highlight some of the findings I have already iterated here today and which have been previously stated in this chamber.

[*Translation*]

For francophones across the country, the federal government's budget cuts to the literacy program had a major impact on these communities.

According to the Fédération canadienne pour l'alphabétisation en français, the impact of the federal government's cuts will vary greatly from one province to the next. In Ontario, the Coalition francophone pour l'aphabétisation lost almost two thirds of its budget.

In New Brunswick, I am told that almost the entire budget of the Fédération de l'alphabétisation au Nouveau Brunswick was cut.

In Alberta, Eduk-Alberta, an agency that helps the francophone community in particular, had in recent years developed an approach based on family literacy, which relied on cooperation and an exchange of expertise with Bow Valley College and the Centre for Family Literacy adapted to the needs of francophones. The announced cuts eliminate the possibility of any further such exchange of expertise in the future.

In British Columbia, a literacy approach more specifically geared to the needs of exogamous couples had been developed and shared with other provinces. The announced cuts eliminate the possibility of any further such sharing of expertise with the other provinces and francophone communities in the future.

The federal government's cuts also make it impossible for federal literacy agencies to work with the provinces. If the agencies had been consulted or warned, they could have diversified their sources of funding and turned to the provincial governments to make up the shortfall.

[*English*]

Honourable senators, federal spending on literacy must not be construed as creating waste or "overlap." The Leader of the Government in the Senate has stated on many occasions that the cuts were made because the funding overlapped with funding from other jurisdictions. The word "overlap" means extraneous. How can it be extraneous or unnecessary if it is causing programs to close and people to lose their jobs?

Literacy must be articulated for what it truly is — a short-term investment that will allow us to prosper and save in the long term. A 1 per cent increase in average literacy rates across this country would result in an $18 billion permanent increase in GDP. Furthermore, as a more literate population will be richer, healthier, safer, and more just, I cannot adhere to the notion that it is beyond the scope of federal responsibility. In reality, an increase in federal literacy funding is likely to result in a decrease in spending in other areas of federal jurisdiction.

I support Senator Segal's assertion that literacy should be treated as a "joint federal-provincial-private sector undertaking," as well as his call for a federal-provincial summit on the state of literacy in Canada. The first is a recognition that literacy is a national issue that must be faced by all parties and in all sectors, and the second is a tangible goal that can be acted upon and implemented.

I support the commitment of the A Learning Alberta Steering Committee to have 90 per cent of its citizens score in the upper tiers of international adult literacy and believe it is a level we should seek to attain in Canada from Vancouver Island to Labrador. It is a stretch-goal that should be combined with short-term performance targets that are more easily attained, but I believe it is an aspiration that can be used to inspire our citizens and motivate our governments and businesses.

Finally, I would suggest that we participate, honourable senators, in the Literacy Action Day events tomorrow, November 9, as Senator Fairbairn has requested. It is a unique opportunity at this time when the issue is at the forefront of our minds to hear from the men and women who spend their days fighting to educate some of our most disadvantaged and disenfranchised citizens.

Thank you again to Senator Fairbairn for being such a relentless advocate of increased literacy in our nation and to all who have helped raise the level of dialogue in conversation on this most critical of public policy issues.

Hon. Wilfred P. Moore: Honourable senators, it is my pleasure today to speak to the inquiry initiated by Senator Fairbairn into the recent cuts to literacy programming by Canada's current government. It is troubling, to say the least, that one of the wealthiest nations on this planet might see fit to choose such a target for spending cuts.

First, let me draw the attention of this chamber to the dedication Senator Fairbairn has displayed to this most worthy of causes. Helping those who cannot read and write has been her passion for many years. In 1987, Senator Fairbairn initiated a national debate on literacy in this chamber. Upon her appointment as Leader of the Government in the Senate in 1993, Senator Fairbairn was also made Minister with Special Responsibility for Literacy. In 1997, she was named Special Advisor on Literacy to the Minister of Human Resources Development Canada. That is a long way of saying that Senator Fairbairn knows of what she speaks when it comes to literacy in Canada.

• (1700)

We have heard honourable senators from across this country discuss the state of literacy in their respective provinces. Today I would like to speak about Nova Scotia.

The Department of Education in Nova Scotia, through the Nova Scotia School for Adult Learning, delivers literacy programming through four initiatives.

Community Learning Networks: Thirty of these networks exist across the province and deliver essential skills and training to individuals. These networks include the Antigonish County Learning Association and the Halifax Learning Community Network.

Nova Scotia Community Colleges: There are 12 campuses which deliver higher level adult education.

Adult High Schools: There are 17 of these high schools;

Université Sainte-Anne: It administers the delivery of French language training at six sites.

The provincial department of education is taking a lead role in literacy issues. That is not to say there is no room for a federal presence.

We have heard of many studies over the past few days that point out the necessity of government-funded literacy programs. The OECD, the Conference Board of Canada and the C.D. Howe Institute, among others, agree that Canada, through literacy investment, will reap the economic benefits that these better educated workers will produce for our knowledge-based economy. Like the environment and post-secondary education, every report produced nationally and internationally promotes increased investment in literacy, certainly not the cutting of funding.

I would like to cite a report prepared by the Atlantic Provinces Economic Council, APEC, which looked into literacy issues in Atlantic Canada in March 2006. Based on the 2005 International Adult Literacy and Skills Survey, the APEC report reveals that the average proficiency scores in Nova Scotia are at the national average. However, for every one adult equipped to compete in the knowledge-based economy, there is another who, for literacy reasons, is not equipped to do the same.

That survey looked at literacy in four areas, including prose literacy, which is the ability to use and understand information from things such as medicine labels or instruction manuals; and document literacy, which refers to the ability to comprehend simple things such as a bus schedule. Numeracy and problem solving were also included as criteria.

The grading is done in levels one through five, with a minimum of three required to deal with the demands of today's information economy. In Atlantic Canada, the survey demonstrated that 76 per cent of those with level four or five document proficiency were employed, while only 46 of those at the lowest level were employed.

As all literacy studies show, those with higher proficiencies also earned more. One half of Atlantic Canadians with low-level document proficiency had earnings of less than $20,000 per year and were also more likely to require government assistance.

Nova Scotia's population is below the national average — 42 per cent — of the proportion of adults with lower-level prose literacy proficiency; it is at 38 per cent. One way to improve this level is to at least obtain the level of high school graduate.

That brings us to an organization called Literacy Nova Scotia. Literacy Nova Scotia is described as the "premiere professional voice for literacy in Nova Scotia." The mission of Literacy Nova Scotia is to ensure that "every Nova Scotian has access to quality literacy education." Working with the provincial Department of Education, Literacy Nova Scotia has played a leadership role in my province through the provision of services to practitioners, both professional and volunteer, who deliver the programs to the 5,000 adults taking part in literacy programs. According to Literacy Nova Scotia, it is this training and professional development that results in a successful adult literacy program.

Literacy Nova Scotia was informed by Human Resources and Social Development Canada that it was included in the funding cuts announced by our current government. What are the consequences of those cuts for my province? They include the loss of the following: direct skill enhancement for learners through 12 workshops held across Nova Scotia; professional development offered by experts in the field of adult literacy for literacy practitioners — instructors and tutors — through regional workshops; action research training workshops for practitioners through 12 regional workshops and two professional conferences; four provincial conferences for coordinators of community-based programs comprised of 30 networks, to ensure consistent quality of service to the approximately 2,500 adult learners in those programs; 12 workshops on inclusion techniques and cultural sensitivity; a provincial conference to discuss the learning communities concept to integrate literacy into all aspects of community development; and 12 regional workshops providing support to non-profit literacy organizations.

Furthermore, in a letter addressed to Mr. Gerald Keddy, Conservative member of the other place for South Shore—St. Margaret's, the board of directors of the Queens County Learning Network expressed their deep concerns over the cuts to literacy programs. According to the board:

> ...most of us consider LNS to be our "umbrella" organization that holds us together and puts us in touch with other community based programs in other areas of the province to help us with a common concern.

If organizations such as this express such concerns over these cuts, it begs this question: Was anyone consulted in the literacy community before these cuts were made? Minister Finley was asked that very question in the other place and she could not name one group that was consulted.

After informing Literacy Nova Scotia that their funding would be cut, the same government then turned around and informed Literacy Nova Scotia they would actually have enough funds approved to remain open until August of next year. Then what? Will these funding cuts be restored on a yearly basis? There is much confusion here, and yet this government continues to boast of the $81 million in funding over two years that remains after the cuts.

Literacy Nova Scotia was also informed that all programming funded in the future would have to be "national in scope." What does this mean? What could be more national in scope than adult literacy, a cause that includes persons of every race, culture and gender?

What is the plan in allocating the $41 million for this year? What exactly is the national strategy being touted by this government?

Literacy Nova Scotia must have its funding restored, as should the rest of the similar organizations across our country. Not to do so is a sorry erosion of our social fabric.

For a mere $17.7 million investment in restored funding to literacy programs across Canada — and, specifically, the $345,028 taken from Nova Scotia — Literacy Nova Scotia can get back to fulfilling its leadership mission in preventing my province from being marginalized in an economic environment that places an increased premium on knowledge, skills and adaptability.

On motion of Senator Robichaud, debate adjourned.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

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

Hon. Tommy Banks, pursuant to notice of November 7, 2006, moved:

> 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).

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.

The Senate adjourned until Thursday, November 9, at 1:30 p.m.

CONTENTS

Wednesday, November 8, 2006

Available from PWGSC – Publishing and Depository Services
Ottawa, Ontario K1A 0S5