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(HANSARD)

Tuesday, November 13, 2007

THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER *PRO TEMPORE*

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THE SENATE

Tuesday, November 13, 2007

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

Prayers.

SENATORS' STATEMENTS

REMEMBRANCE DAY

Hon. Elizabeth Hubley: Honourable senators, this past Sunday, November 11, Canadians recognized Remembrance Day. Remembrance Day is a day when we can all focus our thoughts on the sacrifices that have been made in the name of Canada. It is a time to think of all those who responded to our nation's call and too often paid the ultimate price.

Ninety years ago the world was a very different place, and Canada's place in the world was changing radically. In 1917, Canadian forces led the successful attack on Vimy Ridge and endured the muddy horrors of Passchendaele. John Babcock and Gladys Powers were teenagers. John Babcock, who currently lives in Spokane, Washington, is the only living Canadian veteran of World War I. Gladys Powers, who currently lives in Abbottsford, British Columbia, served in the British Women's Royal Air Force and is the only known living female veteran of World War I in the world.

I encourage honourable senators to reflect on these final two living connections from this country to the First World War. These two veterans are among approximately 22 persons worldwide who have firsthand knowledge of serving in that war. Remembrance Day provides Canadians with the opportunity to pause, reflect and remember those who lost their lives in World War I and in subsequent wars, and those who continue to make sacrifices for us in the name of freedom.

VISIT OF DALAI LAMA

Hon. Consiglio Di Nino: Honourable senators, His Holiness the fourteenth Dalai Lama's historic four-day visit to Canada, which began on October 28, was a great success. On behalf of the Parliamentary Friends of Tibet, I wish to express my thanks to all parliamentarians from both Houses and to all parties who helped to make his visit such a successful one.

I was honoured to receive His Holiness at the airport, where he was welcomed by the Honourable John Baird, Minister of the Environment, His Worship Mayor Larry O'Brien of the City of Ottawa, and several members of the diplomatic community.

• (1405)

[*Translation*]

A number of senators, members of Parliament and cabinet ministers had the opportunity to meet His Holiness on Parliament Hill following a speech by the Speaker *pro tempore* of the Senate, the Honourable Senator Rose-Marie Losier-Cool, and the Honourable Peter Milliken, Speaker of the House of Commons.

Furthermore, the mayors of two cities that raised the Tibetan flag during his visit were present: François Cantin, mayor of Blainville, Quebec, and Andy Wells, mayor of St. John's, Newfoundland, where the municipal council agreed to name a street after the Dalai Lama. His Holiness also had an opportunity to speak with the Honourable Stéphane Dion, leader of the official opposition; Gilles Duceppe, leader of the Bloc Québécois; and Jack Layton, leader of the NDP.

[*English*]

For the first time, the Dalai Lama was publicly received by a Canadian Prime Minister, the Right Honourable Stephen Harper, in his Parliament Hill office. That historic event was followed by a meeting at Rideau Hall with Her Excellency Michaëlle Jean, Governor General of Canada. In doing so, they join German Chancellor Angela Merkel, U.S. President George W. Bush and others in delivering a clear message of solidarity with this remarkable man.

The warm and dignified welcome His Holiness received by our country's highest officials, as well as the media and, indeed, people across Canada, was heartening.

[*Translation*]

During the visit, I had the privilege of spending some time with His Holiness. His visit has left me with a deep respect for his simple yet powerful message of compassion and universal responsibility.

[*English*]

At the two public talks in Ottawa and Toronto, the thousands in attendance in each city were visibly touched by this ambassador of peace.

As we bid His Holiness farewell and Godspeed, we can only hope and pray that his message resonates around the world for the benefit of all mankind. Let us also hope that one day he will be able to return freely to his place of birth, an occupied homeland he has not seen in more than 50 years.

REMEMBRANCE DAY

Hon. Joseph A. Day: Honourable senators, I also want to recall Remembrance Day, November 11. On November 2, Veterans' Week was officially launched with the annual Senate ceremony of remembrance. Those of you who had the opportunity to attend will agree with me that it was a beautiful and moving ceremony.

The ceremony was made all the more memorable by the participation of several gifted musicians, including the Canadian Forces String Ensemble, bagpiper Sergeant Bill MacDougall and bugler Corporal Ann Gregory. The Upper Chamber Chorus participated and we enjoyed the beautiful voice of Hélène Damphousse and fiddler Sierra Noble, who were also in attendance. During the ceremony, Minister Thompson delivered a very poignant speech and I thank him for sharing with us his experiences since becoming Minister of Veterans Affairs.

Honourable senators, Remembrance Day is a day to pay tribute to the past. It is an opportunity to show our respect and appreciation to all those who have made sacrifices so that we may sit here today to debate, to agree — and at times to disagree — and enjoy the privileges that come with living in a country that is, by and large, peaceful, prosperous and free.

However, Remembrance Day is a day to pay tribute not only to those who fought in World War I, World War II and the Korean War, but also to those who participate in all military actions by our Canadian Forces today.

I was distraught to read in the Auditor General's recently tabled annual report that we are falling short in meeting the mental health needs of soldiers returning from Afghanistan and their families. These men and women put their lives at risk for us and for our country on a daily basis. They have witnessed firsthand what most of us would not want to see in our worst nightmare.

The Auditor General's report found that soldiers' families are also not receiving the support they need. The parents, spouses and children of soldiers are under extreme stress, honourable senators. The government may not have a legal obligation to provide treatment to families of soldiers, but it certainly has a moral obligation to do so.

• (1410)

Given the demands of Canada's military missions, it is our obligation to ensure that our soldiers and their families are given the mental health care they need to help them recover from the traumas of war, peacekeeping and peace-making missions. I hope that we will respond to the Auditor General's findings in a constructive manner and do what is necessary to ensure that the necessary programs are in place and are adequately funded.

CANADIAN STUDENT DEBATING FEDERATION

Hon. Hugh Segal: Honourable senators, the Canadian Student Debating Federation is an organization of over 600 high schools from across Canada devoted to promoting and coordinating debate and public speech activities on issues affecting Canadians in both official languages. For the past 35 years, the federation has encouraged educational debating and public speech.

At its upcoming fall national seminar, students from all parts of Canada will be speaking to and debating aspects of climate change, consumerism and conservation. In connection with the national seminar, the CSDF has proclaimed the week of November 19 to 25, 2007 as Canadian National Debating Week and will be encouraging representatives of its member schools right across the country to debate subjects of importance to their schools, in their schools and in public places.

I am sure that honourable senators agree with me when I say that debate and public speaking are two of the most educational activities in which our youth can engage and reflect the core of our democratic principles.

I congratulate the Canadian Student Debating Federation on its 35 years of achievement and wish its President, Tanya Sturgeon, of Kelowna, B.C.; and its Executive Director, Alex Morrison, of Cornwallis Park, Nova Scotia, continued success as they proceed with their efforts to expand debating and public speaking into ever more high schools. I encourage honourable senators to extend their best wishes at this time.

REMEMBRANCE DAY

Hon. Jane Cordy: Honourable senators, my father was a Canadian soldier in World War II. As the daughter of a veteran, I feel privileged to stand here in the Senate of Canada to honour a very special group of people. Last week we marked Veterans' Week, a time to pay tribute to the men and women who have served and who continue to serve our country so valiantly. Honourable senators, our military has played a pivotal role in our history and in the emergence of Canada as a nation.

I have had the privilege of serving as a member of the Standing Senate Committee on National Security and Defence and I have also served as Chair of the Canadian NATO Parliamentary Assembly. I have visited many military bases in Canada and I have had the opportunity to talk with many men and women in our Armed Forces. We are most fortunate to have such outstanding people protecting not only Canadians, but also others around the world who are living in turmoil and danger.

Honourable senators, I have had the opportunity to visit ISAF headquarters in Kabul, Afghanistan. From a personal perspective that was wonderful for me because I got to see my brother, Commander Charles MacKinnon, who was stationed with the NATO forces.

Every November we take time to remember the gallantry of our brave Canadian heroes, men and women, who have given their lives for the cause of freedom and peace. All our veterans ask is that we remember them. That is a very small request when measured against what they have given to our country.

November 11 is a time for Canadians to pause and reflect on Canada's history and also where Canada stands in the world today. It is a time to think about the men and women who have sacrificed their lives in the interest of our country.

While November 11 is a special time to focus on those who have sacrificed their lives for the values and freedoms we enjoy, we should always be mindful of the sacrifices our Armed Forces members are making for us each day.

The next time you see a member of our military, it would be a nice idea to say thanks.

COST OF POST-SECONDARY EDUCATION

Hon. Donald H. Oliver: Honourable senators, I rise today to comment on the effects of rising tuition fees faced by Canadian students from low- and middle-income families.

Honourable senators, on October 25 I met with two fellow Nova Scotians — two students, Ian Boyko and Kaley Kennedy — who were in Ottawa representing the student-administered non-governmental organization called the Canadian Federation of Students.

These student leaders explained their student organization's proposal for a new loan-grant program to replace Canada's prestigious Millennium Scholarship Foundation, which is set to expire in 2009. They would like to see a reorganization of education-related tax credits by Canada's new government.

• (1415)

The Canadian Federation of Students proposes redistributing the program's $2 billion in scholarship grants into a mixed program. This proposal will tie student grants like those of the Millennium Scholarships to Canadian student loan programs rather than the current formula, which treats them separately. More important, this proposal does not require any increase in spending in the next budget.

One of the most important decisions young Canadians will make is the decision to attend a post-secondary institution. The second most important decision is to determine how to pay for this schooling, either by student loans or through years of saving. Therefore, rising tuition fees can offset years of financial planning and even studying. It is important that Canada develop highly skilled employees in order to cope with future challenges in a competitive global marketplace.

With the retirement of a large number of baby boomers in the coming decade, affordable education in Canada will be critical for meeting our labour demands in the future. Statistics Canada reports that students from low-income families are less than half as likely to participate in university as those from high-income families. One of the main causes in rising tuition fees, according to the Canadian Federation of Students, is the funding gap that has been growing since 1994 as a result of cuts by the previous federal government.

Honourable senators, the funding increase of 40 per cent for post-secondary education that Canada's new government outlined in Budget 2007 is aimed at ensuring that Canadians are the best educated, most knowledgeable, and most flexible workforce in the world. This increase of 40 percent means an additional $800 million in annual support for post-secondary education, for a total annual transfer of $3.2 billion to the provinces and territories by 2008-09.

[*Translation*]

ROUTINE PROCEEDINGS

CANADIAN FORCES PROVOST MARSHAL

2006-07 ANNUAL REPORT TABLED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the 2006-07 Annual Report of the Canadian Forces Provost Marshal.

TRANSPORT AND COMMUNICATIONS

REPORT PURSUANT TO RULE 104 TABLED

Hon. Lise Bacon: Honourable senators, pursuant to rule 104 of the *Rules of the Senate*, I have the honour to table the first report of the Standing Senate Committee on Transport and Communications, which outlines the expenses incurred by the committee during the First Session of the Thirty-ninth Parliament.

(*For text of report, see today's* Journals of the Senate, *p. 95*.)

[*English*]

NATIONAL SECURITY AND DEFENCE

REPORT PURSUANT TO RULE 104 TABLED

Hon. Colin Kenny: Honourable senators, pursuant to rule 104, I have the honour to table the first report of the Standing Senate Committee on National Security and Defence, which deals with expenses incurred by the committee during the First Session of the Thirty-ninth Parliament.

(*For text of report, see today's* Journals of the Senate, *p. 97*.)

[*Translation*]

PUBLIC SERVICE EMPLOYMENT ACT

BILL TO AMEND—FIRST READING

Hon. Pierrette Ringuette presented Bill S-219, to amend the Public Service Employment Act (elimination of bureaucratic patronage and establishment of national area of selection).

Bill read first time.

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

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

• (1420)

[*English*]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

ECONOMIC AFFAIRS AND DEVELOPMENT COMMITTEE MEETING AND THIRD PART OF ORDINARY SESSION, JUNE 22 TO 29, 2007—REPORT TABLED

Hon. Francis William Mahovlich: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association regarding its meeting of the Committee on Economic Affairs and Development with representatives of the Organisation for Economic Co-operation and Development, and the third part of the 2007 ordinary session of the Parliamentary Assembly of the Council of Europe, held in Paris and Strasbourg, France, from June 22 to 29, 2007.

THE SENATE

NOTICE OF MOTION TO TELEVISE PROCEEDINGS

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

> That, whenever the Senate is sitting, the proceedings of the upper chamber, like those of the lower House, be televised or otherwise audio-visually recorded so that those proceedings can be carried live or replayed on CPAC or any other television station or network at times that are convenient and accessible for Canadian taxpayers.

[*Translation*]

TRANSPORT AND COMMUNICATIONS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO ENGAGE SERVICES

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

> That the Standing Senate Committee on Transport and Communications have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO PERMIT ELECTRONIC COVERAGE

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

> That the Standing Senate Committee on Transport and Communications be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO CONTINUE STUDY ON CONTAINERIZED FREIGHT TRAFFIC AND REFER PAPERS AND EVIDENCE FROM PREVIOUS SESSION

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

> That the Standing Senate Committee on Transport and Communications be authorized to examine and report on current and potential future containerized freight traffic handled at, and major inbound and outbound markets served by, Canada's
>
> i) Pacific Gateway container ports
>
> ii) east coast container ports and
>
> iii) central container ports and current and appropriate future policies relating thereto.
>
> That the Committee submit its final report no later than March 31, 2008, and
>
> That the papers and evidence received and taken and the work accomplished by the Committee on the subject since the First Session of the Thirty-ninth Parliament be referred to the Committee.

[*English*]

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO PERMIT ELECTRONIC COVERAGE

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

> That the Standing Senate Committee on National Security and Defence be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO ENGAGE SERVICES

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

> That the Standing Senate Committee on National Security and Defence have power to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO CONTINUE STUDY ON NATIONAL SECURITY POLICY AND REFER PAPERS AND EVIDENCE FROM PREVIOUS PARLIAMENTS

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

> That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the national security policy of Canada. In particular, the committee shall be authorized to examine:
>
> (*a*) the capability of the Department of National Defence to defend and protect the interests, people and territory of Canada and its ability to respond to and prevent a national emergency or attack, and the capability of the Department of Public Safety and Emergency Preparedness to carry out its mandate;
>
> (*b*) the working relationships between the various agencies involved in intelligence gathering, and how they collect, coordinate, analyze and disseminate information and how these functions might be enhanced;
>
> (*c*) the mechanisms to review the performance and activities of the various agencies involved in intelligence gathering; and
>
> (*d*) the security of our borders and critical infrastructure;

That the papers and evidence received and taken and work accomplished by the committee on this subject since the beginning of the First Session of the Thirty-seventh Parliament be referred to the committee; and

That the committee report to the Senate no later than March 31, 2009 and that the committee retain all powers necessary to publicize its findings until 90 days after the tabling of the final report.

• (1425)

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY VETERANS' SERVICES AND BENEFITS, COMMEMORATIVE ACTIVITIES AND CHARTER

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

That the Standing Senate Committee on National Security and Defence be authorized to undertake a study on:

(*a*) the services and benefits provided to members of the Canadian Forces, veterans of war and peacekeeping missions and members of their families in recognition of their services to Canada;

(*b*) the commemorative activities undertaken by the Department of Veterans Affairs to keep alive for all Canadians the memory of the veterans achievements and sacrifices; and

(*c*) the implementation of the recently enacted Veterans Charter;

That the committee report to the Senate from time to time, no later than March 31, 2009.

[*Translation*]

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO ENGAGE SERVICES

Hon. Joseph A. Day: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Finance have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject-matters of bills and estimates as are referred to it.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO PERMIT ELECTRONIC COVERAGE

Hon. Joseph A. Day: I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Finance be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

QUESTION PERIOD

THE RIGHT HONOURABLE BRIAN MULRONEY

ALLEGED CASH PAYMENTS—PUBLIC INQUIRY

Hon. Céline Hervieux-Payette (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. In recent days, troubling facts have been reported in the media. The Prime Minister has now offered to appoint an independent adviser. Recently, the former Prime Minister Brian Mulroney called for a public inquiry.

Can the leader tell us what she would recommend to ensure that the Canadian public obtains full information on this matter?

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for her question. The Prime Minister has just spoken on this in the House of Commons, and with her permission I will read into the record the announcement he has released.

On Friday I announced that I would be appointing an independent and impartial third party to review what course of actions may be appropriate given Mr. Schreiber's new sworn allegations. These allegations remain unproven and untested in a court of law and arose in a private lawsuit. There are however now issues that go beyond the private interests of the parties in the lawsuit.

• (1430)

Many have called for a public inquiry, including most recently, Mr. Mulroney.

Given the conflicting information and allegations (including what appears to be some conflicting information under oath) and the extended time period over which the events referred to in various documents and allegations surrounding this matter have occurred, I have decided to ask the third party to advise the government on appropriate terms of reference for a public inquiry.

If in reviewing material, the independent party finds any prima facie evidence of criminal action, he or she will identify this and advise how this should be handled and what impact, if any, it should have on the nature and timing of the inquiry.

A public inquiry is a major step and one that should only be taken when it addresses Canadians' interest, not those of the various parties, whether Mr. Schreiber, Mr. Mulroney or political parties. That is why it is important that we engage the necessary independent expertise and take the time to ensure that the terms of reference meet that test.

Hon. Lorna Milne: Honourable senators, on a point of procedure. Since the Honourable Leader of the Government in the Senate was obviously reading from a document, perhaps she would agree to table that document.

Senator LeBreton: I would be very happy to do so, honourable senators, in both English and French.

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

Hon. Senators: Agreed.

[*Translation*]

Senator Hervieux-Payette: Honourable senators, the allegations in question are supported by documents that have been made public. I wonder whether the Prime Minister is just being careful — or rather, careless — by prolonging this issue in the public arena and, for all intents and purposes, preventing the Canadian public from finding out what really happened. I do not believe the independent investigator will hold public hearings, nor do I think the general public will be asked for input. This is going to be a private inquiry.

I think that the Leader of the Government in the Senate should urge her leader to hold a public inquiry immediately and to get to the bottom of this issue now.

[*English*]

Senator LeBreton: Honourable senators, I think the honourable senator wrote that question before she heard my first answer.

The Prime Minister has made it very clear that we are turning to a third party to advise the government on the terms of reference of a public inquiry. There have been many allegations and innuendoes flying around over this matter, and when yet another allegation was brought forward in the form of a new sworn affidavit, the Prime Minister at that time indicated that he and the government would be seeking third-party advice. That is a prudent and valid manner in which to proceed.

As the Prime Minister stated in the document I just read, the government is simply seeking the advice of an independent third party to determine the terms of reference by which the public inquiry will take place.

Senator Hervieux-Payette: I find it very strange that the Prime Minister does not have any advisers in his office who could advise him about the proper course of action.

When will we have the report from the independent adviser?

Senator Oliver: The independent adviser has not even been appointed.

An Hon. Senator: Gomery turned us down.

Senator LeBreton: Honourable senators, the Prime Minister indicated that he would be acting very quickly. The Prime Minister is a man of his word, and he will be acting very quickly.

THE RIGHT HONOURABLE STEPHEN HARPER

CORRESPONDENCE FROM KARLHEINZ SCHREIBER

Hon. Grant Mitchell: Honourable senators, I am trying to get this straight. One of the most controlling, domineering, micromanaging Prime Ministers, probably in the country's history —

Senator Segal: Name names!

Senator Mitchell: — gets not one but two packages from Karlheinz Schreiber, who is at the centre of a scandal that reaches to the highest levels of the Conservative Party of Canada — not one, but two Prime Ministers — and Prime Minister Harper actually has the gall to say he knew nothing about it. Why would anyone believe that this Prime Minister was not briefed on these devastating documents — devastating to a former Prime Minister, one of his closest confidantes, the very integrity of the Prime Minister's Office and, in fact, Prime Minister Harper's integrity and credibility as well?

• (1435)

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank Senator Mitchell for his question.

Anyone who knows how the Prime Minister's Office and the Privy Council Office operates knows that many millions of pieces of correspondence pass through it.

Mr. Schreiber was obviously sending correspondence around to many people, including, apparently, NDP member Pat Martin. He mentioned on the news last night that he received this same document and said that he threw it out.

In terms of the Prime Minister's Office, in cases such as that of Mr. Schreiber, where the individual is fighting extradition and is involved in a court case, obviously the people who received this mail at the Privy Council Office handled it in such a way as to not involve the Prime Minister.

Senator Cordy: We believe it!

Senator LeBreton: This case has been reported in the newspapers, with all sorts of allegations flying around, and it only makes sense to follow such a procedure. In any event, that is a standard procedure of the Prime Minister's and Privy Council's correspondence unit.

As I said earlier, Mr. Schreiber had obviously sent letters around to several people, and just as obviously, several people did not respond.

Senator Mitchell: Will Mr. Harper, like his close friend and confidant, Mr. Mulroney, commit to fully cooperating with whatever inquiry he finally decides to call so that we can find out, first, how those documents and their devastating allegations regarding that scandal could have festered in his office for seven months, and second, what role the Prime Minister might have played in covering up those allegations and the implications for him as a result of such action?

Some Hon. Senators: Hear, hear!

Senator LeBreton: Senator Mitchell really must calm down a bit. Those so-called devastating allegations are allegations that have been flying around for three years.

Senator Mitchell: Why, then, did it take him so long to deal with them?

Senator LeBreton: The allegations were flying around when Paul Martin was the Prime Minister as well. Mr. Schreiber had obviously been sending a great many letters to all sorts of people. Goodness knows, he sent them all over the place. Obviously, this matter of the $300,000 was known about by many. The previous government was aware of it.

The fact is that Prime Minister Harper responded when allegations appeared in the newspapers on Friday morning with new sworn affidavits. Since the Prime Minister felt that they perhaps dealt with the integrity of the Prime Minister's Office, he immediately took action and called for a third party to look at this whole matter. Today he has gone farther in saying that this third party will recommend the terms and conditions of the public inquiry.

As the honourable senator has said, Mr. Mulroney, Mr. Schreiber, the opposition parties and various newspapers have been calling for this public inquiry. By his statements this afternoon in the House of Commons, the Prime Minister has agreed to that proposal.

THE HONOURABLE MARJORY LEBRETON

CORRESPONDENCE FROM KARLHEINZ SCHREIBER

Hon. Grant Mitchell: It is sort of like Mr. Mulroney's taxes: As soon as he thinks he will get caught, he pays them. As soon as the Prime Minister is implicated, all of a sudden he wants to do something.

Given Senator LeBreton's close personal relationship with Mr. Mulroney, how is it that she was not aware of the allegations in Mr. Schreiber's documents? Given Senator LeBreton's very close relationship with Mr. Harper, why would she not have briefed him on the documents?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I hate to disappoint the honourable senator, but I was not on Mr. Schreiber's mailing list.

Senator Tkachuk: How many of you on the other side were?

THE RIGHT HONOURABLE STEPHEN HARPER
THE HONOURABLE PETER MACKAY

LISTS OF DONORS TO LEADERSHIP CAMPAIGNS

Hon. Wilfred P. Moore: Honourable senators, I have a supplementary question.

I was interested to hear the comments about the Prime Minister responding to matters so quickly. I go back to his comments in the Speech from the Throne about a "clean" government.

• (1440)

Can the honourable senator advise whether the leader of the new imperial Government of Canada has released a list of the donors to his leadership campaign and whether the Minister of National Defence of the new imperial Government of Canada has released a list of the donors to his leadership campaign?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, I wish to thank Senator Moore for that question.

I am proud of the government that I am part of. We have conducted ourselves in a highly ethical manner. This issue that the honourable senator is questioning me on today, as I said to Senator Hervieux-Payette before we took the break for Veterans' Week, has nothing to do with the government. The fact is, the Prime Minister —

Senator Cordy: Oh, it is the Prime Minister.

Senator LeBreton: — took action last Friday after new information appeared in *The Globe and Mail* suggesting that Mr. Schreiber had sworn new affidavits. That is why the Prime Minister decided to refer this matter to an independent third party. He has now further extended the role and responsibility of that independent third party.

The rest of the Honourable Senator Moore's question has nothing to do with the government. I am the Leader of the Government in the Senate, and I am responsible for answering for the government.

Senator Moore: Honourable senators, I do not know why those lists have not been tabled. I have to ask, is someone trying to hide something? Are there names on those lists that no one wants the public to know about?

Senator Mitchell: Such as Karlheinz Schreiber?

Senator Moore: Can you advise whether Karlheinz Schreiber or any of his companies or associates made donations to those two leadership campaigns?

Some Hon. Senators: Hear, hear!

Senator LeBreton: Honourable senators, the question has nothing to do with the government. The honourable senator knows that.

Senator Di Nino: Absolutely.

Senator LeBreton: I believe the kind of statement the honourable senator made is improper, and I invite the honourable senator to make that statement outside the Senate doors.

Senator Angus: Hear, hear. Step outside.

Senator Moore: I am waiting for the honourable senator to answer.

Senator Tkachuk: Senator Moore thinks we have gone Liberal.

THE RIGHT HONOURABLE BRIAN MULRONEY

ALLEGED CASH PAYMENTS—PUBLIC INQUIRY—APPOINTMENT OF THIRD PARTY ADVISER

Hon. Anne C. Cools: Honourable senators, the statement of the Honourable Leader of the Government in the Senate a few minutes ago described this personal adviser to the Prime Minister as an independent. Am I correct? Did she say an independent personal adviser who will advise on the terms of reference; is that what she said?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): No.

Senator Angus: An independent adviser from outside.

Senator Cools: I cannot hear you. I am sorry; I cannot speak and wear my earphone at the same time.

Senator LeBreton: You are wrong. I said an independent third-party adviser.

Senator Cools: Precisely.

Can the honourable senator tell us, first, what are the constitutional characteristics that make a person or an adviser independent? Can the leader tell us what they are? For example, judges are independent. Constitutional independence has particular characteristics.

Second, I ask the minister if, in her view, personal advisers to the Prime Minister can be independent in a constitutional sense?

Third, what are the constitutional characteristics of this so-called third-party adviser that could possibly be termed "independent" in a constitutional sense?

• (1445)

Senator LeBreton: I did not hear the last comment, Senator Cools.

The Prime Minister was asked this very question at his news conference last Friday at four o'clock. Specifically, the question was why he would consider a third party instead of someone involved in the government. The Prime Minister said that because the Department of Justice was a party to the settlement entered into by the previous Liberal government of Mr. Chrétien, he really did not know how to proceed. He said that because there were so many people involved in this whole process over the years the government could not make the decision. That is precisely why the Prime Minister determined it advisable to turn to a completely independent third-party opinion that is not connected in any way to this matter, one way or the other.

The media that I watched following the Prime Minister's appearance, as well as the comments I heard over the weekend, were very supportive of the fact that he believed this to be the route to take.

Senator Cools: The honourable senator misunderstood my question. I am informed of what the Prime Minister had to say a few days ago.

My question to the minister revolved around telling the house about the characteristics of this third-party adviser that would allow it to be independent in a constitutional sense. I would like the minister to wrap her mind around that question and to deal with it. All honourable senators are informed, as I am informed, of what happened. The minister can think about the question and come back or she can just decline to answer it.

My other question for the leader is: What consideration is being given by the Leader of the Government in the Senate to ensure that Mr. Mulroney receives proper and due process? I do not think any human being should be ill-treated in this way. I should like to know from Senator LeBreton what steps she is taking to ensure that Mr. Mulroney receives due process.

Senator LeBreton: Honourable senators, I will promise to wrap my mind around these issues. However, the Prime Minister was clear in his comments on Friday that this is a very complex case and that innuendos and allegations about this issue have been flying around for some 12 years.

Senator Cools: That is right.

Senator LeBreton: The Prime Minister felt that the prudent way to address this issue was to turn to a third party — an independent adviser who is not in any way connected to any aspect of this matter. That is the route he chose, and wisely, I believe.

As I have already said to the honourable senator, the reports have supported the Prime Minister's decision in this regard.

Hon. Tommy Banks: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate with respect to the independent third-party person to whom the honourable senator referred. Will that person report to the Prime Minister or to Parliament?

Senator LeBreton: Honourable senators, the Prime Minister was clear on this subject last Friday when he said that the independent third party would report to the government and the government would be obligated to follow the recommendations.

• (1450)

Subsequently, in view of the reports on last night's news that now Mr. Mulroney, in addition to Mr. Schreiber and all of the opposition parties, is demanding a public inquiry, and as I reported at the beginning of Question Period, the Prime Minister has asked this independent third party to report back on the terms and conditions of such a public inquiry, which everyone is demanding.

Senator Cowan: To whom?

THE HONOURABLE MARJORY LEBRETON

CONTACT WITH RIGHT HONOURABLE BRIAN MULRONEY—INVOLVEMENT WITH KARLHEINZ SCHREIBER

Hon. Jane Cordy: Honourable senators, my question is for the Leader of the Government in the Senate. Her close ties with Mr. Mulroney are common knowledge. Has she obeyed the muzzling order from Prime Minister Harper that she not speak to Mr. Mulroney, who is one of her closest friends?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Oh, my goodness, I get some weird questions.

The fact is that last Friday, the Prime Minister said that until this matter is resolved, he believed it was not prudent for members of the government to have any communication with Mr. Mulroney. I fully support what the Prime Minister has said. I believe it is the right course of action, and it is one that I have personally followed.

Senator Cordy: In the honourable senator's previous communication with Mr. Mulroney, did she ever discuss Karlheinz Schreiber?

Senator LeBreton: Honourable senators, Mr. Mulroney has never asked me to do so, nor have I ever interfered in any way, shape or form with any matter regarding Karlheinz Schreiber. I certainly have been well aware of the file. However, in no way have I ever made representations on behalf of Mr. Mulroney or Karlheinz Schreiber, whom I have never met in my life. I would not know the man if I fell over him.

Senator Cordy: The minister has said that she never "interfered" or "made representations." My question was has she ever discussed Karlheinz Schreiber with Mr. Mulroney.

Senator Mitchell: Yes or no?

Senator LeBreton: Honourable senators, Mr. Schreiber's name has been in the newspaper. As Leader of the Government in the Senate, I do not believe that I am obligated to answer such a question since I am on the public record as defending Mr. Mulroney many times against these allegations. In that context, over the years I have defended Mr. Mulroney.

However, I want to make it very clear that I have never met Karlheinz Schreiber; I have never been in any contact with him; I would not know him if I fell over him. I have never laid eyes on the man in my life, and I have never made representations to the government or to the Prime Minister on behalf of Mr. Mulroney or Karlheinz Schreiber.

Senator Cordy: Has the minister ceased all communications with Mr. Mulroney?

Senator LeBreton: You should listen to my answer, Senator Cordy. I already said that I had.

Hon. Joan Fraser: Honourable senators, my question is for the Leader of the Government in the Senate. As has been previously mentioned, until the leader came to this place, she occupied a very senior position in the office of the then Prime Minister.

Mr. Schreiber has now made public a sworn allegation that he met with then Prime Minister Mulroney in June of 1993 at Harrington Lake — Mr. Mulroney was still Prime Minister then — and discussed their future business relationship, including cash payments.

Was the honourable senator aware of that meeting?

Senator LeBreton: Honourable senators, absolutely not.

Senator Fraser: Was the honourable senator aware of other meetings that Mr. Mulroney held with Mr. Schreiber, notably the one of which photographic evidence was published in *The Globe and Mail* the other day, showing Mr. Schreiber and Mr. Mulroney having what looked like a very friendly meeting in the Prime Minister's Centre Block office?

Senator LeBreton: Actually, Senator Fraser, this is a very interesting line of questioning but it has nothing to do with the government and it has nothing to do with my —

Senator Mitchell: That sounds like a yes.

Senator LeBreton: Calm down, Senator Mitchell. You really have to get control of yourself.

Senator Mitchell: I am just trying to get an answer.

• (1455)

Senator LeBreton: The fact is that I personally never heard the name of Karlheinz Schreiber. I never saw the man. I now know what he looks like because I saw him on television.

I never saw him; I never laid eyes on him. I was in the Prime Minister's Office from March 1987 until June 1993. I never saw the man ever; I never laid eyes on him; I was never a party to any meetings that he apparently had. I was totally unaware of him.

As a matter of fact, when all these stories broke I said to someone, "Who is Karlheinz Schreiber?" I never laid eyes on the man; I know nothing about him; and I must say I am very happy that is the case.

Senator Fraser: My initial questions were going to be followed up by this question: Did the Leader of the Government consider it her duty as a minister in this government to utter a warning to her Prime Minister that something very serious appeared to be afoot?

Maybe I will rephrase that. Does she not consider that this, dare I say, wilful ignorance of what any half-informed Canadian knew was a major scandal should disqualify her from holding office?

Senator LeBreton: Oh, dear, it sounds like the honourable senator is writing editorials again.

The fact is that these stories have been circulating for 12 years. When the previous government nearly lost the country, these rumours started to surface.

These stories have been written about in newspapers and books; RCMP investigations have taken place. The fact is that I have no personal knowledge whatsoever about the dealings of Mr. Schreiber, nor, frankly, do I want to.

Hon. Marilyn Trenholme Counsell: Honourable senators, my question is for the Leader of the Government in the Senate. I find myself very confused right now. I believe the minister said — and she can agree with me or not — that she was very familiar with the file.

Senator LeBreton: Yes.

Senator Trenholme Counsell: She said that. Many of the things that she has said since saying that are not correct then.

How can the leader be "very familiar" with the file and continue to say many of the things she has just said about not knowing and not being aware and not having seen and so on? In my mind, being "very familiar" with the file and all the things she said subsequent — we will have to read and analyze them — do not jibe.

Senator LeBreton: Honourable senators, anyone who knows me knows that I read the media and I read everything. When I say that I am very familiar, I am very familiar with the story.

As I mentioned before, the fact is that the Prime Minister's actions last Friday resulted from new sworn allegations. Anyone in this place who has read anything over the last decade could make the same claim, unless they do not read the papers, that is, that they are familiar with this matter.

I reiterate, once again, that this subject has nothing to do with the government. I am very proud of the Prime Minister and my cabinet colleagues. We are running a very clean, honest and ethical government.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour of presenting delayed answers to two oral questions raised in the Senate. The first response is to a question raised in the Senate by Senator Tardif on October 17, 2007, in regard to the Speech from the Throne, particularly measures to address post-secondary education issues.

The second is in response to a question raised in the Senate by Senator Hervieux-Payette, on October 31, 2007, regarding Chapter I of the Auditor General's report dealing with classified information in awarding contracts.

SPEECH FROM THE THRONE

MEASURES TO ADDRESS POST-SECONDARY EDUCATION ISSUES

(Response to question raised by Hon. Claudette Tardif on October 17, 2007)

This Government provides $5 billion annually in direct support to students through student loans and grants, savings incentives, scholarships, tax expenditures, and research funding. For example:

Canada Access Grants are available for both students with disabilities (up to $2,000 annually) and for students from low-income families (up to $3,000 for the first year of study).

Canada Study Grants are available for students with disabilities (up to $8,000), students with dependants (up to $3,000 annually), high need part-time students (up to $1,200 annually) and female doctoral students (up to $3,000 annually).

The reduction of the parents' expected contribution in Budget 2006 is expected to allow some 30,000 additional students from middle-income families per year to be eligible for student loans and non-repayable assistance. It will also enable up to 25,000 student borrowers per year to be eligible for an increase in the amount of the loans they receive.

Budget 2007 launched a review of the Canada Student Loans Program instruments to make them more effective and ensure integrated administration and efficient delivery. Outcomes of the review will be announced in Budget 2008.

With regards to the future of the Canada Millennium Scholarship Foundation, a number of reviews have been undertaken to assess its performance, effectiveness and success in achieving its mandate. The results of these reviews are being examined and will inform this Government's decision in this regard.

PUBLIC WORKS AND GOVERNMENT SERVICES

AUDITOR GENERAL'S REPORT—INDUSTRIAL SECURITY OF CLASSIFIED INFORMATION IN AWARDING CONTRACTS

(Response to question raised by Hon. Céline Hervieux-Payette on October 31, 2007)

- PWGSC has already addressed all the recommendations of the Auditor General.
- We have a robust action plan to ensure a strong and effective Industrial Security Program. This includes:
  - Implementing a new process to ensure that all contracts specify whether or not they have a security requirement.
  - Finalizing and implementing standard operating procedures and training staff to ensure procedures are consistently followed.
  - Allocating interim funding and seeking long-term funding.
  - Certifying the program's technology infrastructure as mandated under the Government Security Policy.
- The government is going even further by:
  - Reviewing all active contracts (3000) with security requirements to ensure all necessary steps to prevent breaches have been addressed.
  - Initiating an independent third-party management review of the program.
  - Creating an Industrial Security Management Advisory Board to oversee the action plan and provide advice to management.

- Implementing ongoing quality assurance and monitoring to ensure consistency and accuracy in processes.
- Developing an action plan for further enhancing IT systems to support contract security.

- PWGSC is monitoring implementation of these changes, and we are confident that the Industrial Security Program will continue to achieve its program objectives.
- PWGSC recognizes the need for a strong and effective Industrial Security Program to protect the security of Canadians and ensure the competitiveness of industry.

[*English*]

THE SENATE

MOTION TO STRIKE SPECIAL COMMITTEE ON AGING—CLARIFICATION ON PROCEDURE

The Hon. the Speaker *pro tempore*: Honourable senators, on Thursday, November 1, 2007, when the order for the consideration of the motion to establish a special committee on aging was called, the Senate proceeded directly to adopt the motion as amended, without having adopted the amendment to change the reporting date.

• (1500)

A review of what happened that afternoon makes it clear that the Senate was voting on the motion with the amendment. Several senators shouted out clearly, "as amended," and I clearly stated "as amended" when putting the question. I simply wish to bring this matter to the Senate's attention. The Senate adopted the motion with the March 31, 2008, reporting date, and that is the date by which the committee should submit its final report.

ORDERS OF THE DAY

CANADA-UNITED STATES TAX CONVENTION ACT, 1984

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Angus, seconded by the Honourable Senator Brown, for the second reading of Bill S-2, An Act to amend the Canada-United States Tax Convention Act, 1984.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: When shall this bill be read the third time?

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

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Donald H. Oliver moved second reading of Bill C-13, An Act to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments).

He said: Honourable senators, it is a pleasure for me to speak today in regard to Bill C-13. The government first introduced this bill in the previous session of the Thirty-ninth Parliament, and it was then called Bill C-23. It was passed in the other place with only a few amendments.

When Parliament prorogued, Bill C-23 was at second reading stage in this chamber. It is now again before us to be considered in the second session of this Parliament.

Bill C-13 is not about fundamental criminal law reform. It does, however, propose mostly technical amendments to the Criminal Code that are required to ensure that our criminal justice system continues to work effectively as challenges to our Canadian court system arise.

A criminal justice system that remains modern and effective is an essential part of the overall goal of tackling crime, which the government has made one of its key priorities. Through this bill, the government proposes amendments to the Criminal Code that fall into three main areas, namely, criminal procedure, language of the accused and sentencing.

Many of the amendments as initially introduced in the first session were developed in collaboration with justice system partners who were influential in helping the government identify areas of the Criminal Code that were in need of change.

I will go through some of those proposals briefly and I will begin by highlighting some of the criminal procedural amendments of which there are many in this particular bill.

The amendments outlined in Bill C-13 seek to improve procedural efficiencies and to rectify certain shortcomings in criminal proceedings. In particular, I will touch upon the following changes: The appeal route for judicial orders to return seized property; proof of service of court documents; endorsement of out-of-province search warrants; and the reclassification of the offence of possession of break-in instruments.

Honourable senators, there are many other such amendments, but I wanted to give you the flavour of the bill by touching upon these.

A procedural change to the current regime in section 490 of the Criminal Code is proposed. This provision sets out the process to be followed for the return of property seized or detained during the investigation of an offence. The person from whom the property was seized may make a court application to request that the property be returned. Depending on the situation, that order can be made by a justice, a provincial court judge or a superior court judge. An appeal mechanism is also provided for such court orders.

Currently, honourable senators, the code provides that when an order to return seized property is made by a superior court judge, the appeal of such an order is to be heard by a judge of the same court, not to an appeal court. This anomaly needs to be corrected, as appeals are usually heard by a higher court.

The corrective amendment will now provide that the appeal route of an order made by a superior court judge with respect to the detention of things seized is to proceed to the court of appeal.

Another series of criminal procedural amendments will consolidate into one easily referenced section all provisions dealing with proof of service of court documents, for example, notices and summonses. With respect to the endorsement of out-of-province search warrants, one amendment will modernize and expedite the process by which they are transmitted and executed in a jurisdiction other than where they have been issued.

Currently, in order to execute an out-of-province search warrant, the warrant must be presented to a judge or a justice in its original paper form; not a copy, but the original paper form in the province where the search will take place, so that it can be endorsed and subsequently executed. That requirement takes both time and resources.

• (1510)

There are more efficient ways to process out-of-province search warrants by using reliable and cost-efficient modern technology. For that reason, one amendment will permit such warrants issued in one province to be sent by facsimile or another means of telecommunication to the other jurisdiction, thereby allowing a copy of the warrant to be endorsed by the judge or justice for execution in that other jurisdiction. In this instance, the original document, which takes time to travel between provinces, is not required.

Other procedural amendments are more substantive in nature. For example, one amendment proposes to reclassify the offence of possessing break-in instruments, which is currently an indictable offence, to a dual procedure offence. In a dual procedure offence, the prosecutor is given the option of electing to proceed by way of indictment or summary conviction procedure. Experience has shown that the offence of possessing break-in instruments is often committed together with the offence of break and enter into a place other than a dwelling house. Break and enter is a dual procedure offence. The amendment would reclassify the offence of processing break-in instruments as a dual procedure offence, thereby allowing Crown prosecutors, in appropriate circumstances, to proceed with one trial by way of a summary conviction for both offences.

I am sure that honourable senators will find the next section of this bill of great interest. It is called the language of trial. Bill C-13 also proposes amendments to the language rights provisions of the Criminal Code. As honourable senators already know, sections 530 and 530.1 of the Criminal Code are the result of a number of steps demonstrating a long but certain process over the past 35 years with respect to the language rights of an accused. These provisions have been in force across Canada since 1990.

In summary, section 530 grants all accused persons the right to have their criminal trial in the official language of their choice. Section 530.1 sets out a series of corollary rights and obligations that apply when an order is made for an accused person to be tried in the official language of his or her choice. The proposed amendments found in this bill are the result of numerous consultations not only with the various provinces and territories but also with the Commissioner of Official Languages and the associations of francophone jurists and their national federation. These various stakeholders have expressed the need to improve and to clarify the current language of trial provisions.

Numerous studies and reports have confirmed that there are still obstacles to full and equal access to the criminal justice system in a person's preferred language. Moreover, many court decisions have highlighted a number of interpretation problems with respect to these provisions. This act is now designed to cure some of those problems. The purpose of these amendments is, therefore, to rectify the shortcomings identified in these studies and by the courts, and to help reduce these obstacles.

For example, one important amendment would heed the judgment of the Supreme Court of Canada by requiring the court to inform all accused persons of their right to be tried in their own official language, whether they are represented by counsel or not. In other words, if an accused appears in court on his or her own, he or she is entitled to be informed by the judge of their right to be tried in English or in French. Moreover, the Commissioner of Official Languages has, over the years, recommended that all accused persons be better informed of their right to a trial in the official language of their choice.

Another example can be found in the amendment which requires the charging document to be translated upon request into the official language of the accused. Therefore, if an accused is French-speaking and goes into court and the document is in English only, the accused has the right to say, "I want to see this document in a language that I can read and understand." That could take place with the proposed amendments to this act and is a logical complement to accused persons exercising their language rights.

Other proposed amendments are adjustments to existing language rights that will not dramatically affect the criminal justice system but will, nonetheless, be of some demonstrable importance to an accused person.

Honourable senators, let me pose a hypothetical situation: Two accused persons — one of them English-speaking and the other French-speaking — are involved in the same criminal offence. In a court, they each have the right to be tried in their desired official language. With these amendments it would be possible for them to apply to have a judge who is bilingual and able to carry out the trial in both official languages. It is with a view to ensuring better access to justice in both official languages in Canada that the government presents these legislative amendments.

I will now turn to the sentencing amendments in Bill C-13 and provide an overview of the changes to the sentencing provisions of the Criminal Code. While most of the sentencing amendments are technical, some of them are more substantive in nature. I will start by highlighting some of those substantive amendments.

The first I would like to mention is the amendment that updates the $2,000 default maximum fine for so-called summary conviction offences. At present, this amount is the maximum monetary penalty that can be imposed for a summary conviction offence where no other maximum amount is provided for in a federal statute. This amount has remained the same since 1985. Bill C-13 proposes to raise the current maximum default fine from $2,000 to $5,000. By increasing the maximum amount for summary conviction offences, prosecutors — when it is deemed that a monetary penalty is an appropriate sentence but that the amount should be more than the current $2,000 maximum — will be able to address this issue.

Another significant amendment proposes to allow the sentencing court to make an order prohibiting an offender from communicating with any victim, witness or other person identified in the order during the custodial portion of the offender's sentence. In the past, even while a person is in custody, they have been able to make threatening and harassing phone calls. This bill is designed to impose certain conditions and limits on such persons, even while in custody.

The Criminal Code currently provides for no-contact orders at various stages of the judicial process. A judge may impose such an order when an accused is released on bail, is held on remand, or when an offender is under a probation order. However, the Criminal Code does not currently provide for such an order to be imposed on an offender while he or she is serving the custodial portion of their sentence. The existing measures in correctional institutions regarding unwanted communication from inmates are generally effective, and in such situations where procedures exist, are addressed on a case-by-case basis.

This amendment grants sentencing courts an additional means to protect victims and other identified persons from undesirable communications by permitting the imposition of a no-contact order on offenders while they are serving their jail term. A breach of such a no-contact order would be punishable by a maximum of two years' imprisonment.

A series of sentencing amendments will also serve to clarify the application of impaired driving offence provisions. For instance, in response to uncertainty caused by diverging court decisions regarding the application of minimum penalties, one important amendment will clarify that the minimum penalties that apply to a first, second and subsequent impaired driving offence also apply to more serious situations of impaired driving resulting in bodily harm or death. These offences include operating a motor vehicle while impaired and refusal to provide a breath sample.

Another amendment will serve to clarify the application of impaired driving penalties as they pertain to offenders who participate in a provincial alcohol ignition interlock device program. A number of provinces offer these programs now. They enable offenders who have been prohibited by a sentencing court from driving for a specified period to operate a vehicle if the vehicle is equipped with an alcohol ignition interlock device, but only after the expiry of the minimum probation period provided for under the Criminal Code. In order to tighten up the application of this provision, the amendment clarifies that offenders are only authorized to drive during their prohibition period if they are registered in an alcohol ignition interlock device program and if they comply with the terms and conditions of the program.

• (1520)

Other more technical sentencing amendments include a provision to allow courts of appeal to suspend a conditional sentence order until the appeal has been heard and disposed of. This makes it possible to avoid cases in which conditional sentence orders expire before the appeal is heard.

Another amendment would also enable courts of appeal to suspend conditional sentences or probation orders to require the offender to enter into an undertaking or recognizance that includes conditions similar to those found in cases of accused persons on interim release awaiting appeal.

Honourable senators, in conclusion, I hope that this brief overview of Bill C-13 has been helpful. I hope that honourable senators agree that the examples provided today illustrate quite well that the amendments, if passed, would undoubtedly improve the effectiveness of and access to Canada's criminal justice system.

Honourable senators, amendments are proposed to many clauses of this bill to which I have not referred. It is my hope that this bill will be referred to a committee where a careful clause-by-clause analysis can be done of all these important proposed amendments.

Hon. George Baker: Will the honourable senator permit a question?

Senator Oliver: Yes, I will.

Senator Baker: I have not studied the bill in detail. Senator Oliver mentioned the clause relating to section 253 of the Criminal Code, which deals with impaired driving, and referred to technical amendments thereto. He mentioned section 254.5, which is refusal or failing to provide an adequate sample. However, he used only the word "refusal" in his speech and not the words "failing to provide." Was that intentional or does the amendment, in fact, apply only to the refusal portion of section 254.5? Perhaps we could address that in committee when the bill goes there.

The bill proposes to remove the interlocutory appeal provision when an order is given by a Supreme Court justice on the detention or return of property seized during an investigation. The honourable senator's proposed amendment makes perfect sense, that is, to appeal to a higher court, because interlocutory appeals are not welcome in the system. In the cases that I have read, seizures of property are handled at the provincial court level with opportunity to appeal to a Supreme Court justice on the order given in the province.

Has Senator Oliver considered the additional workload that will be placed on the Court of Appeal of the provinces of Nova Scotia and Newfoundland and Labrador if all applications that

arise out of the Supreme Court are heard at the Court of Appeal? Few justices currently preside at the Court of Appeal and I understand that they are currently overworked in the province of Nova Scotia.

Senator Oliver: I thank the honourable senator for those questions.

In relation to the first, I said operation of a motor vehicle while impaired and refusal to provide a breath sample. Both are covered in these amendments.

Second, I cannot think of anything more improper in a criminal justice system than having the judge of the Superior Court who made the ruling hear the appeal of that ruling. This amendment to this legislation is long overdue.

Insofar as the additional workload that this amendment might bring, I think that the good effects this amendment will bring to the justice system will far outweigh any additional workload for those lucky enough to sit on the appeal courts of our land.

Senator Baker: On his final remarks, I am sure that the honourable senator sometimes has sympathy for people who must read transcripts every day rather than hearing evidence. I presume that his reference to being lucky enough to sit on the Court of Appeal relates to the position of the position rather than to the actual position itself.

Senator Oliver: Agreed.

On motion of Senator Tardif, debate adjourned.

[*Translation*]

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Comeau, seconded by the Honourable Senator Brown:
>
> That the following Address be presented to Her Excellency the Governor General of Canada:
>
> To Her Excellency the Right Honourable Michaëlle Jean, Chancellor and Principal Companion of the Order of Canada, Chancellor and Commander of the Order of Military Merit, Chancellor and Commander of the Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.
>
> MAY IT PLEASE YOUR EXCELLENCY:
>
> We, Her Majesty's most loyal and dutiful subjects, the Senate of Canada in Parliament assembled, beg leave to offer our humble thanks to Your Excellency for the gracious Speech which Your Excellency has addressed to both Houses of Parliament.

Hon. Lucie Pépin: Honourable senators, in the latest Speech from the Throne the government promised to help those who are trying to break the cycle of homelessness and poverty. It is vital that the government make good on this promise.

Homelessness, which is on the rise, has become a serious social problem in our cities and regions. A significant number of Aboriginal people and families with children are homeless or risk becoming so. More and more young people and seniors are finding themselves on the street.

Such a situation does us no credit. Our provinces and territories were recently visited by the United Nations special rapporteur on adequate housing. In his observation report, Mr. Kothari said he was appalled by the homelessness crisis and concerned about the housing situation in Canada.

It is unacceptable that a portion of our population should be forced to live in hazardous or unhealthy conditions or overly expensive housing. We are a country with one budget surplus after another; yet, the poorest Canadians have once again been given short shrift.

I have nothing against lowering taxes, but our economic prosperity must also be used to reduce the social imbalance between the wealthy and the less fortunate.

Funding for the Homelessness Partnering Strategy has been renewed for another two years, but in light of the vast need, the federal government has to make social housing a priority again and reinvest massively in it. The lack of affordable housing is not the only reason for the increase in homelessness, but it is a contributing factor. If the homeless are to get off the streets, they obviously need a place to stay.

Putting an end to chronic homelessness makes perfect sense. Such is the opinion of Philip Mangano, who was mandated by President Bush to eliminate homelessness. When Mr. Mangano was in Montreal, he illustrated how a chronic homeless person costs more to society on the street than sheltered in a supervised apartment. According to him, it costs less to provide care in a dwelling than to have the homeless person repeatedly come back to emergency services, prisons and detoxification centres.

In the United States, the budget for fighting homelessness has increased significantly and a number of federal organizations, states and towns have developed a strategic alliance to get the homeless off the streets. This long-term solution has already produced impressive results, the number of homeless people having gone down in several U.S. cities.

Our neighbours to the south are not always a model for social justice. However, they have shown us in this case that if we want to put an end to homelessness, we have to put our money where our mouth is.

[*English*]

Hon. Elizabeth Hubley: Honourable senators, I feel privileged to stand before you today in this chamber to share my thoughts on the Speech from the Throne. I would also like to take this opportunity to welcome our new colleague, Senator Brown, to this august chamber.

As was noted in the speech, this room is filled with history. Since its construction in the early part of this century, following the fire of 1916, all of the major issues of the country, and in fact of the world, have been discussed here. This chamber has seen world wars come and go. It has witnessed cold wars, the growth and decline of communism, and the evolution of Canada from a fledgling state trying to find its place in the world to the great country we know today.

The speech from Her Excellency Governor General Michaëlle Jean began by noting a number of significant anniversaries of issues discussed in this chamber; the abolition of slavery, the Citizenship Act, and the Order of Canada.

• (1530)

I would like to add two other significant anniversaries that were not addressed in the speech. This year marked the twenty-fifth anniversary of the establishment of the Charter of Rights and Freedoms. The Charter is a tangible expression of the values we hold as Canadians; values which define us on the world stage and at home. The important role that the Charter has played in building a strong Canada should not be forgotten.

Honourable senators, 2007 also marks the tenth anniversary of the signing of the land mines treaty. This treaty was the direct result of an initiative by the Government of Canada of the day, and was signed in this very city. For the first time in history, an international agreement banned the use and production of a conventional weapon of war. This is an astounding feat. Let us not forget that it was this country which supplied the vision, the impetus and the support to take this noble idea and change it into reality — a reality that has already saved the lives of countless citizens and prevented countless terrible and permanently disfiguring injuries to civilians around the world.

Honourable senators, a Speech from the Throne is a broad statement that touches on many areas and gives a general indication of the vision and direction of the government. In our role as respondents to the speech, it is certainly not difficult to find areas on which to comment, in particular important issues of public policy that have received little or no attention in the government's agenda. The challenge, however, is limiting the comments to 15 minutes. I have stood in this chamber in the past and spoken about security and defence issues. I have spoken on post-secondary education. I have spoken on the Senate and democratic reform. All of these issues can be discussed in the light of the Speech from the Throne, and it is my sincere hope that some of my colleagues will address them.

I stand here as a representative of the province of Prince Edward Island, the smallest and most rural province in the country. Because of this geographical reality, many measures and directions that impact small and rural areas of this country will probably affect Prince Edward Island disproportionately. Prince Edward Islanders are proud Canadians. Our province is a community that has not lost its traditional values. Our provincial motto says it best: "The small under the protection of the great." We believe that we have maintained an enviable quality and way of life. In achieving this goal, we have not ignored the rest of the country or stubbornly insisted on our own path. We have, instead, grown through our full participation in the affairs of the great — that is, the affairs of Canada.

We, as Prince Edward Islanders, fully and firmly believe that no one province or area of this country is better off on its own. We believe that all of us can meet our goals only through partnership, cooperation and working together with our fellow Canadians from one end of the country to the other.

The Speech from the Throne is just the latest illustration of the government's disdain for national programs. I am sorry to break this news to the government, but Canadians take pride in our national programs. We do not want to see these programs dismantled. We do not want to see the federal government abdicate its responsibility in creating national programs, or tie the hands of future governments through legislation that limits their capacity to respond to the democratic will of Canadians. We are a very large country, with diverse backgrounds. As Canadians, we welcome diversity and recognize that it is part of our national identity. However, with such disparate experiences we also need something to hold us all together — something with which we can all identify. A system of national programs is one of those areas. I fear that the tone of this Throne Speech is signalling the withdrawal of the federal government in this area — an abdication of its responsibility.

I see a commitment in here to strengthening Canada's economic union, but I do not see a serious commitment to Canada's social union. In fact, I see a withdrawal from it. I like to think that our country is much more than a network of companies and traders whose only connection is that they need each other for financial gain. Canada is also a network of people. We take pride in the fact that we help each other. I sincerely hope that the government has not lost sight of that fact.

Each and every weekday morning in Prince Edward Island, the host of our CBC radio morning program signs off by saying, "Take care of each other today." I would like to think that this is how we treat each other all across this country; by taking care of each other. Let us not put this communal compassion in jeopardy.

Honourable senators, I also heard word that the government will support traditional industries, including fishing. I find this quite puzzling since this government has just granted authorization for mid-water trawling off Prince Edward Island. From a conservation viewpoint, this is a very questionable action. Not only do these trawling practices scoop up everything in their path, producing a huge amount of wastage, but they will also target, and potentially damage, the herring stocks. Any impact on this stock will also affect the lobster and tuna fisheries, since herring is the principal bait used in these fisheries. These fisheries are crucial to the fishers of Prince Edward Island, and this type of decision jeopardizes their livelihood. Honourable senators, I see here a short-sighted decision that benefits a few at the expense of the many, with no sign of the government's new commitment to supporting the traditional fishing industry.

The Speech from the Throne also addressed Arctic sovereignty. The people in the North have a unique relationship with the land, living in harmony with a beautiful but unforgiving region that sustains them. Issues such as climate change threaten that subsistence. I am encouraged by the government's commitment to the North and, in particular, to their commitment to building a research station. However, Arctic sovereignty will not be established solely by building a research station or just by having a military presence because sovereignty is not just

about the land; it is also about the people. In order to protect Canada's sovereignty in the North, we must protect its people. That means providing them with the tools they need to flourish, and protecting the environment through initiatives such as the Kyoto Protocol.

If there is one topic on which I have spoken out many times both in this chamber and elsewhere it is the area of post-secondary education. I must say that I am quite disappointed at the lack of concern shown for this area in the Speech from the Throne. Aside from a passing reference about costs, there is no mention of higher education. Honourable senators, I will not stand here and say that further education is a magic pill that will solve all of our problems now and into the future, but if we want to increase productivity, education is the largest contributor. If we want to have a greater impact on the world stage, we need to ensure that our population has the education to both understand the issues and to work on the solutions. Poverty, health and crime are all linked to education and literacy levels. I would be hard pressed to find any single initiative that could have a larger impact on the long-term future of this country than increasing the educational opportunities for our citizens. Yet the Speech from the Throne does not address this area at all, demonstrating that the government does not include higher education anywhere among its priorities.

Honourable senators, in closing, again I should like to emphasize that Canada is more than just a collection of people; we are more than a collection of financial and business interests. We are a community. In order to remain vibrant and strong, we need to remember that only by working together can we make this an even better place. Prince Edward Island's motto — "The small under the protection of the great" — is more than just something to put on our letterhead. It is a reminder that we can maintain our closeness and our community, but we are also participants in this great country. The government should not lose sight of its responsibilities to support the social fabric of our country as well.

• (1540)

[*Translation*]

Hon. Maria Chaput: Honourable senators, I listened closely and respectfully to the Speech from the Throne, read by Her Excellency the Governor General of Canada. This speech, the second from the government of the Right Honourable Stephen Harper, raised some concerns for me about the future of official language minority communities in Canada.

I will focus on what I think should be addressed immediately and on what is endangering the development and advancement of the official language minority communities I represent in the Senate of Canada.

[*English*]

At the beginning of the First Session of the Thirty-ninth Parliament, the government in power wanted to support child care choices, and it chose to do so in its own way. It saw fit to ignore the early learning and child care agreements in principle between the Government of Canada and many provinces, and instead provide child care benefits.

In the Conservative government's Speech from the Throne 18 months later, it proclaimed that:

> Families now have real choice in child care through the Universal Child Care Benefit.

Is this true? The figures still point to a lack of child care spaces. Morna Ballantyne of Code Blue for Child Care has raised concerns about the Conservative government's strategy.

> . . . Harper's claim is particularly misleading given that the Tories have not delivered a single one of the 125,000 child care spaces they promised.

More specifically, parents in official language minority communities had outlined a common child care vision. A strategy based on a continuum of French-language education from preschool to adult was an important tool for retention and francization for minority language communities. Moreover, a national child care strategy would guarantee that parents wanting to place their preschool children in a French-speaking environment could do so. These daycares would be tied to French-language schools and would play a key role in expanding French-speaking communities. Finally, federal government support for francophone daycare would help combat assimilation at transition points.

I need not remind you that in the October 2004 Speech from the Throne the Liberal government then in power had recognized that the time had come for a truly national early learning and child care system. In February 2005, provincial social service ministries had also recognized the urgent need to streamline early learning and child care services across the country. To address this need, they defined four main principles to govern these services: quality, universality, accessibility and developmental. The principle was called QUAD. However, the Conservative government felt and acted otherwise.

[*Translation*]

Therefore, you will understand, honourable senators, that some questions came to mind when the Prime Minister announced the success of his approach. Can parents in official language minority communities find French-language child care for their children? No. Under the direction of the Right Honourable Mr. Harper, francophone parents outside Quebec found themselves in the same position as all other parents in Canada, with a $1,200 cheque in their pockets, but without any support structure in terms of linguistic and cultural resources. Yet, young children are essential to the development and advancement of official language minority communities.

Another prime example of what is weakening these communities is the abolition of the Court Challenges Program. Groups have no funding to achieve equality, to defend their rights and to ensure that rights are respected. One of our colleagues, who is now retired, the Honourable Senator Gérald Beaudoin, used to say to me, "Equal status, equal rights." Is this still the case? I thought that the Conservative government would realize its mistake and reinstate this program that is essential to the survival of these groups.

[*English*]

The Court Challenges Program has made a significant contribution to linguistic and equality rights in Canada and has, by no means, outlived its usefulness.

[*Translation*]

Now let us turn to the new promises in the Speech from the Throne, which states that the Conservative government:

> . . . supports Canada's linguistic duality. It will renew its commitment to official languages in Canada by developing a strategy for the next phase of the Action Plan for Official Languages.

Those are very nice words, and we appreciate the sentiment, but how will that strategy be implemented, and by whom?

I feel I must emphasize the importance of the action plan. The Dion plan, as it is fondly known, included strategies for education, justice, health, early learning, immigration and many other initiatives. The Liberal government's investments helped reinvigorate official language minority communities. The time has come to renew that plan. Everything hinges on a promise that we hope will lead to concrete action and an improved action plan. Whose vision will prevail, that of the government in power or that of the communities? It remains to be seen whether the Conservative government will be ready to listen to communities this time and take their recommendations into consideration.

During their first 18 months in government, the Conservatives were obviously in the habit of making decisions without consultation. This makes me worry about another promise in the Speech from the Throne, a promise that could have negative repercussions on Canada's federal structure and, as a result, on official language minority communities.

I realize that we have to respect the provinces' independence. I do not have a problem with the government's plan to monitor the federal spending power, but does the Right Honourable Mr. Harper think that he is demonstrating leadership by delegating that spending power to the provinces with no strings attached? The idea of redefining the federal spending power without putting a mechanism in place to protect minorities is contrary to the vision shared by the Fathers of Confederation, is it not?

It seems to me that the Prime Minister is dismissing a national vision, not to mention ignoring his responsibility to protect minorities. Without that tool at the federal government's disposal, many services offered across the country would not exist and minorities would suffer even more. Under this new legislation, it will be very difficult — perhaps even impossible — to start new national social programs. For example, monitoring expenses in this way would make the federal government's national childcare strategy — along with any other program that might arise from a national vision — impossible or, at the very least, very difficult.

If we study and evaluate this new recommended legislation from the perspective of official languages, this unconditional delegation of responsibilities to the provinces is, in my mind, completely irresponsible.

Without the national umbrella provided by federal management, one component of official languages depends entirely on the political will of the provinces. I remember the dark years when Manitoba's francophones depended on the political will of their provincial government for their language rights. I remember the battles waged by Georges Forest and Roger Bilodeau. Need I remind honourable senators of what happened? Does the federal government not have an obligation, a responsibility, to protect official language minority communities? If the government dismisses this aspect of the issue, it is denying our history, our heritage and our reality as a country.

Just as troubling is the fact that there is absolutely no mention of some sectors of activity, including arts and culture. An important facet of the Canadian diplomatic role is to support its artists abroad. In the 20th century, Canadian cultural diplomacy played an important role in defining our country abroad on the basis of its two official languages and its multiple cultures.

In a CBC interview, renowned Canadian author Margaret Atwood explained how Canada's role on the international scene had diminished since the Conservative Party came to power. She said:

[*English*]

> It was particularly short-sighted to cut funding for cultural tours that allowed Canadian artists to develop fans overseas ...
>
> The arts are being neglected despite bringing economic activity and prosperity to the country ...

• (1550)

[*Translation*]

Honourable senators, like everyone in this chamber, I am proud of my country. As one of my colleagues said, I believe in a "Canada where we have a federal government that is fully sensitive to the needs of our diverse regions, provinces and territories, cities and towns, and citizens of all backgrounds".

I am a French Canadian from Manitoba. As a French-Canadian, I have always viewed the Canadian federation as a solemn pact between the two founding nations. I harbour no illusions. The Francophonie in Canada is facing new challenges, while the gains made over the past few decades remain very fragile.

The future of francophone and Acadian communities, which are part of that Francophonie, will continue to depend on the unconditional support and attentiveness of the federal government. It is very important to understand that, on the whole, only a comprehensive approach can provide effective, lasting solutions.

I urge the government to accept its very special responsibility regarding its official language minority communities, because, in their day-to-day affairs, what those communities need most is a firm, clear commitment from their government.

On motion of Senator Comeau, debate adjourned.

THE ESTIMATES, 2007-08

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (A)

Hon. Gerald J. Comeau (Deputy Leader of the Government), pursuant to notice of October 30, 2007, moved:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2008.

Motion agreed to.

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY MAIN ESTIMATES AND TO REFER DOCUMENTS AND EVIDENCE OF PREVIOUS SESSION

Hon. Gerald J. Comeau (Deputy Leader of the Government), pursuant to notice of October 31, 2007, moved:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Estimates for the fiscal year ending March 31, 2008, with the exception of Parliament Vote 10; and
>
> That the papers and evidence received and taken and work accomplished by the Committee on this subject during the First Session of the Thirty-Ninth Parliament be referred to the Committee.

Motion agreed to.

DRINKING WATER SOURCES BILL

SECOND READING—DEBATE CONTINUED

On the Order:

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

Hon. Pierre Claude Nolin: Honourable senators, I rise to take part in the debate at second reading on Bill S-208.

Last May, we began our study of this private member's bill, which calls on the Minister of the Environment, in cooperation with the provinces, to establish an agency with the power to identify and protect Canada's watersheds. Once adopted, this bill would require the Minister of the Environment to conclude an agreement to establish a federal-provincial agency that would have the power to administer both federal and provincial laws on lands in a designated watershed.

In addition, this bill sets December 31, 2007 as the deadline for concluding the agreement or presenting a progress report to both the Senate and the House of Commons. Last May, a six-month time limit seemed to me to be rather utopian. What about a six-week time limit?

We all support one of the objectives of this bill, which stands in the name of the Honourable Senator Grafstein, and that is to protect our drinking water resources in Canada. Canadians know that water is perhaps one of our most precious natural resources and affects every facet of our daily lives. It plays a crucial role in the health and well-being of all Canadians and our aquatic systems. If we consider the importance of this issue, then all levels of government in Canada must play a role. However, as written, this bill poses a problem. To the current water management system it would add an administrative level that would be expensive and far removed from the decision-making process on land use.

Honourable senators, when we examine bills, we need to keep in mind certain realities of our federal system of governance. In my opinion, this bill presents constitutional problems or complicates the division of powers, or both. Are we not required to respect the division of powers between the federal, provincial and territorial governments? In addition, would Bill S-208 duplicate certain legislative functions and other existing mechanisms at both the federal and provincial levels? Is the purpose of the bill in line with what our provincial governments — or should I say the provincial governments of Canadians — expect of their federal government? From this perspective, Bill S-208 raises some serious questions.

Honourable senators, the fact is that the provinces have primary responsibility for water management and drinking water supply. Many aspects of land use planning and development, which can have an impact on water quality and availability, come under provincial jurisdiction.

Last May, I focused on the following point. The proposals in Bill S-208 would conflict with this constitutional reality. When it comes to the supremacy of provincial jurisdiction in this matter, the words of our former colleague Senator Gérald Beaudoin, bear repeating:

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

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

Senator Beaudoin added:

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

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

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

received by some, if not all, provincial and territorial governments. Honourable senators, our federal system works best when each level of government respects the jurisdictions of the others, so as to meet the needs of our citizens.

Although it was introduced with the best intentions, Bill S-208 appears to violate the principle I just described. It is clear that the provinces are responsible for water and watersheds, with the notable exception of First Nations lands. It seems logical that Bill S-208, by placing some 21,000 municipal water systems under the responsibility of a single authority established through federal legislation, could represent an encroachment into provincial jurisdictions.

• (1600)

That being said, we should take into account certain issues related to watershed management. In my humble opinion, however, Bill S-208 is not the way to go.

Many of the provinces and territories have already implemented initiatives. Let us start by considering the situation in Quebec. In that province, integrated watershed management has been a primary focus since the water policy was adopted in 2002. The main objective of this policy was to reform water resource management. Under this umbrella policy, watershed management in Quebec was considered from both the local and the regional perspective. It is also based on an ecosystems approach, with a view to promoting sustainable development and protecting public health.

This policy considers watersheds as planning units for water quality. The purpose of all this is to better understand the problems related to water quality, supply and aquatic ecosystems, while trying to find sustainable solutions. The purpose of Quebec's watershed management policy is to make it easier to set priorities by taking into account the cumulative impacts on aquatic ecosystems.

The key players in watershed management in Quebec are the organizations responsible for the watersheds. These organizations are groups of stakeholders who participate in watershed management, such as regional county municipalities, towns, users, environmental groups and citizens. The main goal of these organizations is to establish a general plan for water, including the monitoring and analysis of the watershed, the problems to be resolved, directions to take and objectives to achieve. By adopting an integrated watershed management approach, Quebec's water policy has improved the establishment of consensus and the responsibility taken by the various stakeholders and the public in the management of water and aquatic ecosystems. Moreover, Quebec plays an international role in the integrated management of watersheds. It is a member of the International Network of Basin Organizations. Created in 1994, this network brings together 134 member organizations from 51 countries, including France, Poland, Algeria, Brazil, Mexico, Spain, Morocco, Hungary, Romania and the Ivory Coast. The network was even under Quebec's presidency from May 2002 to January 2004. Promoting the integrated management of watersheds as an essential tool for sustainable development is at the heart of the network's mission.

Honourable senators, I am mentioning parts of Quebec's watershed management policy to show that every Canadian province and territory already has, to varying degrees, its own strategy in this regard. A comparative analysis of the experiences of the provinces and territories with respect to watershed management and efforts to ensure drinking water quality shows that this issue is not one that can be managed through a single pan-Canadian policy.

Ontario has its own measures to protect the drinking water supply, measures that require each municipality to implement watershed management and drinking water source protection plans.

The inquiry into the Walkerton tragedy resulted in a number of recommendations for concerted action on the part of the province and municipalities. In its Clean Water Act, Ontario adopted measures to protect drinking water supplies and required each municipality to implement watershed management and drinking water source protection plans. Their efforts, which focused on local, cooperative measures, should be recognized and supported, not overshadowed by another, federal, water act.

Honourable senators, even taking into account these varying approaches, it is possible for the federal government to be involved in water issues, and that is the focus of this bill. The government's Budget 2007 included a national water strategy and major strategic initiatives. By announcing a national strategy, the government made a commitment to water. The government has allocated $35 million to freshwater initiatives, including $11 million over two years to clean up the most seriously contaminated parts of the Great Lakes, $5 million over two years for the International Joint Commission to study water levels in the Great Lakes, $12 million over two years to help clean up Lake Simcoe, and a total of $18 million in recently announced funding to clean up Lake Winnipeg.

However, federal measures mainly provide financial and scientific and technical support, as well as support for provincial and territorial efforts. The new infrastructure program will make it possible for the provinces, and therefore municipalities, to go ahead with large-scale projects to replace defective systems and, thus, improve our management of the unique asset of drinking water. Minister Baird has also assured Canadians that the unprecedented $33 billion infrastructure program, Building Canada, will provide stable and predictable long-term funding in support of infrastructure projects, particularly drinking water and waste water treatment systems.

Consequently, rather than seeking to impose a federal superstructure, as proposed in Bill S-208, that would duplicate the efforts of provinces or interfere in their jurisdictions, federal efforts should be directed elsewhere. Specifically, they should focus on enhancing existing mechanisms in order to find ways of improving the management of our water systems and supporting, rather than overriding, the efforts and priorities of provincial and territorial governments.

The concept of negotiating mechanisms for the collaborative management and designation of watersheds proposed by Bill S-208 is already in the Canada Water Act, and has been since 1974. I would reiterate that this legislation requires serious revision. Its objectives are outdated and were made useless by successive governments since 1974, which failed to achieve the statute's practical goals by systematically refusing to implement its essential components. We should remember that in the past

the federal government's coordinating role has taken the form of scientific advice, information and targeted programs, including significant investments in water purification infrastructure projects, which always supported provincial and territorial networks.

• (1610)

Adopting additional cooperative management mechanisms is certainly a laudable goal, but we must never lose sight of the repercussions this could have on provincial and territorial authorities.

The federal government has designated water and watersheds as a priority and will consider negotiating on management issues in a broader policy context. Finally, our credibility in terms of federal action will be measured by ensuring that, on our part, we are consistent about what we expect from others.

The report of the Commissioner of the Environment and Sustainable Development, tabled in the House of Commons in October 2007, shows that it would be in our best interest to take care of our own problems. A number of petitions have raised concerns about the management of our water and watersheds.

The vulnerability of water supply systems on Aboriginal reserves reminds us of our responsibility towards First Nations peoples. The title of the May 2007 final report of the Standing Senate Committee on Aboriginal Peoples is very telling: *Safe Drinking Water for First Nations*. This title urges us to consider the issue more comprehensively.

The May 2007 Senate report states:

> Legislation to regulate water standards on reserve is required.
>
> No one, including this Committee, argues differently.
>
> Regulations are, however, only part of the answer.
>
> Sustained investment in the capacity of First Nations community water systems and of those running the systems is absolutely essential to ensure First Nations people on-reserve enjoy safe drinking water.
>
> Without this investment, we risk introducing a regulatory regime that burdens communities and does little to help them meet legislated standards.
>
> Given the gravity of this health and safety issue, we count on the government to ensure this does not occur, and strongly urge the Department to take immediate action on our recommendations.

Before we tell the other levels of government what to do, we need to take a hard look at our own facilities and our own responsibilities.

SUBJECT MATTER REFERRED TO COMMITTEE

Hon. Pierre Claude Nolin: Honourable senators, notwithstanding rule 58(1)(e), I move:

> That Bill S-208, An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future, be not now read the second time but that the subject matter thereof be referred to the Standing Senate Committee on Energy, the Environment and Natural Resources; and,
>
> That the Order to resume debate on the motion for the second reading of the bill remain on the *Order Paper and Notice Paper*.

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

Hon. Senators: Agreed.

Motion agreed to and subject matter of bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

[*English*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Banks, for the second reading of Bill S-203, An Act to amend the Criminal Code (cruelty to animals). —(*Honourable Senator Oliver*)

Hon. Donald H. Oliver: Honourable senators, I am pleased to rise today to join in the debate on Bill S-203, which would amend the provisions of the Criminal Code concerning cruelty to animals.

Senator Bryden kept his introductory remarks brief, pointing out that this bill is identical to Bill S-213 from the first session of this Parliament and everything that was said about the previous bill still applies to this one. I shall endeavour to respond in kind, but wish to stress a few key matters.

Although this is a reintroduction of a bill from the previous session, it is important to state for the record how this bill would amend the Criminal Code.

The current situation is that all cruelty to animal offences are subject to a summary conviction, with a maximum penalty of six months in prison and/or a fine of $2,000. The only exceptions to these are offences involving cattle, which are indictable with a maximum penalty of five years. It is clear that these penalties are outdated and are not commensurate with the seriousness of these types of crimes.

Senator Bryden mentioned some of the horrendous cases of abuse which have been made public in recent months and years. I am sure that all honourable senators are aware of these cases and no further elaboration is required. Clearly, there is a need for increased penalties to show that society will not tolerate such acts.

This bill would make all cruelty to animal offences hybrid, meaning that the Crown can choose to prosecute by summary conviction or by indictment. It also changes the maximum penalties for various offences as follows: The maximum penalty for indictable offences for intentional cruelty and for causing pain, suffering or injury by failure to exercise reasonable care is increased to five years; the maximum penalty for the indictable offence of negligently causing injury during transport and abandoning or failing to provide adequate care to animals is increased to two years.

Currently, there is a maximum penalty of a two-year prohibition for someone convicted under the cruelty to animals provisions in which they are prevented from owning or residing with an animal. This bill removes that maximum penalty and instead gives the sentencing judge discretion to determine the appropriate length of the prohibition from owning or residing with an animal.

This bill also gives the judge the power to order that a convicted offender reimburse an organization or person for the reasonable costs of care for an animal, where such care is required. Finally, the bill includes a mandatory five-year prohibition on owning or residing with an animal for any subsequent offence.

Honourable senators, I am pleased to be able to inform you that the government supports the provisions of this bill, and the government agrees that there is a need to increase the maximum penalty for those kinds of offences.

Honourable senators will react with shock and dismay to stories of neglect and abuse. Society needs to express the repugnance we all feel with an appropriate level of sentencing for these crimes. This bill is a step toward that goal.

Honourable senators, I am sure that all of us are in favour of this bill and wish to see it returned to the other place in a speedy manner. Senator Bryden has correctly informed us that, should this bill be sent to the other place within 60 sitting days of the new session of Parliament, it will be advanced to the stage that it was prior to prorogation.

I remind honourable senators that 60 sitting days will take us to March 2008. This is not an unreasonably short amount of time to study any bill, particularly one concerning a subject as important as the Criminal Code.

• (1620)

As chair of the Standing Senate Committee on Legal and Constitutional Affairs in the last session, I can also say that we studied this bill in its previous incarnation in a thorough manner and we were quite satisfied that it was fair and balanced. The committee concluded that it was a proper adjustment to animal abuse sentences. These sentences were seen as too light, given the seriousness of the crimes they were intended to punish.

It is entirely appropriate that all relevant materials and documents that were used in the committee's previous study be available to the committee as it re-examines the bill. I commend honourable senators for addressing that issue. I also urge the committee to consider its previous report on the bill, and I hope that it shall receive swift scrutiny. On the other hand, some time has passed since we dealt with this bill, and it is possible that new information or other factors have arisen that have affected deliberations. Due to this situation, I urge the committee to exercise due diligence. Given that Standing Order 86.2 in the other place can be invoked until March 2008, there is ample time for us in this chamber to re-examine the bill and consider the impact that any new information would have on it.

We all look forward to the day when our laws concerning the abuse of animals are brought into line with acceptable sentences. However, it is never wise to be too hasty in changing the Criminal Code, given the far-reaching and sometimes unexpected consequences that can flow from our decisions.

Honourable senators, in conclusion, it gives me great pleasure to stand today and recommend that Bill S-203 be read a second time and referred to committee.

I thank Senator Bryden for bringing this bill forward and helping to stimulate debate on this important subject.

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: When shall this bill be read the third time?

Hon. John G. Bryden: Honourable senators, with leave of the Senate, I move:

> That the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs and, that the papers and evidence received and taken by the Standing Senate Committee on Legal and Constitutional Affairs on Bill S-213 during the First Session of the Thirty-ninth Parliament, be referred to the committee.

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

Hon. Senators: Agreed.

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

Motion agreed to.

THE SENATE

MOTION TO STRIKE SPECIAL COMMITTEE ON ANTI-TERRORISM ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Tardif, seconded by the Honourable Senator Cowan:
>
> That a Special Committee of the Senate be appointed to consider any matters relating to anti-terrorism that may be referred to it by the Senate from time to time;

That, notwithstanding rule 85(1)(b), the special committee comprise nine members namely the Honourable Senators Kinsella, Andreychuk, Nolin, Day, Fairbairn, P.C., Fraser, Jaffer, Smith, P.C., and Joyal, P.C., and that four members constitute a quorum;

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

That, notwithstanding rule 92(1), the committee be empowered to hold occasional meetings in camera for the purpose of hearing witnesses and gathering specialized or sensitive information;

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

That the papers and evidence received and taken on the subject by the Special Senate Committee on the Anti-terrorism Act during the First Session of the Thirty-Ninth Parliament be referred to the Committee;

And on the motion in amendment of the Honourable Senator Sibbeston, seconded by the Honourable Senator Watt, that the motion be amended, in the second paragraph, by increasing the number of members from nine to ten and by adding the name of the Honourable Senator Cools after that of the Honourable Senator Smith, P.C.—(*Honourable Senator Comeau*)

Hon. Gerald J. Comeau (Deputy Leader of the Government): I will say a few brief words on this motion. We have the motion plus the motion in amendment. I note that the motion as proposed by our honourable colleague Senator Tardif mentions a number of senators who would form part of this committee. The designation of members to the committee is generally left up to our side. Therefore, if this motion were to pass, the names as referred to in the motion will not necessarily be the names of the persons ultimately to serve on this committee. We still consider it our prerogative to decide amongst ourselves who will sit on committees. We do not want the other side to take this motion to mean that they have the power to designate who our sitting senators on a committee will be.

With that said, I think we can proceed with this motion.

The Hon. the Speaker *pro tempore*: The question is on the motion in amendment of the Honourable Senator Sibbeston, seconded by the Honourable Senator Watt. It was moved that the motion be amended, in the second paragraph, by increasing the number of members from nine to ten and by adding the name of the Honourable Senator Cools after that of the Honourable Senator Smith, P.C.

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

Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Are senators ready for the question on the main motion?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It was moved by Senator Tardif, seconded by Senator Cowan — shall I dispense?

Hon. Senators: Dispense.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Motion agreed to, on division.

THE SENATE

MOTION TO URGE GOVERNOR-IN-COUNCIL TO PREPARE REFERENDUM ON WHETHER THE SENATE SHOULD BE ABOLISHED—DEBATE CONTINUED

On the Order:

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

WHEREAS the Canadian public has never been consulted on the structure of its government (Crown, Senate and House of Commons)

AND WHEREAS there has never been a clear and precise expression by the Canadian public on the legitimacy of the Upper House since the constitutional agreement establishing its existence

AND WHEREAS a clear and concise opinion might be obtained by putting the question directly to the electors by means of a referendum

THAT the Senate urge the Governor in Council to obtain by means of a referendum, pursuant to section 3 of the Referendum Act, the opinion of the electors of Canada on whether the Senate should be abolished; and

THAT a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.—(*Honourable Senator Banks*)

Hon. Bert Brown: Honourable senators, I rise in opposition to the esteemed Senator Segal's motion to abolish the Senate if a majority of Canadians, in a referendum, wish to do so.

I am not opposed to abolition because it took 24 years of work to get here and my tenure in this chamber has so far been less than two weeks. Rather my opposition takes two forms. The last time I witnessed a referendum in Canada, it was not a binding referendum. It is likely not possible for a government to enact a binding referendum; it would be like asking victims to supply the rope for their own hanging.

Over the past generation, many polls have been conducted on whether Canadians want their senators elected. The first polls gave a simple majority to the "yes" side. Only months ago, the polls were 79 per cent for the "yes" side. Premier-elect Brad Wall

brought the province of Saskatchewan to the "yes" side the morning of November 8 with his recommendation to elect senators to future vacancies. That is my first point against the motion.

Second, the most compelling reason for this chamber to continue to exist even in its present state is the real fear of future prime ministers with a real majority in the House of Commons: excuse me — "the other place." Honourable senators, there are no constitutional limitations on the powers of a prime minister with a majority in the other place. While Canadians appear to be increasingly pleased with the current government and its prime minister, Senate reform, when it takes place, is for the next century or two. It is not for the tenure of any current government.

Since World War II, we have witnessed governments of numerous parties that were a direct cause of a debt of $680 billion accumulated over a generation. This country will have paid $2.78 trillion by the time that debt is retired. That is after 25 years at 5 per cent interest and payments of $5 billion over those years.

At the end of the debt and deficit increases in 1993, this country was less than 18 months from having the International Monetary Fund tell us what we could and could not do with our federal taxes.

• (1630)

Honourable senators, I believe that the function a future senator can play is as an effective counterbalance to the other place. A counterbalance with a legitimate vote to protect our country against future internal threats more than justifies the Senate's cost. For that reason, honourable senators, I oppose the abolition of this chamber by referendum or any other means.

Honourable senators, I want to speak about loyalty and party discipline. I was honoured to place a wreath at the regimental war museum in Calgary on November 11 on behalf of the Government of Canada. I believe the cause of World War II to be blind loyalty to, first, the National Socialist German Workers' Party, also known as the Nazi Party of Germany; second, the same blind loyalty to the National Fascist Party of Italy; and, finally, a Japanese emperor who believed he was a god. His subjects believed him and gave them their blind loyalty and trust. As a result of those blind loyalties to parties and to a religion, we, the human race, killed 50 million people.

In 1993, I was commissioned by the Canada West Foundation to interview former and current MLAs across Canada and former and current MPs, and my conclusions were published in the 1993-94 summer edition of the *Canadian Parliamentary Review*. Since then, I have not changed my belief that unquestioning blind loyalty to any philosophy or leader is the most dangerous thing that can happen in a democracy.

Honourable senators, I believe that this chamber's best service to this country will occur when elected senators truly represent the wishes of the people of their home provinces, not the political philosophy of past prime ministers. Blind, unquestioning allegiance in politics or religion may again move us to problems within Canada and abroad.

Hon. Joan Fraser: Would Senator Brown accept a question?

Senator Brown: Yes, I would.

Senator Fraser: It is a slightly mischievous question, but I am sure he has heard such questions before.

I think the honourable senator knows that I also do not support Senator Segal's perhaps equally mischievous motion. My attention is caught by his wholly accurate, I believe, remarks about referendums not being binding. However, as I was listening, I remembered that this man is the same one who twice participated in, and indeed won, a vote that was not binding. Are we talking about sauce for the goose or sauce for the gander? Can Senator Brown explain his logic?

Senator Brown: Honourable senators, the Alberta Senatorial Selection Act was vetted by the Alberta Intergovernmental Affairs Department through the Department of Intergovernmental Affairs of the federal government. It is a legal act respecting both the Constitution of Canada and the Province of Alberta. However, it is not binding, to use Senator Fraser's words, simply because it leaves the Prime Minister with the right to decide whether to address politically the wishes of the people of the province depending upon how strong the Prime Minister feels those wishes are.

Hon. Hugh Segal: I appreciated and enjoyed the speech of my honourable colleague. Would he accept the premise that, on occasion, issues like reform of the Senate toward the electoral model, of which he has been a stout defender, can be helped when the public is involved in a referendum to express their views? While Senator Brown may disagree with the question I have proposed, does he not think that a referendum about the future of the Senate to consult formally the public for the first time in 140 years would help the cause of reform generally, as he and I agree that abolition is not in the national interest?

Senator Brown: Every time Senator Segal speaks he moves this debate forward. I appreciate him engaging me in debate on it and I welcome anyone else to engage as well.

A referendum would require a tremendous amount of education by the government, either from this chamber or the other, to inform Canadians about the importance of the Senate, about what it can and cannot do, in order that they could vote for it or against it knowledgeably.

We went through that process in Charlottetown in 1992. I spent five days in the Pearson Building talking about those very things. I also took part in four of five national meetings in Halifax, Toronto, Calgary and Vancouver to try to educate Canadians on what the Senate is all about, and what it can and cannot do. Because so many things were included in that referendum, it failed by the vote of nine provinces. Unless a referendum is on a single issue that would lead to a constitutional amendment for that purpose only, I think it would fail again.

On motion of Senator Banks, debate adjourned.

THE SENATE

MOTION TO URGE GOVERNMENT TO NEGOTIATE FREE TRADE AGREEMENT WITH EUROPEAN UNION—DEBATE ADJOURNED

Hon. Hugh Segal, pursuant to notice of October 17, 2007, moved:

> That the Senate call upon the Government of Canada to engage in negotiations with the European Union towards a free trade agreement, in order to encourage investment, free movement of people and capital.

He said: Honourable senators, I will speak briefly this afternoon in support of this motion that I moved in the last session of Parliament. I previously spoke on this motion in May of this year and will not reiterate any of the points I made at that time.

I will stress a few points this afternoon. The best way to prevent all our manufacturing jobs being exported to China and Asia is to begin to work together by reducing some of the existing trade barriers between the European Union and Canada and the rest of this hemisphere.

Second, if a free trade agreement were put together between Europe and Canada, we would bolster economic relations with the largest single marketplace in the world and Canada's second-largest trading partner next to the United States.

Third, supply management is an important element of our economic construct and must be maintained, but if we can reduce other non-agricultural tariffs currently imposed, we could produce an increase of 11.2 per cent in bilateral trade, adding $2.4 billion to Canada-EU economic activity on an ongoing basis. As a society, we need to have more aggressive trade commitments. Bringing our European colleagues to the table would be a constructive step forward.

[*Translation*]

The Premier of Quebec, Mr. Charest, proposed a free trade agreement between Europe and Canada at the most recent conference in Davos.

• (1640)

[*English*]

Chancellor Merkel, as the head of the European Union, has also proposed a new transatlantic trade initiative in this regard. While it is important that we look to Asia and to the economic opportunities there, we should not lose track of the core relationship with our European allies, colleagues and fellow travellers.

The gesture that Europe is now trying to make towards an invigorated transatlantic relationship gives us a chance to get ahead of other nations on this issue. At some point, it is likely that the United States may choose to open such a dialogue, having indicated some openness to that after the last U.S.-EU summit in May. We have a chance in this chamber to encourage some sense of getting ahead of the curve, advancing the proposition and putting the idea before the government in a sustained and constructive way for their consideration. Further to the Canada-EU summit in June, the Minister of Foreign Trade, Mr. Emerson has created working groups within the Department of Foreign Trade. This represents a chance to make greater progress on some of the technical issues. The motion before honourable senators today represents a way for this chamber to encourage and expedite the process of expressing our support for this development in Canada-EU relations.

Honourable senators, I ask that you give this motion your most reflective and constructive consideration.

[*Translation*]

Hon. Eymard G. Corbin: Honourable senators, I would have a question for my colleague. If this motion is passed, to which committee does he want it referred?

Senator Segal: I think it should be referred to the Foreign Affairs and International Trade Committee.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I notice that no reference to a committee is mentioned in Senator Segal's motion. Was that intentional? Should the motion not be amended so as to have the matter referred to a committee? As drafted, the motion is calling for the Senate to rule on the issues.

Senator Segal: I will take the honourable senator's advice concerning a reference to a committee. If an amendment is necessary, I will move one. I think, however, that referring the subject matter of the bill to a committee will give us an opportunity to go into the details and hear government employees. I am prepared to move an amendment, as suggested to me by the Deputy Leader of the Government.

Senator Comeau: We could discuss further who should move the amendment to the motion. It is my understanding that unanimous consent of the chamber is necessary for the motion to be adopted. The amendment could be moved by other senators.

On motion of Senator Tardif, debate adjourned.

[*English*]

THE SENATE

MOTION TO URGE GOVERNMENT TO UPDATE PHOSPHORUS CONCENTRATION REGULATIONS—DEBATE ADJOURNED

Hon. Mira Spivak, pursuant to notice of October 23, 2007, moved:

> That the Senate urge the Government of Canada to update the 1989 Phosphorous Concentration Regulations to prevent the growth of toxic algae in Canada's lakes, rivers and streams.

She said: Honourable senators, I believe that there are two bills in the other place on this issue. It is quite timely for the Senate to look at this matter because those two bills may never see the light of day in this chamber.

Honourable senators, for a time in the late 1960s, nothing concerned legislators more than the notion that millions of North Americans — with the push of a button on their washing machines — were killing the Great Lakes. Lake Erie was characterized as a "dead lake." In the United States alone, some 10,000 others were affected by eutrophication — or excess loading of chemical nutrients, primarily phosphates.

Back then, the detergents poured into those washers were laden with phosphates — phosphates that do not, on their own, clean anything. Phosphates are "builders" that help other chemicals in detergents remove dirt more easily and at lower concentrations. Spurred on by public outcry, the U.S. Congress, in 1967, created a joint industry-government task force on eutrophication. Three years later, a congressional committee determined that the task force was not moving quickly enough.

The tipping point was evidence from Canada's world-renowned scientist, David Schindler. Working at a pristine little lake near the Ontario-Manitoba border, Dr. Schindler and his team had dammed the lake and loaded half of it with phosphates. The result was captured in a famed aerial photograph that showed half the lake undamaged, and the other half green and blooming with algae.

Phosphorous is a ubiquitous, essential element — essential to plant growth. As Dr. Schindler clearly demonstrated, too much of this good thing can be harmful. When phosphates from millions of drains — or from farmers' fields — enter water, they become fertilizer for algae. When algae blooms — changing freshwater into a green, scummy soup — it depletes oxygen, kills fish and worse. Blue-green algae can release toxins that kill animals in a matter of minutes and, if ingested by people, can damage their livers and central nervous systems. Just swimming in water tainted with blue-green algae can cause skin irritation and gastrointestinal problems.

As a result of this famed photograph, the congressional committee recommended that detergents be phosphate-free by 1972. In response, industry agreed to limit phosphates in laundry detergents voluntarily, but no federal legislation was ever passed.

In this country, since 1972 the phosphorous concentration in laundry detergent has been reduced to 2.2 per cent, where it stands today under the Canadian Environmental Protection Act. With that, legislators in both countries assumed that the problem was solved.

However, the Statistics Canada *Daily* report of Monday, October 15, 2007, had this to say about today's water quality and phosphorous:

> The report found that phosphorous was a major concern for surface freshwater quality in Canada. Phosphorous levels in Southern Canada did not meet the water quality guidelines for aquatic life over half the time at 127 of 344 monitoring sites.

This past summer and early fall, in Quebec alone, officials issued blue-green algae alerts for 158 lakes. That meant that people could neither drink the water nor swim or wade in it. The west end of Hamilton Harbour, Alberta's Pigeon Lake, Bass Lake in the Algoma region of northwestern Ontario, and Yarmouth County Lake in Nova Scotia, plus two others in Digby County, and of course Lake Memphremagog in Quebec were all affected. In Lake Winnipeg, in the past 11 years, barely a year has gone by when the lake was clear of blooms — surface blooms of algae covering thousands and thousands of acres.

Algae also caused a shutdown this summer of the nuclear power reactor at Pickering on Lake Ontario, as it did two summers ago, the same year it caused a shutdown at the Darlington generating station. Algae buildup on screens and filters reduces the flow of cooling water to the reactors. In the last dozen years, algae-fouling of cooling water intakes has cost Ontario Power Generation more than $30 million in lost power generation.

• (1650)

The problem is by no means specific to Canada or to North America. Government officials issued warnings this summer in southwest Wyoming and in Kansas, where cattle died within 30 minutes of drinking contaminated water. Warnings were issued in Oregon, New Hampshire, Indiana and New York State, as well as other locations.

Internationally, blue-green algae caused concern from Manchester to Sydney, Australia. Perhaps nowhere is the scourge more pernicious than in the newly industrialized districts of China, where officials have been forced to close factories to salvage the drinking water of millions — not that the factories do not open again.

Today, high concentrations of phosphates are still found in most common dishwashing detergents and in commercial and household cleaners from scrubbing agents to soaps. Lawn fertilizers also overload waterways with the nutrient when people feed their lawns before heavy rains.

For decades, farmers have spread manure and phosphate-rich fertilizers over fields to increase crop yields. Phosphorous leaches into the soil and, because soil in the Midwest in particular does not bind it, it finds its way into streams whose banks are unprotected by vegetation.

Phosphorous-rich fertilizers and manure from factory-style pig farms and chicken farms spread on fields also migrate to lakes when rivers swell into flood waters, as they have repeatedly in my province of Manitoba since the mid-1990s.

This past summer a conference in Montreal drew 1,400 delegates from 65 countries to share what they knew about blue-green algae. The view posed by David Bird, ecology professor at the Université du Québec à Montréal, blames the weather as well as phosphate pollution.

The increasing occurrence of extreme weather — heavy downpours, droughts and warmer temperatures — all signs of climate change — wash phosphorous-laden topsoil into streams and lakes, increase evaporation that increases phosphorous concentration and prolong the season for algae growth.

As global warming is the price we must pay for loading our atmosphere with greenhouse gases, toxic algae is nature's payback for overloading our land and our fresh waterways with phosphorous. We can only expect even more algae blooms if we do nothing to change our habits.

There is one aspect of the problem very particular to Manitoba, as Christine Melnick, Minister of Water Stewardship for the Government of Manitoba, told a Commons committee last June. Lake Winnipeg is unique among great lakes in the world for the sheer size of the drainage basin relative to lake surface. For every square kilometre of lake there is 40 square kilometres of drainage basin — about 1 million square kilometres in total in parts of Alberta, Saskatchewan, Manitoba and Ontario, as well as the four states of Montana, North Dakota, South Dakota and Minnesota.

The only solution for Lake Winnipeg, in addition to the international agreements that have been concluded, are Canada-wide policies and regulations for phosphate reduction, including for cleaning products such as dishwashing detergents.

To put it another way, what goes down the drain in Edmonton ends up in Lake Winnipeg. Provinces cannot effectively act alone. While agricultural runoff is widely held to be the major contributor to phosphorous loading of fresh water, eliminating phosphate from detergents is widely held as an easy and valuable step.

Last year, the Manitoba government placed a moratorium on new or expanded hog barns. Since 1999, it has spent or committed to spend some $130 million on water and waste water treatment infrastructure.

Last month, the Government of Manitoba held consultations on proposals to restrict the application of lawn fertilizers for cosmetic purposes and to reduce phosphates in household cleaning products.

Manitoba would prefer not to go it alone on a ban, or a near ban, on phosphates in dishwashing detergent. It wants to work with the federal government, and with other provinces and territories, to develop a national approach. Hopefully, the Senate can help speed up that process by passing this motion.

The federal government, from all reports, is non-committal. While Manitobans eyed the Throne Speech for some indication, Premier Doer promised that if there was no mention of phosphates Manitoba would bring down legislation next month. The Province of Quebec has indicated that it will not wait. It will introduce a regulation this fall to prohibit phosphates in dish soaps and other detergents. It will also try to get the blue-green algae under control by planting trees along shorelines, beefing up the inspections of home and boat septic systems, and getting farmers to adopt practices that are less polluting.

As this bandwagon was rolling, the body that might have stood on the road, the Canadian Consumer Specialty Products Association, hopped on board late last month. This association of manufacturers of detergents and other cleaning products said it wants the government to amend the Phosphorous Concentration Regulations under CEPA to dramatically reduce the content in dishwasher detergent by July 2010.

Whether this is soon and comprehensive enough is a matter we could investigate in committee, but it is encouraging.

The Government of Canada, for its part, has only announced a $1-million grant to the Cooperative de solidarité du basin de la Rivière-aux-Brochets for a pilot project to help decrease the occurrence of blue-green algae in the Missisquoi Bay area of Quebec. That is $1 million to help 60 farmers plant perennial crops near shorelines as well as for scientists to monitor runoff and water quality.

Honourable senators, no new regulation is a no-brainer. Updating the phosphorous concentration regulations may be as close as it gets for any level of government. We have the science; we have the sorry impact of doing nothing; we have the support of the provinces most severely affected; and we have the industry calling for action.

Therefore, I hope that the Senate will consider this motion favourably and perhaps influence the federal government to also get aboard.

Hon. Tommy Banks: Honourable senators, I know that this is unusual, but the term that was used by Senator Spivak is exactly right. This is a "no-brainer." This needs no serious consideration beyond that which it has already been given. The Phosphorous Concentration Regulations were one of the very best things that were done by Mr. Mulroney's government. That is a good process. This motion simply recognizes the fact that when it was done in 1989 the world was a different place. There were things that were different then from the way they are now. This motion urges the government to update those existing regulations within the act in which they currently exist.

This is a no-brainer. The study, if we were to do one — and I would be happy for the committee of which I have the honour to be a member to undertake such a study — would arrive at the conclusions that have just been expressed to us by Senator Spivak. The conclusions are right. Senator Spivak urges the government to update existing regulations within existing law and I now move that the Senate approve the motion before us.

[*Translation*]

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, the motion proposed by Senator Banks is not a motion as such.

• (1700)

[*English*]

We have a long-standing tradition in this place, when someone moves a motion such as that of Senator Spivak, that, although we may all be in agreement, we usually allow adjournment and debate. The honourable senator mentioned that the government of Brian Mulroney brought in these Phosphorous Concentration Regulations and, in fact, he has been named one of the greenest prime ministers this country has ever had, and I agree with that.

Senator Banks mentioned that the motion does not need to go to the committee, and I agree with him. In fact, the motion does not request that the matter be referred to committee. It simply asks that this chamber adopt the motion.

Having said that, let us have a debate on it. It might be a short debate of one or two days, but let us have a debate.

On motion of Senator Comeau, debate adjourned.

[*Translation*]

The Senate adjourned until Wednesday, November 14, 2007, at 1:30 p.m.

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