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Tuesday, December 7, 2004

THE HONOURABLE SHIRLEY MAHEU
SPEAKER *PRO TEMPORE*

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THE SENATE

Tuesday, December 7, 2004

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

NATIONAL DAY OF REMEMBRANCE AND ACTION ON VIOLENCE AGAINST WOMEN

FIFTEENTH ANNIVERSARY OF TRAGEDY AT L'ÉCOLE POLYTECHNIQUE

Hon. Lucie Pépin: Honourable senators, yesterday, December 6, was the fifteenth anniversary of the massacre of 14 women at l'École Polytechnique de Montréal. From coast to coast, ceremonies were organized to mark this National Day of Remembrance and Action on Violence Against Women. We remembered with great sadness the loss of these students, who had their entire futures ahead of them. Many of us will always remember where we were when we heard this news.

Today, our thoughts also go out to all the women and girls who have died as a result of brutal acts of violence targeting them in particular.

Over the years, December 6 has become more than a simple day of remembrance. This day is an occasion for us to affirm our solidarity to women and girls who still live under the threat of violence and to speak out vigorously against this ever-present reality in our society.

Amnesty International recently declared that Aboriginal women are victims of violence twice as often as other Canadian women. Amnesty International cited cases of Aboriginal women and girls who have disappeared or been killed, and denounced the indifference of public authorities toward the mistreatment of Aboriginal women.

In a fair and egalitarian society such as ours, this is a situation that cannot be tolerated. All Canadians have the right to live in safety, in security and with dignity. The crime at l'École Polytechnique prompted the passage of stricter firearms legislation. Today, the homicide rate from firearms has gone down. Other than to resolve a few problems with the administration and enforcement of the act, no changes to this legislation must be allowed. We must not yield to pressure. On the contrary, we must insist on the legislation being maintained, as well as the gun registry, which is perceived by many victims' families as a monument to the young women who were killed.

Canada is one of the most advanced countries in the world for gender equality and women's rights. Our society is more sensitive to violence against women today than it was 15 years ago. But there are still unacceptable behaviours and attitudes that promote savagery against women.

In memory of all women who are victims of violence in Canada, I encourage you to continue taking an interest in the negative impact of violence against women on our lives and our communities. This is a social scourge that has to be eliminated at all costs. We will always remember the 14 victims of l'École Polytechnique.

[*English*]

Hon. Marjory LeBreton: Honourable senators, yesterday we observed the National Day of Remembrance and Action on Violence Against Women. Each year on December 6, we remember the 14 young engineering students who were killed in 1989 at l'École Polytechnique in Montreal. These women died for no other reason than that they were women. Fifteen years later, it is still hard to believe that such an event could have occurred in this country, yet the basic hatred and brutality behind it is still evident in our society, albeit, as Senator Pépin said, in less public but no less painful occurrences.

The day of remembrance, which was established by the Mulroney government in 1991, gives us the opportunity to pay tribute to the young women who were lost 15 years ago and also to consider the violence presently faced by too many women and girls across our country. Despite gains that have been made toward true gender equality in our country, much work is still necessary. One in four Canadian women experiences violence at the hands of her partner. As a result, many children witness the hurt and humiliation of their mothers. In turn, many of them will go on to perpetrate the cycle of violence or become victims of it themselves.

While this issue has received much needed attention over the last 15 years, many women still suffer in silence. They see no way to escape the abuse directed towards them, be it physical, sexual or psychological.

As a country, we must clearly state that all forms of violence are not permissible, and we must do all we can to educate our sons and daughters about that fact. Although Canadian women have many advantages over their counterparts in other countries in this world, when it comes to this issue, Canada is not exempt.

I know all honourable senators will agree that we must dedicate ourselves to the eradication of gender violence and the subordination of women and girls so that they may live without fear and lead productive, happy lives. In this way, we will truly honour the memory of the 14 young women who were never given the chance to live full and meaningful lives.

• (1410)

Hon. Joyce Fairbairn: Honourable senators, for over 15 years in this chamber we have taken the time to honour the memory of 14 young women who were going about a normal day at l'École Polytechnique in Montreal when they were gunned down by a young man full of hate at their very presence in that institution.

What has since become known as the day of the Montreal Massacre has become the day in the year when women and men, young and old, in every corner of this country, gather in large vigils, in small groups or in private solitude, lighting candles, offering roses or quietly thinking, not only to remember but also to highlight the continuing horror of violence and abuse against women in Canada, on the streets, in their homes and inside places of learning.

The statistics ebb and flow but remain constantly high as each year goes by. Over 50 per cent of Canadian women have been victims of at least one act of physical or sexual violence since the age of 16. The latest statistics on spousal homicide show that four out of five victims were female and, of those, 29 per cent were killed by stabbing, 26 per cent by shooting, 19 per cent by beating and 17 per cent by strangulation.

We would like to think of Canada as a safe place in its homes and on its streets. Reality tells us otherwise. It is why we, as a nation, have established gun control. That effort gained impetus in the wake of those killings in Montreal, thanks to family members and dedicated women like Wendy Cukier and Heidi Rathgen.

However, those young women who were gunned down in the classrooms, the corridors and the cafeteria of their college were not murdered solely because of the killer's hatred of women. He was also obsessed by the place they were occupying in modern society. After separating the young men from the classroom, with a cry of "You are feminists," he began shooting the victims and then himself.

If Canadians have truly followed lessons learned from that tragic day, I hope it is to respect the role of women in every part of our society and to encourage those young women who have followed in the footsteps of the l'École Polytechnique victims to seek the same goals as equal partners with men in this competitive society of the 21st century.

At the very least, we, as parliamentarians, should espouse any cause that will give women a fair chance to compete and succeed in a safe and respectful environment. In so doing, honourable senators, we honour the friends and the families of those 14 young students who never had the chance to choose their course and to learn and live their dreams. We share their sorrow, and we seek a better future.

PRINCE EDWARD ISLAND

NEW MARITIME BEEF PROCESSING FACILITY

Hon. Catherine S. Callbeck: Honourable senators, I would extend my congratulations and sincere best wishes to the beef producers in the Maritime provinces as they prepare to begin operation of a new beef processing facility in Prince Edward Island.

This new plant, Atlantic Beef Products, is the result of a unique partnership between beef producers in the region, a retail partner, and the federal and provincial governments. As a result of this exciting new initiative, Maritime beef producers are in a position to take more control over the future of their industry, while serving the needs of the regional market.

Together with Co-op Atlantic and the Prince Edward Island government, beef producers invested more than $10 million in this state-of-the-art facility. The federal government also contributed one third of the cost of the new $4.5-million waste treatment facility.

Producers have recognized that owning and operating their own processing facility is vital to the future of the beef industry in the Maritimes.

When fully operational, the plant will process some 500 head of cattle per week and create 70 new jobs. The plant guarantees a market for producers, and demand for its product is growing across the region and beyond.

At the present time, the federal government is giving consideration to providing financial support for a new tracing system that will further enhance consumer confidence in the safety and quality of Atlantic Beef Products' product.

Honourable senators, the BSE crisis has drawn attention to the fact that Canada does not have sufficient processing capacity and that our country needs more control over the future of its beef industry. The establishment of a new beef plant in Atlantic Canada demonstrates what can be done to create new opportunities for value-added initiatives and to give producers more control over the future of their industry.

I ask you to join with me in extending our best wishes for their success.

ENVIRONMENT

BOREAL FOREST ON MANITOBA-ONTARIO BORDER AS PROPOSED WORLD HERITAGE SITE

Hon. Mira Spivak: Honourable senators, several months ago the Minister of the Environment released Canada's updated list of proposed world heritage sites under the UN's 1972 UNESCO Convention. Dozens of sites in Canada were considered, but only 11 selected, among them 4.3 million hectares of boreal forest that spans the Manitoba-Ontario border and includes several provincial parks and First Nations traditional resource areas.

This week, the Government of Manitoba made mention of the proposed site in its Speech from the Throne. First Nations in the region also see the UNESCO designation as a means of preserving their vision of the forest and guaranteeing their traditional use of the land.

Some honourable senators will recall that five years ago the Energy Committee released a report under the chairmanship of former Senator Nick Taylor that was called "Competing Realities: The Boreal Forest at Risk." We recommended that 20 per cent of this forest under siege be designated as protected areas free from industrial development. The report, the recommendations of which have not yet been implemented, has had considerable influence in the debate on the status and the future of the boreal forest.

While I am certain that other potential world heritage sites on Canada's list are worthwhile, in light of our published views on what needs to be done to preserve some portion of this valuable ecosystem, I hope that this site in the heart of the boreal forest will receive favourable consideration, and I trust that other senators will endorse that position.

[*Translation*]

LA FRANCOPHONIE

SUMMIT IN BURKINA FASO

Hon. Maria Chaput: Honourable senators, I had the privilege of attending the 10th Summit of La Francophonie in Ouagadougou, the capital of Burkina Faso, during the week of November 22, 2004. It was my first summit and my first trip to Africa. While in Ouagadougou, I was also part of the Canadian delegation accompanying the Prime Minister to Sudan.

First of all, I was impressed by the warm reception we received from the residents of Ouagadougou and their great joy in welcoming Canadians; then I witnessed their extreme poverty.

Honorable senators, I saw the children of Ouagadougou and the children at the Mayo Camp in Sudan. I saw villages without a school, dispensary, water or hygiene. I saw palaces and the most extravagant residences, but I also saw the Francophonie determined to make a contribution, together with the entire international community, to resolve the serious problems plaguing the world.

It is a memorable experience to see the heads of state and government from countries having French in common renew their solidarity with Africa.

The Francophonie includes many of the poorest countries. The poorest must therefore rely on the more fortunate ones to help them honour their commitments taken under major international conventions.

The theme of the Summit, "Solidarity for Sustainable Development," advocated an approach that encourages both donor and recipient countries to assume responsibility.

Sustainable development is at the heart of initiatives such as universal education, drinking water and improved sanitation, primary health care, political and economic governance, fighting terrorism and poverty, and linguistic and cultural diversity. I was therefore very proud of Canada and its leadership role in this regard.

• (1420)

While opening a small school in Tanghin, Burkina Faso, the Prime Minister mentioned Canada's contribution of $17.8 million towards development of education in the country. "When it comes to aid," he said, "it has to be sustainable. And I cannot think of anything more important than health and education because they are truly an investment in the country's future."

The heads of state and government at this 10th Summit reiterated this commitment. They spoke of creating optimum conditions for sustainable development by working aggressively to eliminate extreme poverty and illiteracy and to guarantee universal education. Canada's message stresses that problems must be solved while profoundly changing the state of mind that has engendered them over many years.

Honourable senators, I am very proud of our country and the fundamental values it advocates.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore***:** Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Mike Delisle, Grand Chief of the Mohawks of Khanawake, and Mr. Andrew T. Delisle, Past Grand Chief and this year's recipient of the National Aboriginal Lifetime Achievement Award. They are guests of the Honourable Senator Gill.

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

[*Translation*]

ROUTINE PROCEEDINGS

TREASURY BOARD

2004 ANNUAL REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present, in both official languages, a report from the President of the Treasury Board entitled *Canada's Performance, Annual Report to Parliament 2004*.

[*English*]

THE ESTIMATES, 2004-05

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) PRESENTED

Hon. Donald H. Oliver: Honourable senators, I have the honour to present the second report of the Standing Senate Committee on National Finance, which deals with the Supplementary Estimates (A), 2004-05.

(*For text of report, see today's* Journals of the Senate, *Appendix p. 259*.)

The Hon. the Speaker *pro tempore***:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Oliver, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

STUDY ON NATIONAL SECURITY POLICY

REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

Hon. Colin Kenny: Honourable senators, I have the honour to table the third report of the Standing Senate Committee on National Security and Defence, entitled *Canadian Security Guide Book, 2005 Edition: An Update of Security Problems in Search of Solutions*.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kenny, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

FOREIGN AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY MATTERS RELATING TO AFRICA

Hon. Peter A. Stollery: Honourable senators, I give notice that, at the next sitting of the Senate, I shall move:

> That the Standing Senate Committee on Foreign Affairs be authorized to examine and report on the development and security challenges facing Africa; the response of the international community to enhance that continent's development and political stability; Canadian foreign policy as it relates to Africa; and other related matters; and
>
> That the Committee submit its final report to the Senate no later that June 30, 2006.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Tommy Banks: Honourable senators, the Standing Senate Committee on Energy, the Environment and Natural Resources has embarked on a study having to do with water in Canada. It has heard from several witnesses so far, including the Minister of the Environment. This afternoon, at five o'clock, we have scheduled a meeting with the Minister of Natural Resources. Therefore, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

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

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

Hon. Terry Stratton (Deputy Leader of the Opposition): I have a question, if I may, for the chair. Did he consult with the deputy chair and the whip on this side with respect to meeting at five o'clock today, there being only one exception for ministers?

Senator Banks: Honourable senators, I did not consult with the whip on the other side. I certainly consulted with the deputy chair, because the meeting and the fact that the minister was to be here were determined some weeks ago.

Senator Stratton: Is this the committee's normal sitting time?

Senator Banks: I cannot say that it is normal. "Normal" is five o'clock or when the Senate rises, so "normal" is an oxymoron in terms of the question.

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

Hon. Senators: Agreed.

Motion agreed to.

THE SENATE

NOTICE OF MOTION TO URGE GOVERNMENT TO REDUCE CERTAIN REVENUES AND TARGET PORTION OF GOODS AND SERVICES TAX REVENUE FOR DEBT REDUCTION

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, pursuant to rule 58(1)(i), I give notice that, at the next sitting of the Senate, I shall move:

> That the Senate urge the government to reduce personal income taxes to low and modest income earners;
>
> That the Senate urge the government to stop overcharging Canadian employees and reduce Employment Insurance rates so that annual program revenues will no longer substantially exceed annual program expenditures;
>
> That the Senate urge the government in each budget henceforth to target an amount for debt reduction of not less than two-sevenths of the net revenue expected to be raised by the federal goods and services tax; and
>
> That a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.

• (1430)

ACCESS TO CENSUS INFORMATION

PRESENTATION OF PETITIONS

Hon. Lorna Milne: Honourable senators, I have the honour to present 517 signatures from Canadians in the provinces of B.C., Alberta, Saskatchewan, Manitoba and Ontario who are researching their ancestry, as well as signatures from 89 people from eight states of the United States who are researching their Canadian roots. A total of 606 people are petitioning the following:

Your Petitioners call upon Parliament to take whatever steps necessary to retroactively amend the Confidentiality-Privacy clauses of Statistics Acts since 1906, to allow release to the public, after a reasonable period of time, of Post-1901 Census reports starting with the 1906 Census.

Including the 20,987 signatures I presented to the Thirty-seventh Parliament, and over 6,000 I presented to the Thirty-sixth Parliament, I have now presented petitions with over 29,343 signatures all calling for immediate action on this very important matter of Canadian history.

QUESTION PERIOD

FINANCE

GUIDELINES ON BANK MERGERS

Hon. W. David Angus: Honourable senators, the government had promised a decision on the guidelines or ground rules for bank mergers by the end of June 2004. Subsequently, the minister indicated he had been unable, for some reason or another, to make that deadline. Recently, his statements on the subject have been rather ambiguous.

Bank mergers have been on hold since 1998, when the Prime Minister, then as finance minister, turned down two proposed mergers. It is now nearly mid-December 2004 and Parliament, I understand, is about to adjourn for approximately six weeks. Can the Leader of the Government in the Senate please advise us as to the reasons for the ongoing delay in arriving at a decision on this matter and when we might expect an announcement on the guidelines?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will make inquiries. This is a question that Senator Oliver asked me before and I cannot at this time add to the answer that I gave to Senator Oliver at that time.

Senator Angus: Honourable senators, I appreciate that the Honourable Leader of the Government is having trouble getting that answer, but the government may be suffering from cold feet as a result of their recent sampling of public opinion. It seems that this past summer it engaged pollster Ispos-Reid to conduct a survey for the Department of Finance called "Canadian Views on Bank Mergers." Incidentally, the text of the survey contains the sentence: "This fall the government plans to issue guidelines to deal with bank mergers."

The results showed a marked decline in Canadians' appetite for bank mergers between 1998 and the present time. Among the questions asked in the survey was the following: "If the government took action to promote more competition in Canada's banking sector from both foreign and domestic banks, would you be any more or less supportive of bank mergers than you are now?"

Could the minister advise the Senate as to whether the government is contemplating measures to promote competition as a way of smoothing over public opinion prior to announcing a new framework for bank mergers?

Senator Austin: Honourable senators, again, I would have to make inquiries in order to provide an answer. However, the policy of the government at all times has been to promote competition in the financial industry sector.

I served on the Standing Senate Committee on Banking, Trade and Commerce with both Senator Angus and Senator Oliver and participated in the review of what became known as the MacKay report. It was a very fulsome review. I also participated in the report that was written by the committee when it was chaired by Senator Kirby, and I endorsed the committee report at that time. However, I will pursue the issues. I am not familiar with the poll to which Senator Angus refers.

I have understood from some members in the financial sector that there is no imminent application for bank mergers, but my information may be past its date.

Senator Angus: Honourable senators, I want to thank the leader for his comments. I would urge him to obtain this information.

The survey that I referred to is dated August 2004. It was submitted to Finance Canada by Ispos-Reid and is entitled, as I said, "Canadian Views on Bank Mergers."

I recognize the leader may not have detailed specific information at his fingertips. In bringing this other information to the Senate — that is, the information Senator Oliver asked for three weeks ago and my questions today — I would appreciate it if the leader could add the following: First, how much money did the Department of Finance pay to Ispos-Reid for this poll? Second, who in Finance Canada requisitioned the poll? Was it the minister or the communications department? Finally, was the work for this survey and contract put to competitive tender? If not, why not?

Senator Austin: Honourable senators, I will take notice of those questions and seek the answers.

CANADIAN BROADCASTING CORPORATION

UKRAINE—RADIO CANADA INTERNATIONAL CUTBACKS

Hon. A. Raynell Andreychuk: Honourable senators, the Ukraine is now in a crisis awaiting a further vote and a recount of the second presidential vote. One of the clear findings by the international community was that the election was neither to an international standard nor to any known democratic principles. One of the OSCE documents indicated that one of the foundations for a free and fair election is education of the populace, that they must know what the alternatives are and that only an informed choice is a democratic choice.

On that basis, why does the Canadian government continue to insist on cutting back Radio Canada International and its Ukrainian programming? We have known for a long time that the Ukraine press has been restricted and that the freedom of expression for the press has been dramatically curtailed. Radio

Canada International and its Ukrainian program was one way of getting information to both Ukrainians in Ukraine and to Ukrainians living in Canada. It has been one of the most valuable services and is supported widely throughout the community.

Let me quote Dr. Zenon Kohut, Director of the Canadian Institute of Ukrainian Studies, University of Alberta, in his letter to Jean Larin, Director of Radio Canada International, who said: "I would like to reiterate and summarize what I wrote in my last letter, and which I strongly believe will hold true for the near future: that RCI's Ukrainian language broadcasts offer an inexpensive and effective way of making more widely known our views and policies on multiculturalism and diversity, respect for the rule of law, the importance of citizen participation in decision making and other Canadian values and beliefs in Ukraine, an understanding of which will foster the building of civil society and a democratic state in Ukraine."

• (1440)

It would be inexpensive to reinstitute Radio Canada International, and it would contribute to the future stability of Ukraine if this programming service were to continue. Having it extended only to the end of January, as I understand is the case, gives the wrong signal to the people of Ukraine and to the people of Canada. Will the government today indicate that this service will not be cut back?

Hon. Jack Austin (Leader of the Government): Honourable senators, as I have no information with respect to the facts of the question that Senator Andreychuk has put, I can only make inquiries and hope to have a quick response to the question.

With respect to Ukraine, I know that honourable senators are aware of how active the Government of Canada has been in assisting the democratic process in that country, and, as has been announced, the government is prepared to support the OSCE with as many as 500 observers, should the OSCE ask us to do so.

Senator Andreychuk: Honourable senators, regarding Radio Canada International, Minister Pettigrew attended a meeting with the Ukrainian Canadian Congress where he indicated that he would be looking into this matter. In light of the events in Ukraine and the turn of this election, that should come as no surprise to anyone. The Prime Minister and the Minister of Foreign Affairs are aware of that.

I am seeking from the Leader of the Government in the Senate an undertaking that he will relay my concerns to his colleagues and indicate how critical it is that the Canadian government reinstitute, on a long-term basis, Radio Canada International and its Ukrainian programming.

Senator Austin: Honourable senators, as I said in my answer to Senator Andreychuk's first question, I will do so with as much dispatch as I can.

FOREIGN AFFAIRS

UKRAINE—SELECTION PROCESS OF ELECTION MONITORS

Hon. A. Raynell Andreychuk: To follow up on the comment of the Leader of the Government about what Canada is doing, certainly, Canada has started to do some things that, perhaps, we should have done earlier. It is still not all that we can do but, in light of this support of the OSCE, we understand that any Canadian would be open to apply to become an observer by meeting the criteria set by the organization that the government has employed to do the screening.

What is the application date deadline? Who will make the final decisions as to who the monitors will be?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will have to make inquiries.

ENVIRONMENT

KYOTO ACCORD COMMITMENTS

Hon. Leonard J. Gustafson: Honourable senators, Natural Resources Canada has said that Canada will not meet its Kyoto commitments. My question relates to a recent revelation of the Deputy Minister of Natural Resources Canada that, today, Canada would be likely to come up well short of its targets under the Kyoto limits.

Mr. George Anderson, a deputy minister of Natural Resources Canada stated at a recent conference in Australia that it would be a "stretch" for Canada to even get two thirds of the way towards reaching the targets. The source is the *Calgary Sun,* December 3, 2004.

Considering this government's posturing on the greenhouse gas file for political gain, as evidenced by both negative advertisements that the Liberal Party ran in the recent election campaign and repeated in the Speech from the Throne commitment, could the leader please explain why the government will not meet its Kyoto targets?

Hon. Jack Austin (Leader of the Government): Honourable senators, while the assumption is that we will not, there is a debate about whether we will be able to meet those targets. The government's policy at the moment is to meet those targets.

Senator Gustafson: Honourable senators, it seems clear to those who are in the know that the government will not meet its targets. One individual who is frustrated by the Liberal record on this issue of greenhouse gases and the environment is the former federal environment minister, David Anderson. In a November 26 front-page article of the *Ottawa Citizen*, Mr. Anderson criticizes his own government's record on greenhouse gases and the environment. Mr. Anderson's statement was reported in the *Canadian Press* story of October 20 when he charged that Canada's $3.6-billion climate change program is being thwarted by cabinet ministers.

What response does the Leader of the Government in the Senate have regarding David Anderson's allegations about the reasons behind this government's questionable environment record?

Senator Austin: Honourable senators, the Honourable David Anderson is, as we know, a former Minister of the Environment, and it was in his term that Canada entered into the undertakings that are known as the Kyoto Protocol.

There is quite a debate on how to achieve those objectives, and the government is involved in a planning process to achieve the Kyoto objectives.

I cannot further advise the honourable senator at this stage when the government will be able to introduce its full plan, because so many elements of Canadian society are endeavouring to achieve a consensus with respect to both the objectives and the methodology to achieve those objectives.

CITIZENSHIP AND IMMIGRATION

EXTENSION OF VISA OF BONDARENKO FAMILY

Hon. Wilfred P. Moore: Honourable senators, my question is for the Leader of the Government in the Senate.

On July 28 of this year, the Bondarenko family from Russia arrived in Shelburne, Nova Scotia, from Bermuda on board their 36-foot sailboat. They have been in Halifax since shortly after that time. Mr. Bondarenko has a Ph.D. in engineering, and his wife taught English in Russia. They have two young sons, Ivan, 11, and Vasily, 6. All that they have is their 36-foot sailboat. They have no income. They wish to stay in Canada.

On November 4, Mr. Bondarenko contacted Citizenship and Immigration Canada officials about staying. He was told he would have to leave the country; his visa was closed and his passport was taken with the advice that if he did not leave by December 14, he and his family would be deported to Russia.

On Saturday last, Mr. Bondarenko and his family boarded their 36-foot sailboat headed for Bermuda, in the North Atlantic. Their engine failed, the ship was taking on water, and it developed two rips in the mainsail. They headed back to Halifax.

Nova Scotia has a strong history of taking in seafarers and looking after them. Canada is a civil and compassionate country, and I think that it would be most appropriate for the Bondarenko family to be given permission to remain in Nova Scotia until the spring of next year. I can tell you the North Atlantic is no place to be in December on a 36-foot boat.

• (1450)

I spoke this morning with Mr. Peter Kinley, Chairman of Lunenburg Industrial Foundry & Engineering Ltd., in Lunenburg. He has offered to berth the Bondarenko vessel at his company's wharf until the spring of next year. I am confident that the good people of Lunenburg will fix this ship, repair the engine and mend the sails so that she will be ship shape in the spring.

It would be most appropriate if we could get permission for this family to remain in Canada. I am not talking about special consideration, but if we can give them the opportunity to remain in Canada until the long weekend in May, then it might be appropriate for them to sail the North Atlantic in a 36-foot sail boat.

Honourable senators, they are prepared to play by the rules, but they are in a tough spot here. I would ask the leader to use his good offices to bring this matter to the attention of the Minister of Citizenship and Immigration with a view to permitting the Bondarenko family to stay in Canada until May 23, 2005.

Hon. Jack Austin (Leader of the Government): Honourable senators, I will take Senator Moore's representation to the Minister of Citizenship and Immigration and ask her to respond to the circumstances as they appeared in the press and as stated by Senator Moore. I do not know what action is being contemplated, but it would appear on the face of it that entry as permanent residents is not possible due to the existing legal regime.

AGRICULTURE AND AGRI-FOOD

BOVINE SPONGIFORM ENCEPHALOPATHY— EFFECT ON CATTLE INDUSTRY

Hon. David Tkachuk: Honourable senators, my question relates to the economic impact of the BSE crisis on Canada's producers and Canada's economy. Some calculations have estimated that the border closings have cost cattle producers as much as $2 billion, according to the BMO chief executive in a CP wire story dated October 21, 2004. Other estimates have the combined economic loss for the Canadian beef industry and Canada's rural communities at more than $6 billion, per *The Toronto Star*, September 11, 2004. Last week, Rick Egelton, Deputy Chief Economist of the Bank of Montreal, calculated that cattle producers lost $5 billion since the May 2003 discovery of the BSE case in northern Alberta. That figure was reported on the CBC business news on November 29, 2004.

My question for the Leader of the Government in the Senate is: What are the official government figures reflecting the cost of the BSE crises to Canadian cattle producers?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will make inquiries.

Senator Tkachuk: Has the government done a cost analysis that combines the economic impact of the BSE crisis on the entire beef industry and rural Canada in general? If so, will the leader please seek to make these figures available to us as soon as possible?

Senator Austin: Honourable senators, I will seek the appropriate answer to that question.

CITIZENSHIP AND IMMIGRATION

MINISTER'S ELECTION CAMPAIGN— REQUEST TO STEP DOWN

Hon. Marjory LeBreton: Honourable senators, a story in today's *National Post* reports that the Minister of Citizenship and Immigration received a $5,000 donation to her re-election

campaign by a recent immigrant, a businessman from Pakistan. This donation, the largest she received during the campaign, was made indirectly by a member of the minister's riding association executive. This sort of action is illegal under the Canada Elections Act.

This is just the latest in a series of scandals involving the minister and her re-election campaign that have called into question her credibility and damaged the department's reputation. In the name of ministerial responsibility and accountability, could the Leader of the Government in the Senate urge his colleague, the Minister of Citizenship and Immigration, to step aside in order to restore Canada's confidence in Canada's immigration process?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no knowledge of the facts alleged by Senator LeBreton. Accordingly, I cannot provide a response at this time.

Senator LeBreton: Honourable senators, it became known a few weeks ago that the minister's chief of staff, Ihor Wons, who has taken a leave of absence, met with an owner of a strip club in his establishment to discuss work visas for exotic dancers. The minister told *The Globe and Mail* that she would have preferred, for many reasons, that he had not had that meeting.

That statement seemed to imply there was only one such meeting. However, in today's *Toronto Sun*, another club owner has stated that he has also met with the member of the minister's office. How many other clubs did the minister's senior aide visit on her behalf?

Senator Austin: Honourable senators, my succinct answer is: I cannot respond to that question.

HEALTH

DRUG SAFETY STANDARDS—CROSS-BORDER SALES

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government in the Senate about cross-border sales of drugs. During an interview with CNN on Sunday, the Prime Minister said that Canada's drug safety standards were discussed with U.S. administration officials last week and that the American officials accepted that our safety standards are at the highest level. The Prime Minister also rightfully defended Canada's drug standards against the U.S. Food and Drug Administration's argument that Americans should not buy our drugs because their safety and effectiveness cannot be guaranteed.

Could the Leader of the Government in the Senate tell us in what context this issue was discussed with the Americans during last week's visit? Did the federal government tell the U.S. officials what position it will take regarding the cross-border sale of prescription drugs?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information that flows directly from the conversation that is referred to by Senator Keon.

Senator Keon: Honourable senators, in a speech at Harvard last month, the Minister of Health spoke out against the cross-border sale of prescription drugs to Americans, saying that Canada cannot be the drugstore of the United States. However, a few days later, the Prime Minister seemed to correct the minister's statement by saying that the federal government was not attempting to drive Internet pharmacies out of business.

Could the Leader of the Government tell us whether the government intends to adopt a policy in this area? Are discussions under way at this time?

Senator Austin: Honourable senators, it certainly is true that the entire issue of cross-border pharmaceutical sales is being monitored by the Government of Canada, in part to ensure that there is no shortage of supply to meet Canadian requirements. It is also important to the Government of Canada that allegations such as Internet pharmacies selling unsafe drugs are put to rest. All drugs sold in Canada must meet Canadian food and drug standards and the other requirements of Health Canada with respect to their efficacy.

FOREIGN AFFAIRS

INTERNATIONAL ATOMIC ENERGY AGENCY— CUTBACK OF FUNDS FOR VERIFICATION PURPOSES

Hon. J. Michael Forrestall: Honourable senators, the Iranian government appears to be covering up some information about its supposedly peaceful nuclear program at a variety of military sites. The International Atomic Energy Agency has been accused of covering up evidence that particles of enriched uranium were found near an Egyptian nuclear facility.

Mr. Martin's first budget cuts, as former finance minister, slashed Canadian money to inspections for treaty verification. Given our leadership role in the IAEA board of governors, what exactly, if anything, is this government doing today to prevent further proliferation of weapons of mass destruction?

Hon. Jack Austin (Leader of the Government): Honourable senators, Canada is a member of the International Atomic Energy Agency, which is based in Vienna. We support that agency, and we support its programs of verification and detection.

Senator Forrestall: Honourable senators, we do not seem to have much money to back up what we say we will do.

I have a further question. The International Atomic Energy Agency announced that it believes that North Korea has processed enough spent fuel to manufacture between four and six nuclear bombs. What is the position of the Government of Canada on this issue, given that we have held the chairmanship of the board of governors of the IAEA?

Senator Austin: Honourable senators, I, too, saw that report. I can say that, if the report can be verified, which is another question entirely, it raises a matter of extreme concern as to the possible safety of other countries. As the honourable senator knows, the United States has been eager to take the matter of the North Korean nuclear program to the Security Council, as it has

in respect to Iran. These are sensitive international matters. Beyond what I have just said, I cannot provide any further information.

• (1500)

Senator Forrestall: Could the minister undertake to find out what impact the slashing of funds for verification purposes has had, particularly with respect to these two items that are very current and, as the leader admits, very disturbing?

Senator Austin: Honourable senators, I will inquire into the financial support of the International Atomic Energy Agency by Canada and provide figures with respect to that support. I am under the impression that the agency has been adequately funded by the international community.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table four responses to questions raised in the Senate: a response to a question raised in the Senate on November 25, 2004, by Senator LeBreton, regarding allegations of political interference by the Minister of Citizenship and Immigration — Investigation by the Ethics Commissioner; a response to a question raised in the Senate on November 25, 2004, by Senator Tkachuk, regarding the refugee claim by Mr. Ernst Zundel and its cost to the government; a response to a question raised in the Senate on November 23, 2004, by Senator LeBreton, regarding the November 2004 Auditor General's report; and a response to a question raised in the Senate on November 3, 2004, by Senator Tkachuk, concerning meetings between the Prime Minister and Ambassador Kergin.

CITIZENSHIP AND IMMIGRATION

ALLEGATIONS OF POLITICAL INTERFERENCE BY MINISTER—INVESTIGATION BY ETHICS COMMISSIONER

(Response to question raised by Hon. Marjory LeBreton on November 25, 2004)

The Minister of Citizenship and Immigration takes the responsibilities of her job very seriously. She prides herself on the qualities of honesty and integrity. At no point has she sacrificed these principles. Unfortunately for the Minister, she is restricted from discussing the particulars of the case due to the Privacy Act.

She thought it was prudent to seek the Ethic Commissioner's advice in order to dispel any perceived wrongdoing. By so doing, she realised that it could have been interpreted many different ways. Therefore, she in fact called the Ethic Commissioner on Thursday, November 4, 2004 on how to proceed with obtaining his advice.

He gladly agreed to assess whether there had been any breach of the ethical code for office-holders and Ministers of the Crown. He asked her to prepare a file and submit it to him at her convenience. She submitted the file to the Ethic Commissioner's Office on Monday, November, 8, 2004.

While she waits for his advice, her office has complied with any additional requests that the Commissioner's Office has made. The Minister waits for his independent report.

REFUGEE CLAIM BY MR. ERNST ZUNDEL— COST TO GOVERNMENT

(Response to question raised by Hon. David Tkachuk on November 25, 2004)

As of November 30, 2004, Mr. Ernst Zundel has been detained at the Metro Toronto West Detention Centre for a period of 650 days at a cost of $113,750.

HEALTH

AUDITOR GENERAL'S REPORT—FEDERAL DRUG BENEFIT PROGRAMS—UNSAFE USAGE OF PRESCRIPTION DRUGS

(Response to question raised by Hon. Marjory LeBreton on November 23, 2004)

The federal government agrees with the Auditor General's recommendations and will act on all of them. We need to, and will, do more to build on best practices and increase collaboration.

The Auditor General's report comes at an opportune time, when all levels of government are working together to implement changes to improve the delivery of health services, ensure the sustainability of the health system and ease financial pressures — as witnessed by commitments of first ministers to develop a national pharmaceutical strategy.

Federal departments will be actively involved in the development and implementation of a National Pharmaceutical Strategy (NPS) in collaboration with provincial and territorial partners. The Strategy will support and build on commitments made by first ministers in September 2004 to address issues of common concern and is expected to contribute significantly over the long term to meeting the objectives identified by the AG.

The Strategy will provide the foundation for new approaches to improve access to safe, effective and cost-effective drugs, and will promote optimal prescribing and utilization of drug therapies, to the advantage of clients and taxpayers.

The NPS will build on a long history of federal departments working together to address issues of common concern and to create mutually beneficial opportunities (e.g., Federal P & T Committee est. 1999; Federal Healthcare Partnership est. 1994).

The overall thrust of the Auditor General's recommendations is to take advantage of efficiencies by creating or identifying those areas common to all programs. Departments intend to build on our past best practices, including those identified by the Auditor General, and create further collaboration and information sharing on these common issues. The focus will be on those actions where analysis shows that a combined approach will reduce individual effort and maximize use of available resources.

In fact, departments have already been taking steps to achieve savings and get the best value for public funds. In 2002/03, for example, the Federal Healthcare Partnership (FHP) saved $2.2 million through a joint pharmacy agreement in Saskatchewan. The savings were achieved by negotiating a combination of dispensing fees, mark-up on drug products, flat fee for over-the-counter medications and alternative reimbursement for pharmacist professional services (trial prescriptions, refusal to dispense). While this agreement is currently under re-negotiation, it is expected that these savings will continue into the future. The FHP was established in 1994 to coordinate federal government purchasing of health care products and services.

The federal government is looking for efficiencies, and will balance cost-containment efforts with the need to maintain both clients' access to health services and support our relationships with healthcare providers on whom we rely to prescribe and dispense needed drug therapies.

Prescription Drugs

Health Canada's Non-Insured Health Benefits (NIHB) Program takes patient safety seriously.

Patient safety is a joint responsibility of physicians, pharmacists and the NIHB. Personal health information can only legally be shared with other health providers with the consent of the individual.

Health Canada has taken action by:

- providing highly effective warning messages to pharmacists (around issues such as duplicate drug) at the time of dispensing. For example, last year, of 10 million transactions processed by the program 300,000 or 3 per cent came up with a warning message and two-thirds of those were not filled;
- auditing pharmacies closely to ensure the remaining third were justified;
- controlling to drugs of concern, either by requiring prior approval (Oxycontin — October 1999) or removing them from the list (Darvon — June 2004);
- producing drug bulletins for doctors, pharmacists, community health workers on important issues such as diabetic treatment or methadone protocols;
- establishing a **Drug Utilization Evaluation (DUE) Committee**, an independent group of experts in Aboriginal health and drug utilization review to ensure clinically appropriate analysis and protocols.

Action has been limited by major concerns by First Nations and Inuit about their privacy. Efforts to gain consent were opposed by First Nations and Inuit.

However, the department is working with its health care and client organizations to put in place a comprehensive drug safety program with the following activities:

- putting in place rigorous quarterly analyses of clients who may be at risk (Jan 2005);
- following up immediately on clients seen to be at risk;
- working with national and regional client organizations to put in place prevention and promotion programs that provide the appropriate support at the community level to address these difficult issues, while respecting our clients' right to privacy.

The Government of Canada shares the Auditor General's concern about preventing the inappropriate use of drugs. Departments are working to identify additional tools to assist health care professionals to deter inappropriate drug use.

Health Canada is working to address inappropriate drug use, while ensuring that client privacy is protected when sharing information with health professionals.

The department has acted and continues to put in place tools to assist healthcare professionals in selecting the best drug therapies for clients. Specifically, Health Canada has, and will continue to review, drug utilization among the client population to provide general information on drug use trends to health professionals, to help them determine the best drug therapies for NIHB clients.

Specifically, Health Canada helps healthcare professionals by providing supplementary information through warning messages at the pharmacy point-of-sale system (e.g., duplicate drugs or therapies) and provider information bulletins. Health Canada will continue its efforts to inform and equip healthcare providers by warning them of potential issues and controlling access to drugs of concern.

Examples of initiatives Health Canada has undertaken, which respond to previous Auditor General reports:

- Warning messages have, and continue, to be provided to pharmacists for duplicate drugs/therapies/ pharmacies through the Point-of-Service system (POS), which is used to process claims for Health Canada's NIHB program (1997).

- Action was taken to more closely monitor pharmacists' overrides of warning messages for drug use. Action was also undertaken to have a rigorous and ongoing analysis to assess the effectiveness of these messages (2001).

- Maximum allowable quantities were placed on certain drugs to limit the quantities dispensed by pharmacists (e.g., Tylenol 3 in July 2001).

- Certain drugs of concern were eliminated or had their access limited (e.g., Darvon in June 2004, Oxycontin in October 1999).

CANADA UNITED-STATES RELATIONS

RESOLUTION OF TRADE ISSUES— POLICY FOR CABINET MINISTERS IN REPRESENTING GOVERNMENT

(Response to question raised by Hon. David Tkachuk on November 3, 2004)

The government is working closely with the U.S. Administration on the issues of softwood lumber and BSE and has vigorously defended Canadian interests. Prime Minister Martin has raised the issues of softwood lumber and BSE at the highest levels of government — with President Bush. In meetings and in his phone conversations with the President, Canadian interests are front and centre and the Prime Minister will continue to pursue a resolution to these problems with President Bush in future meetings.

We are pressing the U.S. government to remove restrictions affecting softwood lumber and BSE at all levels of our relationship, including Congress, State governors and legislators and through the Canadian ambassador to the U.S.

The government has pursued a whole-of-Canada approach to better management and coordination of relations with the United States: via the Prime Minister, the Ministers of Agriculture and International Trade, and Government of Canada officials to ensure that our interests are represented in the U.S. as efficiently and effectively as possible.

[*English*]

POINT OF ORDER

Hon. David Tkachuk: Honourable senators, I rise on a point of order. During Question Period last week, I quoted an exchange between the minister and the Leader of the Official Opposition to seek clarification. The day before I quoted these individuals, the Leader of the Government in the Senate had responded that senators should abstain from asking questions on "strippergate" involving Minister Sgro until we received the results of the investigation. After making myself aware of what was discussed in the other place, I found that ministers felt there was no such obligation to wait for the investigation results. Therefore, I wondered why the Leader of the Government in the Senate, a cabinet colleague to these ministers, would have such a different view.

Senator Austin tried to raise a point of order during my questioning in Question Period, citing rule 46 from the *Rules of the Senate*. The Speaker, at that time, rightly suggested that my honourable friend delay raising the point of order until the end of Routine Proceedings, and the subject matter did not come up again.

In accordance with rule 46, this is my first opportunity to raise a point of order regarding the speech delivered at second reading on Bill C-4, to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment.

This bill deals with some complex and important matters pertaining to the airline industry in Canada and globally. Because of this complexity, I listened very carefully to the speech of the Senate sponsor at second reading in this place and then took the adjournment in order to prepare my remarks. I have met with officials and ministerial staff, and I have read Hansard from the other place to familiarize myself with the minister's speeches on the bill, as well as the important points raised by the other members.

Your Honour, I invoke rule 46. I found in my research this past weekend, with rule 46 in mind, that the speech delivered by the sponsor in the Senate was virtually identical to that speech delivered by the minister in the other place.

Some Hon. Senators: Shame!

Senator Tkachuk: I draw the chamber's attention to this infraction. It requires a Speaker's ruling, although I will suggest, Your Honour, that the only ruling that can be made is to rule that the sponsor's second reading speech is out of order and that it be struck from the *Debates of the Senate*.

In the event someone tries to defend that the Senate second reading speeches were long quotations, citation 496 at page 152 of Beauchesne's 6th edition reminds us that:

> A Member may read extracts from documents, books or other printed publications as part of a speech provided that in so doing no rule is infringed. A speech should not, however, consist only of a single long quotation, or a series of quotations joined together with a few original sentences.

To assist Your Honour in consideration of the ruling, I will table my copies of the two speeches, in which I have marked down the comparable paragraphs. I have noted the identical paragraphs, of which there are over 22, comprising approximately 80 per cent of the speech given in this chamber. I would be interested to know who wrote this, or if the senator wrote the speech himself.

Honourable senators, this is a serious matter and calls into question the good works accomplished in this place.

Before I conclude, I also wish to add that my discovery on Bill C-4 led me to look more closely at all three government bills that are currently before us — thank goodness Prime Minister Martin has kept the workload unusually light — and found to my dismay, and what I know will be to Senator Austin's even greater dismay, that, indeed, even the second reading speech delivered by the sponsor on Bill C-7 is also a verbatim delivery of the first 22 paragraphs of the parliamentary secretary's speech delivered in the other place. This is starting to look like a systemic problem, Your Honour, something that cannot be shovelled aside or ruled upon lightly. I also have copies of that speech, both the minister's and the senator's, so that Your Honour can compare paragraphs one, two, three, four until the end of the speech.

Honourable senators, I am sure you will support me in thanking Senator Austin for flagging this important rule 46 for me. I want to remain, along with him, a vigilant member of the order of business in this place.

Your Honour, I await your ruling.

Hon. Jack Austin (Leader of the Government): Honourable senators, rule 46 is indeed an important one. I join with Senator Tkachuk in making that clear.

I also want to say that I do not think it is good practice for colleagues who are introducing bills on behalf of the government to completely or even substantially duplicate a speech given by a minister in the other place. However, I do not believe it is against the rules.

Rule 46 makes clear that it is out of order to quote from a speech made in the House of Commons in the current session, which may only be summarized, "unless it be a speech of a Minister of the Crown in relation to government policy." Therefore, while I believe that the speeches given are entirely in order, it is my job to make it clear to departmental officials acting on behalf of ministers in support of government legislation in this chamber to smarten up.

Some Hon. Senators: Hear, hear!

• (1510)

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, the time has come for us to make this overt appeal to our rules. We have had instances of this in the past, and all of us understand. We know how this town operates. However, it is important for staff in the ministries that prepare speeches that will be delivered in the House of Commons to know that they cannot simply make a copy of that speech, put a senator's name on it and ship it over to the Senate.

I do not quarrel with our honourable colleagues opposite, because this is not their doing. It is the doing of people in the ministries who are preparing these speeches. They have failed to understand the distinction that exists in a bicameral Parliament.

Our functions are radically different in each House. This is the whole purpose and nature of a bicameral parliament in the Westminster tradition. If these support staff in the ministries have missed out on that part of Canadian governance in their studies, it is time for them to go back to the books and understand that in this chamber we will analyze thoughtfully and carefully, *ex de novo*, a bill that arrives in this place. That is why we go through it, with the support of all honourable senators on both sides of the aisle, step by step.

Perhaps the last time this happened we were not rigorous enough in making that point. On the point of order that has been raised by Senator Tkachuk, we should have a ruling. They will then get the message.

I assure honourable senators opposite that I was ready to speak today, to debate the bill on which I took the adjournment, and, indeed, would begin immediately after the fresh argument is advanced on why we should support the principle of the bill at second reading. However, I do not think we can accept an argument that is based upon an argument that was delivered already in the other place.

Senator Austin: Honourable senators, I wish to advise the house why I condemn the practice, although it is not a point of order that should be carried by a Speaker's decision. The practice comes within rule 46, but I do not endorse it. I agree with Senator Kinsella's points about the way in which this chamber should operate.

Senator Tkachuk: Just to clarify, Senator Austin is not correct. These speeches were not quotations. That would be different. If to fortify an argument a senator is quoting the minister in the other place and gives due credit to the quotation, that is reasonable, but he gives credit.

In this particular case, in both these cases, no credit was given. As far as senators here were concerned, these were the words of the senators themselves. There was no reference that this was a quotation from any minister in the other place.

Hon. Anne C. Cools: Honourable senators, I would like to participate briefly in this point of order. This matter has bothered me for quite some time, not only from the point of view of senators repeating speeches that have already been delivered by ministers in the other place, but from the point of view that we are being asked to determine exactly when is it that a senator owns his speech.

There is now arising in many parliamentary quarters great concern about the number of speeches — especially canned speeches — that are being written by other people for members. It is a huge concern. I expect, as a member of Parliament and a senator here, that if a senator rises and speaks, he owns that which he is saying — in other words, that speech is a product of his or her efforts. We must discern exactly what the parliamentary position is on these practices that have grown like Topsy, where it is immediately evident that those speeches were written in distant places because most often they do not even reflect the language of Parliament. Quite often, the grammatical structure is in the passive tense.

I would like to say, Your Honour, that even the Speaker of the Senate is not exempt from my concerns. I remember a couple of years ago when a new Speaker began his words and referred to himself as "Mr. Speaker." Unfortunately, this too has grown into a bit of a practice. It was clear from the Speaker's reading of his own ruling that he had not written it and had had very little involvement in it.

This is a broad question. It has a larger consequence than we comprehend. What it means is that government, by having thousands of people churning out these speeches, can be making in each chamber many speeches in a day. This means, of course, that the natural proceedings in Parliament are not moving along at a very natural pace.

I do a fair amount of reading of old debates. Just a few days ago, I was looking back to Mackenzie King. You could see Mackenzie King moving the adjournment of the debate because he was not ready to proceed — he was still working on a speech. I would submit to honourable senators that the government, with all its resources and all its speech writers grinding them out and holding them in cans, can load and weight the system in its favour.

I know, for example, that if Senator Austin or government sponsors on the other side make four or five speeches on certain orders in a day, it is impossible for me, and I would submit for most of us, to respond.

I speak, honourable senators, as a person who, because of the nature of my personality and the nature of the issues on which I work, cannot find myself in the same group as many other senators. I have to do endless hours of laborious work on the speeches that I give.

I am musing aloud here to some degree. This is a huge problem. It has downgraded and diminished the quality of our work. In addition, it has severed Canadians from the constitutional language that is their rightful heritage. Honourable senators, we today have a cabinet most of whom cannot speak in the language of Parliament.

We must debate this matter. Senator Austin is correct when he says that this matter should be looked at outside of the scope of a Speaker's ruling. It is an important matter and a valid point that has come forward in a point of order. It would be nice if the Senate as a whole could take control of this issue and examine it because it is so huge.

One of the reasons that I think it is not suitable or appropriate for the Speaker to rule on the issue is that Speakers are involved in the same practices of repeating speeches written for them, although I know of no instance where the Speaker here has repeated a speech given by a Speaker in the other place. This is an enormous problem, and one that is very disturbing.

• (1520)

I am not supporting Senator Austin, although he is right that this should be resolved outside of a point of order. Senator Austin is aware that this is happening, as are all senators. Repeating a speech in such a way should be deplored and condemned by all in this place. Such a practice is not worthy of senators. Honourable senators, in some chambers, members are not permitted to read speeches; they are only permitted to refer to notes. That practice has some disadvantages, as well.

We should be mindful that our primary task is to speak, which is a skill and a talent that every senator should attempt to develop.

Senator Austin has attempted to characterize the speeches in question as quotations. For the record, once again, rule 46 of the *Rules of the Senate* reads as follows:

> The content of a speech made in the House of Commons in the current session may be summarized, but it is out of order to quote from such a speech unless it be a speech of a Minister of the Crown in relation to government policy.

It is not possible in logic, in law, in semantics or in grammar to characterize a whole-scale repetition of someone else's speech as a quote, unless, of course, the speaker wants to say that the speech was one great long quote. That in itself is admission that the speech was not that of the person speaking.

I do not believe that rule 46 was intended to support what has happened. Senator Austin is incorrect in attempting to characterize those speeches on, I believe, Bill C-4 and Bill C-7 as being in order because quotations are allowed. Clearly, those speeches were not quotations, per se. All senators know that quotations punctuate speeches, but they do not make a speech.

I would like to thank Senator Tkachuk for bringing forth the issue, because it is time for the house to address this. I deplore such a practice and I have been waiting for someone to raise the issue for an opportunity to speak to it.

Senator Austin: Honourable senators, one point in the argument of Senator Cools raises the following question: How long is a quote? A quote is as long as a quote is, in my view. That is how long a quote is. I hope to be quoted on what I have just said.

In response to Senator Tkachuk, there is nothing in the rule that says that one must identify the source. The rule states that if a senator is quoting a minister of the Crown, then he or she is entitled to do so.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I would like to quote a portion of rule 46 of the *Rules of the Senate*, as the Leader of the Government in the Senate has done:

> The content of a speech made in the House of Commons in the current session may be summarized, but it is out of order to quote from such a speech unless it be a speech of a Minister of the Crown in relation to government policy.

My understanding in respect of Bill C-4 is that the speech was not made by a minister.

Senator Austin: It was made on behalf of a minister.

Senator Stratton: It was not made by a minister.

Senator Austin: It was made for a minister.

Senator Stratton: The rule does not say that. It says, "...unless it be a speech of the Minister of the Crown..." not "on behalf of" or any such words.

Senator Austin: It was a speech of the minister made by the parliamentary secretary.

Senator Stratton: I would argue that the rule is quite clear, where it states, in part, "unless it be a speech of a Minister of the Crown."

Hon. Sharon Carstairs: Honourable senators, I do not believe this is a point of order. Rather, this is an issue of a bad habit, a bad custom, an extremely bad practice. Senator Austin addressed this in his opening remarks, when he said that it is a bad practice. Quite frankly, it is the result of laziness on the part of departmental officials who find it easier to merely send over the speech, with modifications, of the minister or of the parliamentary secretary rather than write a second speech.

The phrase in rule 46, "unless it be a speech of a Minister of the Crown," is important and could easily be interpreted as the parliamentary secretary who is giving that speech for the minister of the Crown in relation to government policy.

Honourable senators, nothing is more government policy than a piece of legislation introduced by the government. That is the essence of government policy. We have, in this instance, a speech that is descriptive of the essence of government policy. It follows the words of the minister, I think inappropriately, because the senator should give his or her own speech.

Senator Cools makes reference to the phrase quite rightly. When does a senator give his or her own speech? Certainly, on inquiries, motions and private member's bills, but when a senator undertakes to sponsor a government bill, he or she undertakes to promote government policy as it is written.

Senator Cools: I wish to respond to Senator Carstairs.

The Hon. the Speaker *pro tempore***:** Honourable senators, the point of order has become a debate.

Senator Cools: It is not wise to slough this off on inefficient bureaucrats. Senator Austin said, I believe, that the bureaucrats should smarten up. This is the responsibility of the Senate, and we should take it seriously.

Returning to Senator Austin and Senator Carstairs, a quotation is not a quotation unless the person speaking states that it is such. A quotation usually occurs within speeches and in a particular form.

I do not think we need to rediscover all of the rules around writing and plagiarism. There are some normal ethical and moral concerns that we all learned at one time, if not in kindergarten then somewhere else in our schooling, when we learned to write. It is not possible, under rule 46, to characterize those speeches as quotes or long quotes because the speakers did not acknowledge that they were quoting. For example, it could be construed as plagiarism but cannot be construed as a quote. There is no way that those speeches could possibly qualify as quotes within the context of rule 46. The problem is larger and affects many senators in this place and members in the other place. It bothers me deeply.

The Hon. the Speaker *pro tempore***:** I wish to thank the senators who intervened on the point of order. I shall take the matter under advisement and return to the chamber as quickly as possible.

Senator Cools: Honourable senators, for clarification, do the speeches identified by Senator Tkachuk include Bill C-6?

Senator Kinsella: No.

Hon. Tommy Banks: Certainly not.

Senator Cools: Thank you, Senator Banks.

ORDERS OF THE DAY

CANADIAN HERITAGE ACT
PARKS CANADA AGENCY ACT

BILL TO AMEND—SECOND READING—
ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Gill, seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill C-7, to amend the Department of Canadian Heritage Act and the Parks Canada Agency Act and to make related amendments to other Acts.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, this subject matter has been taken by the Speaker *pro tempore*. I assume that it stands under the Speaker's name.

Order stands.

• (1530)

DEPARTMENT OF PUBLIC SAFETY
AND EMERGENCY PREPAREDNESS BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Grafstein, for the second reading of Bill C-6, to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts.

Hon. Anne C. Cools: Honourable senators, I rise to speak at second reading of Bill C-6 to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts. Honourable senators, the government informs us that this is the enabling legislation to establish the new Minister and Ministry of Public Safety and Emergency Preparedness. The government claims, wrongly, that this involves a simple name change from Solicitor General and the Solicitor General's department to the Minister and the Ministry of Public Safety and Emergency Preparedness. This new ministry was established by several Orders-in-Council, including P.C. 2003-2061, P.C. 2003-2062, P.C. 2003-2086 and P.C. 2003-2087, on December 12, 2003.

Honourable senators, I shall argue that this mega minister and ministry are constitutionally unpalatable, in that they concentrate enormous power in one minister, which powerful minister, cast as the Deputy Prime Minister, is not, consequently, responsible to Parliament but, instead, to the Prime Minister. All this has the effect of putting Canadians at the mercy of this unaccountable and irresponsible, yet very powerful, minister.

Honourable senators, the sponsor of Bill C-6, Senator Banks, responding to senators' questions on November 23, 2004, said:

> This is a mechanical bill, which gives a constitutional and legal form to steps that have already been taken.

To Senator Kinsella's question on the organization and machinery of government, Senator Banks also told the Senate that:

> As the honourable senator has pointed out, each time there has been a reorganization by a government at any time, of whatever stripe, it is done under the authority of the Public Service Rearrangement and Transfer of Duties Act, which permits the Governor-in-Council to transfer portions of the public service from one department to another. This is, again, common.

I would ask honourable senators to remember the words, "transfer portions of the public service from one department to another." Senator Banks added:

> There is some matter of substance in the present bill, but with regard to what I think the honourable senator is talking about, this is a name change and not much more.

Honourable senators, Senator Banks described the contents of Bill C-6 as a "name change and not much more." This is no simple name change. This is no simple bill. Passage of Bill C-6 will mean a drastic change to our Constitution, and it will be done in an irregular and improper way. It is a piece of cunning, foisting constitutional and parliamentary mischief upon Canadians and this Parliament.

This is no simple bill. This is a major reorganization of the machinery of the Government of Canada and of the Constitution. Bill C-6 would create a constitutional monster, perhaps a Medusa, a mega ministry and minister in which will reside an unholy and inordinate concentration of power.

Further, Bill C-6 will then deposit this ministry into the position of the Deputy Prime Minister, a position which is a constitutional nonentity and a fabrication of someone's ego and ambition. The Deputy Prime Minister is a servant, not of Her Majesty the Queen or of the people of Canada, but of someone else. The Deputy Prime Minister is a personal political servant of the Prime Minister, and is accountable to the Prime Minister and not to Parliament.

Honourable senators, Bill C-6 will create this mega minister by disfiguring the ancient law officer of the Crown, called the Solicitor General. Bill C-6 distorts the officer, the Solicitor General, effectively abolishing the position while, simultaneously, transforming and morphing it into the new mega minister with characteristics that are not those of the Solicitor General. Honourable senators, the most current edition of *Black's Law Dictionary* defines the Solicitor General at page 1427 as:

> The second-highest-ranking legal officer in a government (after the attorney general); esp., the chief courtroom lawyer for the executive branch.

Honourable senators, Senator Banks spoke about the Government of Canada's powers under the Public Service Rearrangement and Transfer of Duties Act to issue Orders-in-Council reorganizing government departments. This act, in section 2, headed "Transfer of Functions and Amalgamation of Departments," states:

> 2. The Governor in Council may
>
> (*a*) transfer any powers, duties or functions or the control or supervision of any portion of the public service from one minister to another, or from one department or portion of the public service to another;
>
> (*b*) amalgamate and combine any two or more departments under one minister and under one deputy minister.

Honourable senators, this rearranging act authorizes the enactment of Orders-in-Council for organizing the machinery of government, but it does not authorize this or any other major constitutional change. All senators should examine these Orders-in-Council closely to discern their real constitutional purpose and their true constitutional effects.

Honourable senators, I submit that Her Majesty's law officer, the Solicitor General, is no "portion of the public service." The Solicitor General's department is part of the public service, but not the officer, the Solicitor General herself or himself. Consequently, this ancient officer, either in its nature or its character, cannot be rearranged or transferred under the powers of the Public Service Rearrangement and Transfer of Duties Act. I submit that these alterations to the officer, the Solicitor General, to its nature and its character, are an improper use of this act and should be roundly condemned. This use is an attempt to make the officer, the Solicitor General, something that it is not and something that it cannot be.

I submit that the Public Service Rearrangement and Transfer of Duties Act used to enact this set of Orders-in-Council cannot be applied to morph the Solicitor General, Her Majesty's law officer, into this mega minister now called the Deputy Prime Minster and Minister of Public Safety and Emergency Preparedness.

Bill C-6 is asking Parliament to do that which the government did not dare do by Order-in-Council, which was to abolish de facto, though not quite de jure, the law officer, the Solicitor General, and to transform it into something else, something quite different from and even constitutionally foreign and contrary to the officer itself.

Bill C-6 treats the Solicitor General as a dispensable fifth wheel in government, to be distorted and enlarged into a mega minister, which then consumes and swallows the Solicitor General. In a bizarre form of constitutional cannibalism, it may be said that the mega minister eats up the Solicitor General. Senators should question why the officer, the Solicitor General, has been made the subject of this manipulation, exaggeration and enlargement. It is time for Parliament to study the Government of Canada's use of the Public Service Rearrangement and Transfer of Duties Act for purposes not intended or contemplated by Parliament in passing the act many years ago.

Honourable senators, since December 12, 2003, the country has laboured under a legal fiction, perhaps even a constitutional imposter, called the position of Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness. One year ago on December 12, 2003, Paul Martin was sworn in as the Queen's First Minister of Canada along with his cabinet, which included Anne McLellan as the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness, the totally new ministerial position and department. In describing his cabinet, his reorganized machinery of government and this new mega ministry, the Prime Minster's press release of that day under the heading, "Securing Canada's Public Health and Safety," informed that the Government of Canada will achieve the goals of public health and safety by making the following changes in the organization and machinery of government including:

> 1. Creating a new Minister of Public Safety and Emergency Preparedness, to integrate into a single portfolio the core activities of the existing Solicitor General portfolio that secure the safety of Canadians and other activities required to protect against and respond to natural disasters and security emergencies.

• (1540)

Honourable senators, the Prime Minster's press release described at length the creation of this ministry but said nothing of the law officer, the Solicitor General. The Prime Minister's press release was silent on this ancient and historical office, the Solicitor General, Her Majesty's law officer of the Crown. The press release spoke of "the core activities of the Solicitor General's portfolio," that is, of departmental activities, but said nothing of the Solicitor General, the law officer itself, its nature, its character or its destiny. The Prime Minister was silent on the key constitutional question. The key constitutional question is the conversion of Her Majesty's law officer, a part of the administration of justice, into a mega minister, the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness. Senators must examine the constitutional destiny of the Solicitor General and its availability for such exaggeration. One cannot simply convert things like that. It does not work that way.

Honourable senators, the Solicitor General is, as is the Attorney General, a law officer of the Crown. In Canada, these two ancient offices antecede Confederation and the British North America Act, 1867. Both officers were modeled on the ancient offices of the United Kingdom created by Their Majesties using royal instruments. The law officers of the Crown are unique officers. When these officers are cabinet members, which often they are not, their constitutional positions as cabinet members are quite distinguished from their constitutional positions as law officers because of their constitutional roles in the administration of justice and because of their relationship to Her Majesty the Queen as the fountain of justice. In fact, as the law officers, they exercise a peculiar and important independence separate from the rest of cabinet because of their roles as the administrators of national justice. Bill C-6 does not respect that independence and, as a matter of fact, tramples it.

Simultaneously on December 12, 2003, a cluster of Orders-in-Council were enacted to accomplish Prime Minster Paul Martin's restructuring and reorganization of government. Following the swearing in, the ancient position, the law officer of the Crown, Her Majesty's Solicitor General, seemed to have disappeared from the lexicon and all, including the media and members of Parliament, began to describe Anne McLellan not as the Solicitor General but as the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness.

Honourable senators, I was away when this happened. In a telephone conversation through which I was learning who the new ministers were, I inquired who the new Solicitor General was. My staff told me that there was none. I said, "There has to be a Solicitor General." It was only when I returned and was able to look into the matter that I discovered what had happened. Even in those few days, the descriptor of the Solicitor General as the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness was already rampant.

Last December, I attempted to discover why Canada's Solicitor General had seemingly disappeared. I looked, therefore, to the *Canada Gazette* of January 3, 2004, just days after the swearing in. Under "Government Notices," describing appointments, the *Canada Gazette* described Anne McLellan saying:

> McLellan, The Hon/L'hon. Anne, P.C./C.P.
>
> Solicitor General of Canada to be styled Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness...

I repeat, the "Solicitor General... to be styled Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness." We should note the difference between the description in the *Canada Gazette* and that of the Prime Minister's December 12 press release.

Honourable senators should also note the ancient office of Her Majesty the Queen's Solicitor General cannot constitutionally be styled to be anything other than what it is, the Queen's Solicitor General. The practice of style cannot alter or amend the nature and character of the office itself, nor the constitutional design and purpose of the office.

Honourable senators, I would like you to consider a possibility to make my point. We should ask is it possible, for example, that the Prime Minster bring forth an Order-in-Council and a bill to style himself the King of Canada? I do not think so. I think that we senators had better do some homework to find out what styling can and cannot do. I submit that it cannot alter the nature and character of the Solicitor General itself.

I repeat, honourable senators, that the Public Service Rearrangement and Transfer of Duties Act provides no authority or power whatsoever for the disfiguring, alteration or elimination of the officer, the Solicitor General, the junior law officer of the Crown. It is a travesty that Parliament has been asked to participate in this piece of deception and constitutional vandalism.

This government is systematically dismantling Canada and its Constitution. A few legal elites seem to be ever working to rid Canada of its Westminster foundations and its constitutional terminology. This is a constitutional cleansing or perhaps a constitutional bloat.

Honourable senators, Prime Minister Martin's major reorganization of government in this area was effected by several Orders-in-Council of December 12, 2003. In Canada, it had historically been the practice to accompany major government reorganization by adequate study, consideration, and also some debate in Parliament. For example, in 1966 when Liberal Prime Minister Lester B. Pearson set about his major government reorganization, which coincidentally included the creation of the Solicitor General's department, by transferring portions of the Department of Justice to a new department of the Solicitor General, which Bill C-6 will repeal, his major initiative, Bill C-178, an Act respecting the organization of the Government of Canada and matters related or incidental thereto, was driven by the Royal Commission on Government Organization, chaired by J. Grant Glassco. In addition, prior to Bill C-178 proceeding in the House of Commons, Mr. Pearson, on May 9, 1966, moved for a Committee of the Whole to consider the resolution that it was "expedient to introduce a measure respecting the organization of the government of Canada to establish a Department of the Solicitor General...." Many departments were being established.

Honourable senators, Prime Minister Mackenzie King acted similarly in 1936 when, prior to his government reorganization bills, he moved for Committees of the Whole to study the expediency of his proposed reorganizations. It seems that this government is not bound even by its own former Liberal prime ministers and has offered no study, no royal commission, no resolutions and no parliamentary debate on this measure. In fact, this government has offered no explanation for the changes proposed in Bill C-6, other than to say that they want to cluster together in one ministry a collection of, to my mind, disparate agencies.

Having offered no explanation, we are left with the fact, still, that this Minister of Public Safety and Emergency Preparedness is a mega minister, in whose office will be concentrated extraordinary powers, both domestically and internationally. Senators should be skeptical about such power concentration, particularly when the Speech from the Throne of February 2, 2004, situated this new ministry under the speech's heading "Canada's Role in the World."

• (1550)

En passant, I must inform honourable senators that in 1966 when Mr. Pearson created several new departments, the Glassco Commission reports, which fuelled his report, did not touch upon the office of the Solicitor General. In fact, Mr. Pearson then gave few reasons for converting portions of the Department of Justice into the Department of the Solicitor General. Professor Edwards told of this in his 1980 study entitled, "Ministerial Responsibility for National Security: As it relates to the offices of Prime Minister, Attorney General and Solicitor General of Canada." Professor Edwards wrote:

> We are left with the inescapable suspicion that neither the Government nor the Prime Minister addressed their minds in 1966 to the ramifications of using the portfolio of the Solicitor General, an office exclusively rooted in the historical development of the Law Officers of the Crown, to describe the new Department responsible for the R.C.M.P., the federal penitentiaries, parole service and National Parole Board...

Honourable senators, Bill C-6 purports to mysteriously transform the Solicitor General, Her Majesty's law officer into a mega minister called the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness. However, no one will explain how this mysterious transformation takes place in law. I submit that the law officer of the Crown, the Solicitor General simply cannot be transformed thus. As I said before, this is constitutional vandalism by a government that has no understanding of the proper constitutional roles of the Attorney General and the Solicitor General and of the proper constitutional relationship between those law officers, the Prime Minister and the cabinet.

Bill C-6, clause 7(1), will deem the Solicitor General into the new mega minister by saying:

> Any person who holds the office of Solicitor General of Canada or Deputy Solicitor General of Canada on the day on which this section comes into force is deemed to have been appointed under this Act as Minister of Public Safety and Emergency Preparedness or Deputy Minister of Public Safety and Emergency Preparedness respectively from and after that day.

The officer, the Solicitor General, simply cannot be deemed into the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness. This clause suggests that Anne McLellan may not have been properly appointed in December 2003. It is unclear why the incumbent, Anne McLellan, whom the *Canada Gazette* reported as sworn in as the minister on December 2, 2003, is now in clause 7 asking Parliament to deem her "to have been" appointed to that to which she was appointed a year ago, last year. It leads us to query or suspect that perhaps she was never appointed as the minister or that perhaps the appointment process was flawed or defective. Honourable senators should examine this strange and suspicious clause deeming Anne McLellan "to have been" appointed as the minister. The appointment of ministers is exclusively under the purview of the Governor General, acting as the delegate of Her Majesty the Queen and exercising the Queen's prerogative. It is not the purview of Parliament.

Honourable senators, I will speak a little about the term "deem." It is one of those things to which I hope honourable senators will begin to address their mind. In statutory and legislative drafting, it is thought that the term "deem" is to be avoided or used very cautiously. *Black's Law Dictionary*, 7th edition, 1999 defines "deem" on page 425:

> 1. To treat (something) as if (1) it were really something else, or (2), it has qualities that it doesn't have < although the document was not in fact signed until April 21, it explicitly states that it must be deemed to have been signed on April 14 >

Black's dictionary continues its definition saying:

> "Deem" is a useful word when it is necessary to establish a legal fiction either positively by "deeming" something to be something it is not or negatively by "deeming" something not to be something which it is...All other uses of the word should be avoided.

Black's dictionary continues:

> "Deem" is useful but dangerous. It creates artificiality and artificiality should not be resorted to if it can be avoided.

Honourable senators, I move now to the constitutional nature and character of Her Majesty's two law officers. These are ancient offices. The Attorney General originates in the *attornatus regis*, the King's attorney, and the Solicitor General originates in the *secundarius attornatus*, the second attorney. These two ancient officers are governed by a tiny amount of statutory law and a large body of common law. They are distinguished by judicial and quasi-judicial characteristics and their unique constitutional relationship to our Sovereign Queen, the "fountain of justice," and to the Queen's subjects, as the guardians of the public interest and as the officers in charge of Her Majesty's legal affairs and the administration of justice for her subjects on her behalf.

Honourable senators, Professor John Edwards is a singular scholar on these officers. He tells us of the absence of knowledge and understanding of these officers' roles. He noted at page 2 of his study already cited, the "regrettable absence of published writings on the role of the offices of the Attorney General and Solicitor General in Canadian constitutional history..."

Professor Edwards continued:

> If my assumption is correct that there exists throughout every country of the Commonwealth a vast body of public ignorance as to the essential role and functions of the office of Attorney General, part of the blame for this state of affairs must rest with past and present holders of the portfolios and offices represented at this meeting. Reading the parliamentary debates, journals and newspapers of the respective Commonwealth countries evinces little substance by way of public explanation of the office of the Attorney General or its special responsibilities as the avowed guardian of the public interest.

Honourable senators, this absence of knowledge is again proven by the lack of debate around Bill C-6 on the office of the Solicitor General.

I shall now give a cameo view of the constitutional positions of the law officers of the Crown and of the relative positions of the two officers. Professor John Edwards, in his 1964 book entitled *The Law Officers of the Crown*, explores the relative positions of the two law officers. He wrote of glimpses "into those areas in which the functions of the two Law Officers were coordinate, that is in drawing up and passing royal grants, which are to go to the great seal." He wrote that the historical common law position was articulated by Lord Mansfield in 1770 in the case of *R v. John Wilkes*. Professor Edwards cited Lord Mansfield at page 124:

"As far back as the memory of the vacancies of the Attorney's office has led to search," the Chief Justice continued, "precedents have been found of informations filed by the Solicitor-General, in Chancery, and on the law side of the Exchequer....There are precedents of replying, demurring and taking issue, praying judgement or award of execution, by the Solicitor-General, during the vacancy of the other office. We all know from experience that any vacancy which we remember of the attorney's place, his office has been executed by the Solicitor-General....They give credit to the Solicitor-General, whose authority to act is derived from the prerogative powers inherent in the office of the Attorney-General..."

• (1600)

Professor Edwards reinforces this point, quoting Lord Mansfield again on page 125:

> In any such eventuality, "the business (which cannot stand still) must devolve upon another of the King's Counsel: and there is nothing so certain, as that the whole business and authority of the Attorney devolves upon the Solicitor-General."

Professor Edwards agrees with Lord Mansfield, saying:

> This statement of the relative positions of the two Law Officers of the Crown, clear and comprehensive in the mould generally associated with the great Chief Justice, is as true today as it was then.

Honourable senators, as I said before, this bill is no simple name change. Professor Edwards studied the relationship between the Attorney General and the Solicitor General and their relationship to cabinet. He continued, quoting Chief Justice Wilmot of the Court of Common Pleas at page 126:

> ... the Solicitor-General is the *secundarius attornatus*; and as the Courts take notice judicially of the Attorney-General, when there is one, they take notice of the Solicitor-General, as standing in his place, when there is none. He is a known and sworn officer of the Crown, as much as the attorney; and, in the vacancy of that office, does every act, and executes every branch of it.

He quotes Chief Justice Wilmot again as follows:

> That the office of Attorney-General devolves upon the solicitor, is proved by such a chain of authorities, as can leave no doubt in any man's mind upon this question.

Honourable senators, Canada has had Solicitors General since 1782. After Confederation, on June 23, 1887, under Conservative Prime Minister Sir John A. Macdonald, Bill 42, to make provision for the appointment of a Solicitor General, introduced by Attorney General and Minister of Justice Sir John Thompson, received Royal Assent. Section 1 reads as follows:

1. The Governor in Council may appoint an officer, who shall be called "The Solicitor General of Canada," and who shall assist the Minister of Justice in the counsel work of the Department of Justice, and shall be charged with such other duties as are at any time assigned to him by the Governor in Council.

Sir John A. Macdonald's statute was consistent with the Constitution, and the common law position, that the Solicitor General is the *secondarius attornatus*, the centuries-old common law position that has been in force in Canada from 1782 until now. Honourable senators, clearly, the first Prime Minister of Canada possessed great knowledge of the operation of our constitutional system. I do believe that we should follow the lead of Sir John A. Macdonald and uphold our constitutional system. I suggest that our support for this bill be guarded and that we examine its constitutional implications.

Honourable senators, in conclusion, this government, in Bill C-6, has created a mega ministry, a constitutional monster which I believe is foreign to our constitutional system. Under the heading "Powers, Duties and Functions of a Minister," Bill C-6, in clauses 4, 5 and 6, would confer upon the minister what I would describe as excessive powers in several distinct fields. Consequently, one minister will possess almost total and absolute power over individual Canadians, whether those powers are policing, prosecuting, detaining, intelligence, security, customs, borders, not to mention the powers over parole, pardons and clemency. This ministry is a very large tent of coercive and restraining powers. This mega ministry is a constitutional creature unknown to us and to our Constitution and is unpalatable.

Senators should be concerned about this mega ministry, particularly by the lack of study that has accompanied its creation. Senators, support for this bill should be guarded.

Honourable senators, the reorganization of government and the machinery of government are undoubtedly the Prime Minister's and Privy Council's ken. The Prime Minister has cast this mega minister, a dangerous mutant of the Solicitor General, as the Prime Minister's personal servant, his own personal assistant. This is unconstitutional, improper and irregular.

As a result of these bizarre innovations in the law and the Constitution, the Prime Minister should come to the Senate committee to explain why he saw fit to abolish the ancient officer, the Solicitor General, an important and major part of the administration of justice which was swallowed up by this mega minster, and also why he chose to subordinate the mega minister to the Prime Minister himself. Anyone can tell you that the proper constitutional role of the law officers of the Crown is their peculiar independence and distinctness.

In other words, honourable senators, as I said before, my concern in this bill is that this mega minister is unconstitutional and unpalatable because it concentrates enormous power in one minister and then turns around and casts that minister the Deputy Prime Minister, who, holding such powers, is not responsible to Parliament but instead is responsible to the Prime Minister. In my view, honourable senators, the effect of all of this constitutional tampering is clearly negative because it has the effect of putting individual Canadians at the mercy of one minister who embodies this combined and disparate concentration of powers.

Honourable senators, I hope that we shall have some good debate on the complexities of this bill. I hope that honourable senators will give this bill the attention it deserves and understand that what has happened here is extremely complex. It is not mechanical; it is seriously constitutional.

Honourable senators, I do not believe that Her Majesty's law officer can just be morphed, mutated or grown into another position. It does not function that way. I hope that, when this bill is referred to committee, we will hear from witnesses who will speak to these points. To many senators they may seem arcane and cryptic, but they are of great constitutional importance. We are talking about the administrators of the justice system and of national justice.

From everything I have heard so far, the creation of this bill and the use of the Solicitor General seems accidental. It is as though they went about styling the Solicitor General or were trying to obliterate the Solicitor General, and somebody said, "We need a Solicitor General. You just cannot do that." Then someone said, "Let's style the Solicitor General as the Minister of Public Safety." Then somebody said, "Oh, my goodness, I am not too sure we can do that either, and maybe what we need is a bill to set it all right." I do not know. I am speculating. I hope that there are some reasonable and rational answers.

Again and again in this place, whenever you hear that a bill is simple or mechanical or for housekeeping, that should be a hint to study it closely.

I thank honourable senators for their attention, and I hope that I have not bored them too much.

Hon. Tommy Banks: Would the honourable senator answer a question?

Senator Cools: I always love to talk to Senator Banks.

Senator Banks: To Senator Cools, a rose by any other name is still a rose, and the junior legal officer by any other name is still the junior legal officer.

The thing that is mysterious to me — the honourable senator has referred to mysteriousness — is the honourable senator's characterizations having to do with this bill.

To get directly to my question, I have a good friend in Alberta who I see frequently and for whom I have the highest regard. His name is Don Mazankowski. Would the honourable senator tell us what his title was when he was in the other place?

• (1610)

Further, would the honourable senator tell us where in the Constitution of Canada it names those persons who are members of the ministry of the government and the offices they hold and that constrains the changing of them? Would the honourable senator further tell us who was the minister of war production before Mr. Mackenzie King named one?

Senator Cools: I do not understand the relevance of the honourable senator's question. I think what he is getting at, though he is not that clear, is that Don Mazankowski was the Deputy Prime Minister. This is a recent innovation. The first Deputy Prime Minister was Allan J. MacEachen, and there is a history to it.

Senator Mercer: A great man, too!

Senator Cools: I am a great respecter of Allan J. Let me tell you, I served under Allan J. in this place.

Senator Tkachuk: Does he still have a free office in this place?

Senator Cools: This term "Deputy Prime Minister" is not an office.

Senator Banks: It is not what?

Senator Cools: It is not an office. This is a recent fabrication.

What I am trying to say, which I think is eluding us, is that one does not take these ancient positions, Her Majesty's law officers of the Crown, and subject them as subordinate offices to the Prime Minister. That is what I am saying. I hope that is the point that the honourable senator will have taken.

Whenever attorneys general or ministers of justice get the two roles confused, as do solicitors general, one finds that the results are quite catastrophic. All one has to do is review the literature. Look at the McDonald commission, which studied the proper role of the Solicitor General and the RCMP, or the Mackenzie commission — there have been many. Look to history for the troublesomeness of some of this information.

Perhaps the honourable senator could phrase his second question again because I am not sure that I grasped it.

Senator Banks: In the process, I will report to Mr. Mazankowski next time I see him that he was a fabrication, as was his office.

Senator Cools: It is a fabrication. I am sorry, but the term "Deputy Prime Minister" is a pure construct of ego.

Senator Banks: I was quoting the term "fabrication" from the honourable senator.

The second question was, where in the Constitution are the titles that will form the ministry of the Government of Canada listed and circumscribed?

Senator Cools: I will hold to my point. I am saying that our Constitution vests all executive power in Her Majesty the Queen. This is no ornament. This is a constitutional, legal fact.

I say to the honourable senator that these two positions are the law officers of Her Majesty the Queen. If I were to follow your lead in what you are saying, you would say, "Where in the Constitution, then, is the office of Governor General constituted?"

Senator Banks: It is in the Constitution.

Senator Cools: No, it is not. The Governor General is not constituted by the BNA Act. The Governor General today, as it was in 1867, is constituted by royal letters patent and royal commissions. You did not know that, right?

The point is, the authority of which I am speaking, about the law officers of Her Majesty, is to be found in the section of the Constitution that vests executive power and executive authority in Her Majesty.

If it my honourable friend really wants me to list sections, we can continue. However, let us understand that we are talking about ancient offices whose constitution precedes, quite frankly, the existence of Canada. I would submit to honourable senators that we cannot wave them away or wish them away or morph them away. What is next? What do we morph away next?

The honourable senator can answer the question I raised. Can the Prime Minister bring an Order-in-Council the same way and say that the Prime Minister of Canada is to be styled "the King," is to be styled "the President"?

Senator Banks: I suspect he could for about a day and a half.

Senator Cools: You think so? I would call it treason.

Senator Banks: I am sure the honourable senator would agree with me that this bill requires study. I wish to inform the Senate that I intend to refer Bill C-6 to the Standing Senate Committee on National Security and Defence for further study once it is passed. I now call the question.

Senator Cools: You cannot call the question. There are speakers who wish to speak.

The Hon. the Speaker *pro tempore***:** I regret to say, honourable senator, that your time has expired.

Senator Cools: Which question is he calling?

Senator Mercer: Time is up.

The Hon. the Speaker *pro tempore***:** Are you asking for leave to continue?

Senator Cools: I was not. I was trying to clarify that when Senator Banks said "I now call the question," or put the question, what question he was asking to be put.

The Hon. the Speaker *pro tempore***:** Then the time has expired, senator. Are senators ready for the question?

Senator Cools: Not really, honourable senators.

Some Hon. Senators: Question!

Senator Cools: I was under the impression that I have a right to make a response to close the debate.

The Hon. the Speaker *pro tempore***:** Could you do it briefly because your time has expired?

Senator Cools: I had not planned to do it today. Had I known that this was the intention today, then I would have come with two speeches. I do not use canned speeches.

The Hon. the Speaker *pro tempore***:** I remind honourable senators that a senator can only speak once on a bill, and Senator Cools has used up her time.

I am obliged to ask, if no one else wishes to speak, are senators ready for the question?

Some Hon. Senators: Question!

Senator Cools: I would like, for the sake of clarification, to say that the process seems to be —

Some Hon. Senators: Order!

Senator Cools: I am quite in order, honourable senators. You are out of order.

Senator Losier-Cool: The question has been called.

Senator Mercer: Question!

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

Some Hon. Senators: Question!

Senator Cools: This will be good.

The Hon. the Speaker *pro tempore***:** It was moved by Honourable Senator Banks, seconded by the Honourable Senator Callbeck, that this bill be read the second time.

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***:** Honourable senators, when shall this bill be read the third time?

Hon. Tommy Banks: Honourable senators, I move that this bill be sent to the Standing Senate Committee on National Security and Defence for further study.

The Hon. the Speaker *pro tempore***:** It is moved by the Honourable Senator Banks, seconded by the Honourable Senator Callbeck —

Senator Cools: Perhaps the senator will take a question.

The Hon. the Speaker *pro tempore***:** I am sorry, senator, but this is not a debatable motion.

Senator Cools: Could the honourable senator clarify why that committee? The issue is so very complex.

The Hon. the Speaker *pro tempore***:** Is there unanimous consent that Senator Banks clarify the reason for requesting that the bill be sent to this committee?

Hon. Bill Rompkey (Deputy Leader of the Government): The motion is not debatable as far as we are concerned, Your Honour. I think we should hear the question.

The Hon. the Speaker *pro tempore***:** There is no unanimous consent. Since the motion is not debatable, it is moved by the Honourable Senator Banks, seconded by Senator Callbeck, that the bill be referred to the Standing Senate Committee on National Security and Defence.

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

Some Hon. Senators: Yes.

Senator Cools: On division.

On motion of Senator Banks, bill referred to the Standing Senate Committee on National Security and Defence, on division.

CANADA EDUCATION SAVINGS BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-5, to provide financial assistance for post-secondary education savings.

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 Moore, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

• (1620)

THE TLICHO LAND CLAIMS AND SELF-GOVERNMENT BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-14, to give effect to a land claims and self-government agreement among the Tlicho, the Government of the Northwest Territories and the Government of Canada, to make related amendments to the Mackenzie Valley Resource Management Act and to make consequential amendments to other acts, to which they desire the concurrence of the Senate.

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 Sibbeston, bill placed on the Orders of the Day for second reading two days hence.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Plamondon, seconded by the Honourable Senator Ringuette, for the second reading of Bill S-19, to amend the Criminal Code (criminal interest rate).—(*Honourable Senator Rompkey, P.C.*)

Hon. Catherine S. Callbeck: Honourable senators, Senator Rompkey took the adjournment of this proposed legislation, to which I rise to speak today. I am pleased to take part in the debate on Bill S-19, to amend the Criminal Code, criminal interest rate. I thank Senator Plamondon for bringing forward this important and long-overdue bill. The honourable senator has always been a strong advocate for Canadian consumers.

In her speech, Senator Plamondon reminded us that we have a criminal law in place to protect the poor and the vulnerable who might otherwise be taken advantage of by unscrupulous lenders. The current provision is nearly 25 years old, and Senator Plamondon is right in thinking that it needs to be updated.

Bill S-19 proposes to change two definitions in section 347 of the Criminal Code. The first change is to the threshold at which interest rates are defined as "criminal." Under the current provisions of the Criminal Code, a lender can legally charge up to and including 60 per cent effective annual interest. Bill S-19 would change this to the Bank of Canada key policy interest rate plus 35 per cent.

The second change would be to the definition of "interest." The current definition excludes insurance charges. Bill S-19 would remove this exclusion so that interest charges would be included in the overall limit on interest. However, I have taken some time to look into what we call the "alternative credit market" in Canada. To be honest, I was truly surprised and depressed at some of the things I found. I must admit I was not aware that businesses can legally charge interest at 60 per cent. That is way out of line.

From what I discovered, the only businesses in Canada operating near the criminal rate threshold of 60 per cent appear to be payday lenders. Payday loans are the most extreme form of high-interest credit in Canada today. These companies advertise easy credit for anyone who can show that they have a job or a fixed income. When you take into account all borrowing costs associated with a payday loan, the effective interest rate charges are well above 60 per cent per annum.

I will state some information from a study that was published in February 2000. It was entitled "Access to Credit in the Alternative Consumer Credit Market" by Iain Ramsey, Professor of Law, Osgoode Hall, Toronto. This study contains a payday loan survey prepared in the Greater Toronto Area. It shows the cost of borrowing for seven days and for 14 days. For a seven-day loan, the cost of borrowing ranged from 670 per cent to 1,300 per cent. For a 14-day loan, the cost of borrowing ranged from 335 per cent to 650 per cent.

By their own account, payday lenders operate very close to the criminal rate. Most charge just over 1 per cent per week, or just under 60 per cent per annum. If you agree with their method of calculating interest, they are just shy of the criminal rate. However, the interest charged is often just a small part of the real cost of taking out that payday loan. These lenders impose administrative fees and other charges that far exceed the interest they charge, as illustrated by Professor Ramsey's report.

Honourable senators, an example of one potential cost to the borrower is an administrative fee payable if a loan is repaid late. Lenders insist that this is not an interest charge. In some cases, if you read the fine print of your payday loan agreement, you will discover that the due date is the day before your payday. As a result, this late fee would also be payable. It is basically an unavoidable cost of taking out a payday loan.

Another example is the cheque-cashing fee. Many payday lenders require the borrower to provide a post-dated cheque to ensure repayment. When the loan comes due, the lender charges the borrower a cheque-cashing fee for repaying the loan. At one major payday lender in Canada, the cheque-cashing fee was $9.99 plus 7.99 per cent of the amount of the cheque.

Payday loan businesses are surprisingly numerous in Canada. There are approximately 1,200 stores and the numbers are growing. Indications are that over 1 million Canadians have used these services. In addition to the growth of store locations across Canada, the industry is also expanding rapidly on the Internet. Lenders both inside and outside Canada have been successful in making payday loans by way of electronic transactions with Internet users in Canada.

Honourable senators, the payday loan industry is fairly new in Canada. As a result, it is largely unregulated. Some provinces have some form of licensing or registration requirements for payday lenders. I believe we have reason to be concerned about the unregulated growth of this industry. Bill S-19 is timely because it gives us an opportunity to study this new industry to determine whether our laws need to adapt to these developments.

Honourable senators, with the introduction of Bill S-19, Senator Plamondon has raised two important issues about the definitions of the existing criminal provisions. I agree with her that the definitions are outdated. The new definition of "criminal interest rate" proposed by Bill S-19 of the central bank rate plus 35 per cent would allow the rate to keep up with economic realities from year to year without having to amend the Criminal Code. This is a sound approach to the issue. However, I am certain that the committee that will study this bill will carefully examine the specifics to ensure that 35 per cent is the appropriate figure.

• (1630)

When it comes to insurance premiums, the senator's starting point is that these are the costs of borrowing and therefore should be included in the overall limit. I agree with the logic in that approach. At the same time, I think the committee will want to examine the reasons it was expressly excluded in the past to see whether they are still valid today.

I also think the committee should go further in the study of Bill S-19 and consider what should be included in the calculation of interest. Maybe the definition simply needs clarification or maybe some of the administration charges we see in the payday loans industry should be expressly included.

Another issue is the requirement under section 347(7) that prosecution may only be commenced with the consent of the Attorney General of a province. Crown attorneys usually take this to mean that they should prosecute only in special circumstances. Committees should explore whether the consent requirement is really necessary.

Honourable senators, I agree with Senator Plamondon on her initiative and I congratulate her. Her proposal to modernize the criminal interest rate definitions is very sensible. I urge honourable senators to support this bill at second reading and subsequent referral to the committee, where the many issues raised in this debate can receive a more thorough study.

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

Hon. Senators: Question!

[*Translation*]

The Hon. the Speaker *pro tempore***:** Honourable senators, if Senator Plamondon speaks now, her speech will end debate on the motion.

Hon. Madeleine Plamondon: Honourable senators, I would like to thank the senators on both the Liberal and Conservative sides for their support.

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***:** Honourable senators, when shall this bill be read the third time?

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

CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Céline Hervieux-Payette moved second reading of Bill S-21, to amend the Criminal Code (protection of children).

She said: Honourable senators, I am very pleased to have this opportunity to speak to you on this bill, the sole purpose of which is to abolish section 43 of the Criminal Code, which reads:

> Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

I would like to bring to my colleagues' attention the study my staff and I have carried out this past year in order to explain the origins of this section of the Criminal Code and why it needs to be abolished and sent to join the other sections that have been abolished already.

First, I want to define, according to the Webster dictionary, the words "to correct," which mean "to punish someone with a view to reforming or improving." Under the word "correction," it states "the administration of corporal punishment or blows to a

person." There must be agreement on the words used in section 43. The same section talks about care, but the word "care," in the same dictionary, is defined as, "means by which an individual's health is restored or solicitude for another." Senators will agree with me that the words "correct" and "care," which appear in the same section, require some reflection.

I think that the history of the section needs to be mentioned for the very simple reason that it is so entrenched in the practices of our justice system, in particular, our common law. I want to talk about its origins so that we can consider the future. History teaches us how to move forward.

We can go as far back as the authority of the *paterfamilias*, *pater potestas*, under Roman law, which gave the male head of the family the right to punish, even kill, his children, wife and servants. It was only in 365 AD that the right to kill was abolished and gentler means were adopted, in other words, hitting.

In 1770, Blackstone wrote that the Romans had the right of life or death over their children. He simply stated that we were now more modern and allowed:

[*English*]

> Moderate chastisement is a power or a right belonging to the father, or his delegate, to lawfully correct his child, being under age, in a reasonable manner for the benefit of his education. Parents, school teachers and masters of apprentices were encouraged by church and state authorities to administer regular beatings and to induce children's obedience. Children's will were to be broken by assault to support obedience, learning and right behaviour.

[*Translation*]

It would appear that in 2004 our interpretation has not changed. Our common law is derived from British common law. I can quote the renowned Queen Victoria, who believed strongly in her times and who said:

[*English*]

> Spare the rod and spoil the child.

[*Translation*]

Queen Victoria attributed that proverb to Solomon, but in fact George Bernard Shaw wrote those words. It comes from the Victorian period when Great Britain permitted and authorized teachers and parents to strike children. Another famous Englishman, Churchill, was removed from his preparatory school, St. George's School, because he was being beaten so harshly. He hated the school and the life of anxiety he led during those two years. Thus, an English politician remembered the blows and wounds he had received.

Corporal punishment was not outlawed in England until 1986 in the public schools and 1999 in the private schools. The legal change does not translate easily into the political arena.

• (1640)

This fall, the British Parliament, under its quasi-socialist government, voted against repealing a section similar to section 43, thus leaving parents with the power to strike their children. That is the same Parliament, honourable senators, which has now forbidden fox hunting in order to protect the poor foxes from packs of hounds.

They will continue to strike their children, but the British tradition of hunting with hounds will be eliminated. In Canada, the 1892 Criminal Code no longer authorized corporal punishment for wives and servants. Section 43 dates from 1892. We have kept an article of law that goes back nearly two centuries.

Punishment of prisoners by whipping was abolished later, since it remained in the Criminal Code until 1973, although it was no longer used. Corporal punishment, at the present time, can only be used on children. Otherwise, it is considered common or aggravated assault.

The offence of aggravated assault applies to everyone. The offence of common assault still applies today, but only in the case of children aged 2 to 12, where a parent would claim, as a defence, that he wanted to use reasonable force as a means of correction toward his child.

Our study compelled me to look at what is being done in countries where this practice has effectively been stopped. It was in 1979 that Sweden began to legislate to take this right away from parents, even though, at the time, the general public still supported the use of force as a means of correction.

When the amendment was made, the government launched a national campaign to inform parents of the serious dangers and risks to children. Following that awareness campaign, public opinion changed drastically. The Swedes used milk cartons to inform parents of the fact that hitting children was an offence. This is how each household was informed that the act had been amended and that parents were no longer allowed to hit children.

As we speak, countries such as Austria, Bulgaria, Croatia, Cyprus, Denmark, Finland, Germany, Iceland, Latvia, Norway, Ukraine and at least nine other states have already passed similar legislation. So, we are not talking about innovating in this area.

In 1991, Canada ratified the United Nations Convention on the Rights of the Child, article 19 of which requires it to protect children from all forms of physical or mental violence, injury or abuse.

In response to Canada's first and second reports on the convention, the United Nations Committee on the Rights of the Child recommended expressly prohibiting the use of corporal punishment on children at school and at home.

I want to inform honourable senators that on June 20, 1995 and October 27, 2003, the United Nations reported that Canada was not respecting the terms of the treaty it had signed. The reporting committee noted with deep concern that Canada had not adopted provisions expressly prohibiting all forms of corporal punishment and that it had taken no action to repeal section 43 of the Criminal Code, which still allows corporal punishment.

Honourable senators, I will nonetheless pay tribute to parliamentarians who have already submitted private member's bills to amend this section, both in the House of Commons and in the Senate. The governments have never tabled a bill on this.

I think that currently, through the Parliamentary Assembly, the Council of Europe requires all European countries to prohibit hitting children. I will quote from the last report from June 2004:

[*English*]

> The Assembly also notes that the European Court of Human Rights has found in successive judgments that corporal punishment violates children's rights as guaranteed under the European Convention on Human Rights...both the European Commission of Human Rights...and the Court have emphasized that banning all corporal punishment does not breach the right to private or family life or religious freedom.

It is important to underline that:

> ...all member states have ratified the United Nations Convention on the Rights of the Child, which requires them to protect children from all forms of physical or mental violence by adults while in their care. The Committee on the Rights of the Child, which monitors compliance with the Convention, has consistently interpreted the latter as requiring states both to prohibit all forms of corporal punishment of children and to educate and inform the public on the subject.

The purpose of my bill, of course, honourable senators, is to inform the public that this should happen no more.

[*Translation*]

Why did I draft this bill? First of all, I was waiting for the Supreme Court judgment, which was brought down this past January. It upheld the legality of section 43, while at the same time limiting its scope.

The majority ruling said the following:

> The force must have been intended to be for educative or corrective purposes, relating to restraining ... the actual behaviour of a child capable of benefiting from the correction.

The second argument:

> Section 43 permits only corrective force that is reasonable... It provides parents and teachers with the ability to carry out the reasonable education of the child without threat of sanction by the criminal law.

I would add a comment on this because, with the explanations given by Justices Arbour and Deschamps, we will have the opportunity to see that this concept of reasonableness is not very reasonable.

Justice Binnie dissented as far as teachers are concerned. He stated that "section 43 protects parents and teachers, not children." It is quite extraordinary for a Supreme Court justice to give such an interpretation to this section.

I will now look at the two key arguments made by Justice Arbour, who sat on the International Criminal Court and who was promoted to the Supreme Court. She states that section 43 violates children's security of the person interest and that the deprivation is not in accordance with the relevant principle of fundamental justice, in that it is unconstitutionally vague.

To reassure parents who might give in to impatience at some point, Justice Arbour goes on to say that the purpose of abolishing section 43 is not to cause problems for any parent who might some day act out of impatience. She says:

> The common law defences of necessity and de minimis adequately protect parents and teachers from excusable and/or trivial conduct.

So a gesture of impatience is far from being an action to correct or educate. There will be no criminal charges, no accusation of assault. Parents in fact have an obligation to intervene, for instance to separate two children who are going at it hammer and tongs, in order to avoid the situation escalating.

As for Madam Justice Deschamps, who is a judge from another generation, her arguments are of absolutely capital importance, even more so for those of us who were working at the time the Charter of Rights and Freedoms became constitutional law.

She refers to section 15 of the Charter in reference to government measures that have a discriminatory purpose or effect based on a similar motive and which are an affront to the dignity of the person.

• (1650)

At the heart of section 15 is the promotion of a society in which all are secure in the knowledge that they are recognized at law as human beings. In the case at hand, the Supreme Court decision now permits the use of physical force only against children from 2 to 12 years old. Thus, you may not hit a child under 2 years old and you may not hit a child over 12. Justice Deschamps's argument is a general one. It says that all persons are equal and deserve the same dignity of their person.

Section 265 establishes the offence of assault and does not permit the use of force in any circumstances except those listed, including the protection of weaker beings, or involvement in matters of another person's life or death.

I believe she gives further arguments. She talks about the deleterious effects of this permission to use force. It touches such a core right of children as a vulnerable group that the salutary effects must be extremely compelling to be proportional. In other words, the benefits of striking a child must be so significant that they justify the use of force.

Every time there is a new investigation, we realize that it does no good. She concludes that this section does not meet the standards set in the Charter and, therefore, the supremacy of the Constitution, itself based on the equality of persons, does not give parents the right to strike children between the ages of 2 and 12.

I would like to draw to your attention two relatively recent reports. When asked if this practice or tradition had drawbacks or ill effects, 71 per cent of the Canadian public said that unless there were a corrective or educative effect, they did not agree with punishing children. More than two thirds of the Canadian public stand behind this argument.

The most powerful argument came out of a very recent study. On October 25, 2004, Statistics Canada published a report on a study involving 2,000 children. It states, among other things, that the study found that children aged two to three years who were living in punitive environments in 1994 scored 39 per cent higher on a scale of aggressive behaviours, such as bullying or being mean to others, than did those in less punitive environments. We are talking about toddlers aged two to three here.

The difference was even more pronounced six years later, in 2000. The same children were examined and continued living in aggressive environments. When the children were eight to nine years old, those who lived in punitive homes scored 83 per cent higher on the aggressive behaviour scale than those in less punitive homes. This means that, following six years of exposure to repetitive violence, only 17 per cent of children had not developed aggressive behaviour.

What are the outcomes? Here are some of the long-term effects identified by Statistics Canada: aggression, delinquency, crime, poor school results, unemployment in adulthood, and other negative circumstances. In other words, those who start their lives in violence are unable to establish positive relationships with others and to resolve conflicts and have a hard time developing normally as children.

It is important to note that there was no difference between children living in low-income households and higher-income households. These were toddlers aged two to three who were reassessed later, when they reached ages eight to nine. Therefore, aggressive behaviour in a child is not determined by financial condition or the level of comfort in which he or she lives, but rather by the way the child is treated. That is specifically demonstrated in the study.

More recently, the Centre of Excellence for Child Welfare collected most of the findings of a number of studies which show the end results of violence against children. These children tend to inflict violent behaviour on other children. If their parents hit them, chances are they will hit other children. There is also a deterioration of the parent-child relationship. Indeed, how can we build a relationship of trust when we hit our child for anything and everything?

The more serious consequences of corporal punishment are depression, sadness, anxiety and despair among children. These children must be taken care of, because they feel abandoned by parents who are supposed to love them, and they develop behaviours that may lead to suicide. It is difficult for these children to learn to behave normally with their fathers and show empathy for others.

There are other anti-social behaviours. The study shows that, in addition to delinquency, intimidation, attacks in schools and lies, there is also a lack of remorse, because with children who receive corporal punishment, violence is a normal way to settle disputes.

In conclusion, we conducted important research on all the studies that were published. The last or second-last report published is the Joint Statement on Physical Punishment of Children and Youth. This report was released following a national conference held in Ottawa in September 2004, and in which about 100 organizations participated. I will read the conclusion reached by experts, psychologists, pediatricians, social workers and people who work with children across the country. Their conclusion is presented on page 17 and reads as follows:

[*English*]

> Physical punishment has been consistently demonstrated to be an ineffective and potentially harmful method of managing children's behaviour. It places them at risk of physical injury and interferes with parents' and caregivers' goals of healthy psychological adjustment, socialization, moral internalization, non-violence, and positive adult-child relationships. Its use is a violation of children's right to physical integrity and dignity.
>
> In order to reduce the prevalence of physical punishment of children and youth, three broad national initiatives must be undertaken.

[*Translation*]

I fully endorse this view and I would like to elaborate on it with my colleagues.

[*English*]

> First, public awareness campaigns must deliver a clear message consistently and persistently that hurting children as punishment is unacceptable and places them at risk of physical and psychological harm. Second, public education strategies must be launched to increase Canadians' knowledge of child development and effective parenting, and existing parent programs supported. Third, the Criminal Code of Canada must provide the same protection to children from physical assault as it gives to adults, and the Government of Canada must meet its obligation under the United Nations Convention on the Rights of the Child.

• (1700)

[*Translation*]

It is in this spirit that the bill was introduced. I would also like to thank a number of groups. First, a letter was published in *The Globe and Mail*. Then, 48 associations wrote to the Prime Minister asking him to abolish section 43. These associations are composed of competent people working in this field.

I want to thank my staff, particularly Doris Berthiaume, a young lawyer who is expecting a baby; the research staff at the Library of Parliament, Julie Cools and Wade Raaflaub; the people at CHEO, who organized this conference in Ottawa; and Coalition 43 under the able guidance of Corinne Robertchaw.

I also want to thank individuals representing very important professions, including Robin Walker, a professor and medical doctor who is president of the Canadian Paediatric Society, an association that unanimously recommends repealing this section of the Criminal Code.

On behalf of the 145 Canadian organizations and 16 major researchers and men of science supporting this measure, and on my own behalf, I invite honourable senators to adopt this bill.

Before I conclude, I want to point out that it is recommended in the bill that there be one year between Royal Assent and coming into force. In the meantime, it is recommended that there be an awareness campaign. This would be a national awareness campaign, running for 12 months, with the provinces and the organizations that supported this measure.

On motion of Senator Stratton, debate adjourned.

[*English*]

BILL TO CHANGE NAME OF ELECTORAL DISTRICT KITCHENER—WILMOT—WELLESLEY—WOOLWICH

SECOND READING

Hon. Terry M. Mercer moved second reading of Bill C-302, to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich.—(*Honourable Senator Rompkey, P.C.*)

He said: Honourable senators, I am pleased to sponsor and to open second reading debate on Bill C-302, to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich. That alone should tell you why it needs to be changed.

After each 10 years, a census is taken in Canada, and electoral boundary commissions are set up in each province to examine the electoral boundaries for federal representation in the House of Commons. The work of these commissions resulted in a new representation order that was proclaimed on August 25, 2003. The Federal Electoral Boundaries Commission held its hearings for the federal riding of Waterloo—Wellington. Under the process of redistribution, it was decided that the riding was to lose Wellington county. The western part of Wellington county went into the riding of Perth—Wellington, and the eastern part of Wellington riding became part of the riding of Wellington—Halton Hills.

Under redistribution, part of the former Cambridge riding and part of the Kichener Centre riding were added to the old riding of Waterloo-Wellington. With the addition of the city of Kitchener and the increase in population, it was deemed that there was enough of a population base to create a new riding solely within the region of Waterloo.

This riding includes the south end of the city of Kitchener and the townships of Wilmot, Wellesley and Woolwich. The Federal Electoral Boundary Commission, in its wisdom, called the new riding Kitchener—Conestoga, after a village in the riding named Conestoga, and also the river of Conestoga which flows through the riding, but probably most important, after the Conestoga wagon, which were the wagons that brought Mennonites from Pennsylvania to this region of southwestern Ontario. It is historic that this name be brought back into the public light. Subsequently, the federal election of 2004 was fought on the new riding boundaries under the name of Kitchener—Conestoga.

The name of the riding Kitchener—Conestoga was changed to Kitchener—Wilmot—Wellesley—Woolwich under Bill C-20, which came into effect on September 1, 2004, after the election. During the deliberations of the commission, there was a suggestion that, instead of calling the riding Kitchener—Conestoga, the name Kitchener—Wilmot—Wellesley—Woolwich be considered as the riding name. This, however, was rejected by all concerned. It was determined to leave the name as Kitchener—Conestoga, and all parties believed this was the case. However, a mistake was made. The name was changed, and we are being asked to fix this oversight.

This private member's bill that was put forward by my honourable colleague from the other place Mr. Lynn Myers, MP, seeks to redress the error. The desire is to revert to the original name, Kitchener—Conestoga.

In conclusion, it is worthy to note that this bill, by the unanimous consent of all parties, passed through all stages in the other place quickly and without amendment.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, may I ask Senator Mercer a couple of questions?

Senator Mercer: Yes.

Senator Stratton: I want to be clear: Kitchener—Conestoga is a historic name. It represents the wagon, the river and the town. Why in the world was it changed to Kitchener—Wilmot—Wellesley—Woolwich? Does the honourable senator know where that idea came from?

Senator Mercer: In looking at the map of the riding, I see regions in the riding known as Wilmot, Wellesley and Woolwich. Two suggestions were made at the time — that the riding be known by the long unpronounceable name or the rather historic and symbolic name. It was thought by all concerned that it was agreed that it should be called Kitchener—Conestoga. However, that is not the name that was in the bill that was passed by both Houses. It was an oversight by members of both Houses.

Senator Stratton: Honourable senators, I believe in brevity in the names of constituencies, so I fully support a riding being known by two names rather than five or six.

Hon. Senators: Question!

Hon. Serge Joyal: Will the honourable senator entertain another question?

In the past, the Standing Senate Committee on Legal and Constitutional Affairs has repeatedly taken the same stand over changes of name. That dates back five years, if I remember correctly. In reporting such bills, the committee has established clearly the procedure that should be followed. Those observations came after the testimony of the Chief Electoral Officer. That process, as outlined by the committee, seems to be as pertinent today as when it was first expressed and then repeated in the last report. The last report, if my memory serves me correctly, was made approximately two years ago. Did the honourable senator pay any attention to the observations in that report when introducing the bill today?

• (1710)

Senator Mercer: Of course, honourable senators, I pay attention to all reports of all Senate committees as they come out. In my previous life prior to appointment to this place, I, too, was critical of the name changes because they seemed to get more complicated. I was happy to support this one because this was not a complication but a simplification that corrects an honest oversight by all concerned.

My colleague, the member for Kitchener—Conestoga, has consulted with the other political parties in his riding to ensure they understand the force behind this change. Indeed, he has a letter from one of his former opponents supporting this effort, because it was everyone's understanding that that was the name they ran under. It was a brand new name then, and it seems logical if you have a brand new name for an election that you do not change it before the ink is dry on the writ.

Senator Joyal: I do not have the report in front of me, and I apologize for that, but the main reason underlying the report is that when there is a change, there should be a process. That process should be under the management of the Chief Electoral Officer to ensure that all those concerned with the name change have an opportunity to voice their concerns, and that there is proper arbitration in a timely fashion after the census results have been published and, of course, the Electoral Boundaries Commission has reported its suggestions and conclusions.

I do not want to pronounce that the name Kitchener—Conestoga is better than having five names. My concern is that the nature of the process should be followed for any change of given names.

Senator Mercer: I think the honourable senator's point is correct, but this process has been followed and everyone assumed we had reached the same conclusion, that we would have the name Kitchener—Conestoga. However, when the bill moved through the other place, the change that everyone assumed had happened had not happened. The consultative process has taken place and agreement was reached by all concerned. I think the process has been followed; it was followed and a mistake was made. We are being asked to fix that mistake today so that name stays the way everyone had agreed to in the first place.

Hon. Noël A. Kinsella (Leader of the Opposition): My question to the honourable senator is motivated by his use of the expression "the process has followed its course." The process I was interested in is the process in Parliament. I was interested to learn about the argumentation used in the other place in support of the bill, so I looked at the Commons debates.

On November 29, the only thing that is recorded is that the bill was introduced, received first reading and was ordered to be printed. Then I looked to see whether I could get more information about the progress of the bill. Lo and behold, on Thursday, December 2, the bill was moved and deemed to be read the second time, referred to Committee of the Whole, reported without amendments and given third reading. That is all that the record says. We do not get much information as to why this is a good bill from the fulsome debate that took place in the other place. My question to the honourable senator is: Will he ensure that we will have a more fulsome debate of this bill in committee and, if necessary, at third reading?

Senator Mercer: Honourable senators, if you read the Hansard from this chamber following this debate, you will have a much broader explanation of the bill than was given to the other place. We have started along that road. When the bill is referred to committee, I can assure honourable senators that we will have a full discussion if that is what my colleagues on the committee so desire.

Hon. Senators: Question!

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*: Honourable senators, when shall this bill be read the third time?

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

LIBRARY OF PARLIAMENT

FIRST REPORT OF JOINT COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Trenholme Counsell, seconded by the Honourable Senator Adams, for adoption of the first report of the Standing Joint Committee on the Library of Parliament (mandate and quorum) presented in the Senate on November 24, 2004.—(*Honourable Senator Trenholme Counsell*)

Hon. Marilyn Trenholme Counsell: Honourable senators, I will take a few minutes to address the first report of the Standing Joint Committee on the Library of Parliament and to answer some of the questions posed when I first moved its adoption.

I will add that all of this has become clearer to me, but the honourable senator who asked the question is not here today, so I am sure he will read the proceedings.

The report of November 24, 2004, was a routine report submitted by the committee at the beginning of each session, serving three functions. First, it sets out the committee's mandate; second, it sets out the committee's quorum; and finally, it seeks the permission of the Senate to meet while the Senate is in session. I will speak briefly to each of these items in turn.

With respect to the committee's mandate, the report clarifies that the committee's role is to serve as an advisory function in assisting the Speakers of both chambers in the direction of the library and, I might add, such other matters as may be presented to it from time to time with regard to the Library of Parliament. The *Rules of the Senate* and the *Standing Orders of the House of Commons* are silent on the question of quorum. However, the 6th edition of *Beauchesne's Parliamentary Rules & Forms* indicates in citation 806 that:

> In the case of joint committees the quorum is established by the House in consultation with the Senate for each joint committee.

It goes on to point out in citation 809 that in the absence of an explicit decision by both Houses:

> ...a joint committee cannot transact business until a quorum of the members appointed by each of the House and the Senate is present.

When he spoke to this report, Senator Corbin inquired about the makeup of this committee. In total, there are 17 members, with five representing the Senate and 12 representing the House of Commons. I have the names here if anyone wishes me to list them. Consequently, without the adoption of this report, our committee cannot conduct business until at least three senators and seven members of the House of Commons are present, for a total of 10. Our request serves to facilitate our work by seeking a more manageable quorum, and our request is in line with previous sessions.

The November 24 report of the committee stated:

> Your committee recommends that its quorum be fixed at seven (7) members, provided that both Houses are represented, including a member from the opposition and a member from the government, whenever a vote, resolution or other decision is taken, and that the Joint Chairs be authorized to hold meetings to receive and publish evidence when a quorum is not present, provided that at least four (4) members are present, including a member from the opposition and a member from the government.

Senator Corbin also asked why only five senators had been named to the committee and not the 17 indicated in the rules. Unfortunately, I am not sure what the answer is to this, and perhaps the honourable senator can direct his question to the Chair of the Committee of Selection, who may be in a better position to answer. However, the number of senators appointed by the Selection Committee in this session is in keeping with the practice in recent sessions.

• (1720)

I should like to speak to our request for permission to sit while the Senate is sitting. As all honourable senators know, this power is normally given to committees only in extreme circumstances. However, it is a power that has often been given to joint committees at the start of each session.

Senator Corbin spoke of the difficulties that he has had in scheduling meetings of the Official Languages Committee due to the time slot provided. I am sympathetic and hope for a resolution, but I would ask Senator Corbin to consider how much more difficult the situation would be if he had to account for the schedules of all the committees in the House of Commons and the committees of this place. We require as much freedom as possible in scheduling our committee meetings, which meetings are infrequent. This power has been given to the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations for that same reason.

I can only reiterate that this is a routine report and nothing that we have asked for is new. While it is true that some of these requests depart from the norm for the operation of standing Senate committees, joint committees are, by definition, distinct. We are asking the Senate to recognize the challenges we face and to adopt this report, so that we can begin our work in earnest.

[*Translation*]

Hon. Jean Lapointe: Honourable senators, with all due respect to the co-chair, I am sitting on this committee in order to advance files. I must say that with four meetings a year, not much gets done and, in my view, this is a committee that is dormant. There are so many things this committee should be doing. Quite honestly, I am completely dumbfounded by what goes on. A short meeting was held. It was over quickly.

In the near future, I will make a public statement on this committee. I have forgotten the name of the co-chair. Senator Trenholme Counsell is the co-chair from the Senate. When I remember the name of the other chair, that person will certainly remember my name. Rest assured.

Senator Trenholme Counsell: Honourable senators, I am sorry we have not had a meeting recently. We have made several attempts, but it is very difficult to coordinate with both chambers. The presence of Senator Lapointe will be very good because we could have more discussions at our meetings. I hope we will accomplish more than we have over the past few years. I hope the honourable senator will submit his opinions and give his advice at this committee and that he will continue to be a member.

[*English*]

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

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

BILL TO CHANGE NAME OF ELECTORAL DISTRICT BATTLE RIVER

SECOND READING

Leave having been given to revert to Commons Public Bills:

Hon. Noël A. Kinsella (Leader of the Opposition) moved second reading of Bill C-304, to change the name of the electoral district of Battle River.—(*Honourable Senator Rompkey, P.C.*)

He said: Honourable senators, Bill C-304 is also to correct what effectively was a clerical error in the representation order declared in force by proclamation of August 25, 2003. The purpose of the bill, affecting a riding in the province of Alberta, is to change the name of Battle River to the name of Westlock—Saint Paul. That had been agreed to but was not entered into the proper documentation at the time. We support Bill C-304, and it should be dealt with in the same manner as previous bills to change electoral district names and be considered by the committee. In principle, we support this bill at second reading.

Hon. Serge Joyal: Honourable senators, to be fair to Senator Mercer — and I understand that the Honourable Leader of the Opposition will concur — I would express to Senator Kinsella the same comments that I made to Senator Mercer.

Senator Kinsella: Honourable senators, for the record, I accept the observation and interventions that were made on that bill. I hope that the committee to which this bill will ultimately be referred for detailed study and clause-by-clause consideration will attend to those.

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

Hon. Senators: Question!

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*: Honourable senators, when shall this bill be read the third time?

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

INEQUITIES OF VETERANS INDEPENDENCE PROGRAM

INQUIRY—DEBATE ADJOURNED

Hon. Catherine S. Callbeck rose pursuant to notice of October 7, 2004:

> That she will call the attention of the Senate to the present inequities of the Veterans Independence Program.

She said: Honourable senators, I have had this inquiry on the *Order Paper and Notice Paper* since October 7. It concerns the inequities of the Veterans Independence Program. Since October 7 I have had many discussions with the minister and officials in the Department of Veterans Affairs. I am happy to inform the Senate that the Minister of Veterans Affairs announced today that the inequities of the Veterans Independence Program have been corrected.

I would congratulate the minister for making this matter a priority and for ensuring that veterans' spouses across the country are treated fairly and equally. This enhancement will ensure that the primary caregiver is not cut off from services upon which he or she has become dependent.

This announcement today by the minister means that the VIP will be expanded so that all surviving spouses, or other primary caregivers, will continue to receive the VIP housekeeping and/or groundskeeping services, if these services were provided to the veteran at the time of death or admission to a long-term care facility. Eligibility for this program will no longer depend on the date on which a veteran passed away or on the date on which a veteran entered a long-term care facility. Benefits will be continued for as long as they are required, for health reasons, to remain independent at home.

This further expansion of the VIP has the potential to impact about 4,000 Canadian widows, widowers and caregivers — the people who gave so much to our veterans. It will assist them to remain healthy and independent in their own homes and communities.

• (1730)

Again, I congratulate the minister on this welcome news and invite all honourable senators to do the same.

On motion of Senator Stratton, debate adjourned.

PUBLICLY FUNDED POST-SECONDARY EDUCATION

INQUIRY—DEBATE ADJOURNED

Hon. Elizabeth Hubley rose pursuant to notice of November 18, 2004:

> That she will call the attention of the Senate to the merits of establishing a universal publicly-funded system of post-secondary education in Canada as a national social and economic program, and to the adoption of federal legislation setting out the mission, role, and responsibilities of the government with respect to post-secondary education.

She said: Honourable senators, the greatness of a nation can be measured in differing ways. By most standards, Canada is a great nation. We have achieved so many remarkable things together. We have a diverse and vibrant economy fuelled by an abundance of natural and human resources. Canadian values of tolerance and social fairness and equity, our commitment to human rights and our consistent preference for international diplomacy and peace over war have made us a highly respected nation throughout the world. We have also built unique political and social institutions like universal medicare and income security that have served to define us as a people. Yet, there is one important national achievement that has so far eluded us, one measure of greatness where I believe we continue to fall short.

To this point in our history, honourable senators, we have not as yet evolved a national system of higher education which guarantees equal access to all Canadians, regardless of their financial ability and circumstances. We have excellent universities and colleges in every region of the country, distinguished professors and researchers and academically gifted young Canadians who possess the highest ideals and a desire to contribute toward the future development of our country.

However, our present system of higher education, honourable senators, is disparate and inequitable and desperately in need of fundamental reform. As a nation, we have failed to articulate a collective vision for higher education. We have failed to set out guiding principles and goals.

Successive federal governments have maintained a primarily indirect support role through fiscal transfers to the provinces, research and development funding for universities, the Canada Student Loans Program, as well as other limited scholarship, grant and savings initiatives. While this is the safe and traditional federal role, one that respects the jurisdictional primacy of the provinces in education, it is also a role that I believe lacks strength and vision.

One result has been that, over the past decade, federal government investment in post-secondary education has fallen steadily and significantly, with universities and colleges having no choice but to pass on the shortfalls to students and their families in the form of increased tuition and other costs. Student indebtedness has soared over this period.

The purpose of my inquiry is to help make honourable senators aware of the challenges and opportunities facing higher education in Canada and, hopefully, to begin a national debate on this most important social and economic policy issue.

As some of my colleagues will know, the Senate is not a newcomer to this area. In 1997, the study of the Special Senate Committee on Post-Secondary Education made wide-ranging recommendations and continues to be an excellent reference. That special committee was chaired by my friend and political colleague from Prince Edward Island, the Honourable M. Lorne Bonnell.

I believe that it is time for the Senate to take up post-secondary education once again as a priority area for study and consultation. I believe that it is time to consider new options and approaches to create a new framework of support for higher education in Canada.

Unquestionably, there is a crisis of access and affordability in our present system of higher education, driven by a decade of steep increases in tuition fees and other related university costs, coupled with relatively slow wage growth. Statistics Canada reports that average undergraduate tuition increased 135.4 per cent from 1990-1991 to 2000-01. That increase is over six times faster than inflation. As a result, more and more students who are interested in and capable of attending university or college are simply unable to do so or have decided that it is just too great a financial risk.

In 1990, it would have taken roughly 137 hours of work at the average industrial wage to cover the cost of one year of undergraduate arts tuition. By 2003, that figure had jumped to over 221 hours of work, or by more than 61 per cent. The figures are even more dramatic for professional programs. Currently, Canada is one of the highest tuition fee nations in the industrialized world, just behind Japan and the United States.

The Canadian Association of University Teachers, CAUT, contends that "the cost of tuition is less affordable today than at any time in the post-war period and is approaching an all-time historical high." The association believes that Canada's universities are "in danger of returning to their elitist roots as costs continue to spiral out of control..."

Recent national statistics do show Canada as having one of the highest rates of participation in higher education in the developed world. However, since 1991, and coincident with the rise in tuition fees, there has been a flattening in the overall participation rate or total enrolment in bachelor degree programs, and a dramatic fall in the part-time participation rate. The only group that made steady gains in university participation rates through the 1990s consisted of young Canadians aged 18 to 24 from families with the lowest incomes. This is a positive development, honourable senators. However, individuals from lower-income backgrounds are still 2.5 times less likely to attend university than those from higher-income backgrounds, and financial barriers continue to play a large part in deterring many young Canadians from pursuing post-secondary education.

The present government, to its credit, has introduced several measures to help alleviate this inequity, most notably a grant program directed at first-year university students with low-income backgrounds, increased Canada Student Loan limits, and Bill C-5, the Education Savings Act.

Bill C-5, the Education Savings Act, which is now before Parliament, has been sharply criticized by students, faculty and anti-poverty groups. It presumes that low-income families have the ability to save for the future education of their children when most do not. "The poor are not saving, not because they lack the motivation or incentive," says David Robinson of the Canadian

Association of University Teachers, "but because they lack the resources." He contends that government, through such initiatives is only "tinkering around the edges of the real problem."

I agree with him. Limited grant assistance, ill-conceived savings programs and increased student borrowing will not effectively overcome the structural inequities that I believe exist in our present post-secondary system.

Over the past decade, financial cash transfer payments to the provinces for higher education were reduced severely and, in turn, provincial government grants to our universities dwindled. Forced to pursue other sources of revenue, universities increased tuition fees and have relied more heavily upon private research contracts, donations and endowments. One result is that the Canadian university is becoming less a public institution accountable to the public interest and more of a private institution.

It is extremely important to point out, honourable senators, that Canadians did not choose this funding path for post-secondary education. No government campaigned on or received a political mandate to bring about such a change. Instead, we drifted on to our new course as a result of budget cutbacks and deficit reduction certainly, but also because other national priorities like health care dominated the radar screen and provincial jurisdictional authority made it easy for the federal government to neglect or shirk its financial responsibility to higher education.

• (1740)

Honourable senators, if there is one innocent party in this retreat of the federal government from funding higher education, it is the student. Thousands of young Canadians who do attend university are obliged to borrow heavily, and upon graduation from a four-year degree program, they will be saddled with an estimated accumulated debt of between $25,000 and $30,000. This is unacceptable, in my view, in a leading G8 country that seriously wants to ensure its social and economic future.

Two weeks ago, both of our national student organizations held meetings here in Ottawa. At the top of their agendas, of course, was skyrocketing student borrowing and indebtedness. To make their point, the Canadian Federation of Students used a digital debt clock showing the cumulative debt of students across the country in real time. The debt clock stood at $10.5 billion just two weeks ago, not including the 40 per cent provincial portion or annual interest charges which this year alone totalled an additional $231 million.

These numbers are staggering, and if there is any more graphic evidence of our failure as a nation to adequately support post-secondary education and to help realize the dreams and aspirations of young Canadians, I do not know what it could possibly be.

We have created a new class in our society, the studying poor, young Canadians who are forced to mortgage their own futures in order to acquire the knowledge and skills necessary to enter the labour market and contribute to the development of their country. For those graduating students fortunate enough to find employment, student debt is an albatross. It limits consumer spending and prevents many from taking up future educational opportunities.

Honourable senators, there are other approaches to financing and making available post-secondary education. In Europe, where our own cultural and philosophical roots exist to a marked degree, several countries have even enshrined the principle of universal access to post-secondary education in their constitutions, making it a basic right for all citizens. Universities in Germany, Denmark, Sweden, Iceland, Ireland, Norway, Wales and Scotland charge little or no tuition fees at all. Tuition fees at public institutions in France were the equivalent of just US $124 in the 2000-01 academic year. England enjoyed universal free access to basic post-secondary education for decades. However, limited tuition fees have been introduced in recent years under the pressure of growing enrolments and budget deficits.

However, it is the Irish model that perhaps deserves to be looked at most carefully because it is an example of a nation strategically deciding to invest publicly in a fully accessible and affordable post-secondary system for broad social and economic reasons. In the mid-1990s, Ireland began a massive program of economic renewal, and at the centre of that renewal was a political decision to reform the education system, including the implementation in 1995 of a free tuition policy for third-level undergraduate studies. Under this policy, the Irish exchequer pays all tuition fees to the university on behalf of students registered for full-time undergraduate degree programs of a minimum two-year duration. Most students are also eligible for a local authority grant to defray the cost of student services fees. The only condition of entitlement is that a student be an EU national.

In Ireland, honourable senators, every student with the interest and the academic qualifications, regardless of financial capabilities, has access to basic post-secondary education. The Irish economy experienced an unprecedented period of growth beginning in the early 1990s and both economists and political leaders credit much of this increase in GDP and ensuing prosperity to reforms made in education, in particular the removal of financial barriers to post-secondary degrees.

Today, there are more than 100,000 students in third-level universities and colleges, and education has become the engine of Ireland's knowledge-based economy. It is also one of the biggest selling points with potential foreign investors. Over half of Ireland's young people pursue training or education beyond high school.

The Hon. the Speaker *pro tempore***:** I regret to inform the honourable senator that her time has expired. Does the honourable senator seek leave to conclude?

Senator Hubley: I would ask for more time.

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

Hon. Senators: Agreed.

Senator Hubley: Honourable senators, over half of Ireland's young people pursue training or education beyond high school and about 50 per cent of these take degree-level programs. The Irish "economic miracle" is a tale of enterprise and imaginative planning and of one country's commitment to higher education for all.

Speaking recently at a conference of the Council of Europe in Dublin, the Irish Taoiseach, or Prime Minister, said:

> I think the case of investment of education in Ireland is a shining example of how investment in social development can reinforce economic goals, which in turn enables social objectives to be attained. Ireland has stopped putting the cart before the horse.

Here in Canada, honourable senators, we need to do the same. The time is right for change. The time is right to restore higher education in Canada as a strategic social and economic priority of the federal government. An October Decima teleVox poll commissioned by the Canadian Association of University Teachers seems to agree. When asked what the next priority for the federal government should be following the recently negotiated health care accord, 23 per cent of respondents identified reducing poverty and unemployment, while 22 per cent said making post-secondary education more affordable should be the next priority.

Only 17 per cent of Canadians identified lowering taxes and 12 per cent identified paying down the debt. The least popular priorities were the environment, at 8 per cent, military spending, at 7 per cent, and child care at 7 per cent. Of households with children, 25 per cent chose making post-secondary education more affordable as the highest priority.

Other results of the Decima teleVox poll are just as compelling. For instance, more than half of Canadians believe that the federal government should provide a free university or college education to any qualified student who cannot afford it. Support for such an initiative is highest in Atlantic Canada and Quebec. Similarly, more than half of those surveyed believe that every qualified student should be guaranteed a place at a university or college even if that means more tax money needs to be spent on higher education, while nearly two out of three Canadians say that university and college tuitions are too high.

On the issue of access, seven out of 10 respondents say that low-income Canadians have less chance of getting a post-secondary education. Most Canadians also believe the best way for the federal government to make a college or university education more affordable is to increase funding to institutions so that tuition fees can be lowered, as opposed to giving students and their families more tax breaks and incentives to save for their education.

Honourable senators, this Decima teleVox opinion poll is strong evidence that Canadians want their federal government to reinvest in post-secondary education as an immediate national priority. However, before reinvesting, before we tinker further with the machine, I strongly believe that a full national discussion needs to take place on the effectiveness and suitability of the machine itself and on the need for more fundamental reforms.

• (1750)

We need to re-examine our social values as a nation and ask some basic questions about the nature of public education in this new 21st century.

In 1851, honourable senators, my province of Prince Edward Island, then a fledgling colonial society, adopted a piece of legislation called the Free Education Act and put in place one of the first public schooling systems in British North America.

The General Assembly of the United Nations in 1948 adopted the principle of the right to education, generally expressed as the right to free basic education. In 1948, completion of grade 12 was considered basic education, allowing individuals to enter the labour market with adequate employment prospects and sufficient earning capacity. We have made basic education free and universally available as a justifiable and economically sound investment in human capital.

Half a century after the UN declaration and in the wake of tremendous change throughout our economy, including revolutionary shifts in labour demands, grade 12 can no longer be regarded as basic education. A bachelor's degree is an excellent learning experience and preparation for more advanced academic and professional training, but it hardly can be viewed as a reliable ticket into the labour market. I strongly believe that we need to adjust our thinking and change the definition of basic public education in Canada to mean the completion of a first undergraduate degree at university or the acquiring of specific technical skills at the college level. If we are prepared to change the definition and threshold of basic public education, then of course we must also be willing to publicly support it and make it available to everyone as a basic right.

Canada does not have to mirror the American system of higher education where per-student costs are extremely high, most institutions are under-subsidized and tuition-dependent, and access is denied to many. We can look across the Atlantic to Europe for other models, other systems in which post-secondary education is viewed as basic public education and the state has a central and strategic role to play.

Some innovative and compelling ideas have been put forward in our own country, including the establishment of a dedicated fiscal transfer for post-secondary education separate from the existing CHST.

In its September 2004 presentation to the House of Commons Standing Committee on Finance, the Canadian Federation of Students recommended scrapping the Millennium Scholarship Foundation, the Registered Education Savings Plan and the related Canada Education Savings Grant and Learning Bond in favour of a national system of needs-based grants.

The Canadian Association of University Teachers is the voice of some 35,000 teachers, librarians, researchers and other academic professionals. It believes the federal government must play a stronger role in funding post-secondary education and in 1985 recommended the adoption of a Canadian post-secondary education act analogous to the Canada Health Act. This federal legislation would "reform present federal-provincial fiscal arrangements" and "establish a set of national principles" for post-secondary education.

There is a growing consensus that major reforms to our post-secondary education system are necessary and long overdue. What reforms we ultimately decide upon as a nation, what new funding or governance arrangements we put in place of course will depend on our ability and political willingness to forge a new federal-provincial agreement. The recent health accord, I believe, is proof that when there is a truly national purpose or goal, Canada can be made to work for all Canadians, regardless of where they live.

It is my own personal view that we should work toward the adoption of a national program of free tuition and universally accessible post-secondary education. It is a grand project, possibly the most important change Canada could make in its social policy landscape at the beginning of this century, a change that would go far in securing our economic future, but that is only my view.

Honourable senators, we need to have a full national discussion on post-secondary education. We need to think creatively and with inspiration. We need to be willing to explore new ideas and new approaches freely and in a non-partisan manner.

Education reformers come in all political shapes and sizes. Faced with low participation rates and poor academic achievement levels, the former Democratic Governor of Georgia, Zell Miller, decided in 1993 to take action. Georgia's HOPE scholarship and grant program, funded entirely by a special state lottery, pays the tuition costs of any student able to gain entrance to university or college. One result in the public colleges there has been to drive up the average SAT scores and grade point averages of the system as a whole and put Georgia in the top grouping of states nationally. Brave and bold and far-sighted solutions exist if we are willing to consider them.

In closing my remarks, I want to recognize my colleague Senator Callbeck and thank her also for initiating debate on this important issue. Perhaps together, honourable senators, we can move the agenda forward in the weeks and months to come.

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

The Senate adjourned until Wednesday, December 8, 2004, at 1:30 p.m.

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