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THE HONOURABLE DANIEL HAYS
SPEAKER

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THE SENATE

Wednesday, February 2, 2005

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

Prayers.

Bowl Classic basketball tournament a reality. I commend their efforts and I wish them all great success.

SENATORS' STATEMENTS

NOVA SCOTIA

NEW WATERFORD—TWENTY-FOURTH ANNUAL COAL BOWL CLASSIC BASKETBALL TOURNAMENT

Hon. Terry M. Mercer: Honourable senators, this week in Cape Breton, in a coal-mining town of 7,000 people, the twenty-fourth annual Coal Bowl Classic has begun.

This national high school basketball tournament is being held in New Waterford, Nova Scotia, at Breton Education Centre, a junior-senior high school with a student population of approximately 1,200 students. Under the guidance of the executive and board of directors, the Coal Bowl offers almost 200 participants from across the country a unique opportunity to participate in educational, social, cultural and athletic activities. Additionally, the tournament is supported by over 500 student, staff, and community volunteers.

Honourable senators, this year, teams from Newfoundland, Nova Scotia, Prince Edward Island, Quebec, Ontario and Manitoba are participating. This is indeed a prestigious and truly Canadian event. Team members participate in scheduled tours relating to New Waterford's historic mining industry. In addition, the week will include dances, a concert, a banquet and socials. Another major feat is that all teams are billeted in one wing of the school — I am sure it is a great party. The grade seven students are charged with decorating each room with a welcoming atmosphere for the teams' arrival.

The educational highlight is *Cape Breton Island: A Select View*, a textbook that relates to the history of Cape Breton Island, with particular reference to the coal-mining industry. Team members receive a copy in the fall and are tested during the tournament week and awarded prizes during closing ceremonies. This component provides a lasting awareness of a region of Canada that would not be experienced otherwise.

The comment of one parent sums up the tournament: "You have done much to allow our youngsters to view life in another part of our country, and their impression that Nova Scotia citizens are friendly, enthusiastic, and hard-working people is one that will do much to round out their growth as Canadian citizens."

Honourable senators, I am sure you will join me in congratulating co-chairs Brian Spencer and Lorraine Sheppard, under whose direction their team of volunteers make the Coal

LIBERATION OF AUSCHWITZ-BIRKENAU

SIXTIETH ANNIVERSARY

Hon. A. Raynell Andreychuk: Honourable senators, January 27 marked the sixtieth anniversary of the liberation of Auschwitz-Birkenau, the Nazi concentration camp in Poland. It is a place where it is noted that more than 1 million Jews were murdered, along with 75,000 Poles, 20,000 Roma, 10,000 Russian POWs and tens of thousands of people of other groups who were being systematically wiped out. Its name is synonymous with state-sanctioned institutionalized genocide and death.

The Soviet army entered the camp in 1945 and found 7,000 emaciated prisoners. Only days earlier, the Nazis had forced the evacuation of 67,000 prisoners, sending them on a death march to camps further west. The Soviets found buildings filled with men's suits and women's dresses, as well as shoes and eyeglasses. They found 7.7 tons of human hair, which contained traces of Zyklon B, indicating that the hair had been shaved from the bodies of the dead.

We said, and quite rightly, "never again." We cannot allow people to be systematically destroyed. Never again can we do what this nation did during the 1930s and 1940s, when we shut our doors to European Jews. Never again can we do what we did in 1939, when the Canadian government and other nations of the Western Hemisphere ignored the pleas of 900 European Jews on the ship *S.S. St. Louis*. That ship returned to Europe and almost half of its passengers died.

• (1340)

United Nations Secretary-General Kofi Annan spoke to the General Assembly last week at a special session marking the anniversary of the liberation of Nazi death camps. He reminded us that our "never again" rings hollow. He said:

Since the Holocaust the world has, to its shame, failed more than once to prevent or halt genocide — for instance in Cambodia, in Rwanda, and in the former Yugoslavia.

Even today we see many horrific examples of inhumanity around the world....

But what we must not do is deny what is happening, or remain indifferent, as so many did when the Nazi factories of death were doing their ghastly work.

On a plaque at Auschwitz is a quote by the philosopher Georges Santayana, which reads:

Those who do not remember the past are condemned to repeat it.

Let us remember our past. Let us remember Auschwitz, as well as Treblinka, Dachau, Bergen-Belsen, Belzec, Sobibor and all the others.

Honourable senators, it is our responsibility to lift our eyes and see the reality of what is going on around us today. Only this time, instead of standing by, let us act.

THE SENATE

JEAN COCHRANE—TRIBUTE ON RETIREMENT

Hon. Lowell Murray: Honourable senators, one of the earliest discoveries a new senator makes is that this place — and we who are, for the time being, its custodians — are incredibly well served by Senate staff in all the many different functions they carry out. Wherever and whatever our previous experience, nothing quite prepares us for the thoroughness and generosity beyond the call of duty with which they serve us.

They guide us gently along the learning curve — a journey that lasts many years — without ever making us feel as inadequate as we sometimes are. Nowhere is the curve steeper and more treacherous for most of us than in the area of Senate procedure and precedent. In that area, we lost one of our most trusted and respected guides last month, when Jean Cochrane, Legislative Clerk in the Senate Journals office, retired after 33 years' service on Parliament Hill.

Ms. Cochrane's early career here was in the office of our former colleagues the late Speaker Muriel Fergusson, the late Paul Lucier, and Senator Joan Neiman. In 1979, she moved to the Journals Branch and before long became Legislative Clerk there.

When we leave this chamber in the evening, we leave behind us a great deal of work for others, including those in the Journals office, to undertake and complete. Ms. Cochrane and her colleagues frequently burn the proverbial midnight oil putting together the *Journals of the Senate*, the official record, the *Order Paper and Notice Paper* and the *Progress of Legislation*.

Over time, Ms. Cochrane became a fount of knowledge and advice, which she shared generously, not only with honourable senators still trying to unravel the mysteries of parliamentary practice and precedent, but with Committees Directorate, Debates Services, and public servants in various government departments trying to follow the progress of legislation in the Senate. She became an important link in the Senate's institutional memory, assisting clerks at the table in formulating their advice and in the preparation of motions and inquiries.

As we all know, this is a wonderfully collegial place. Those who serve here are united in their loyalty and devotion to the Senate. It is appropriate to mention their pride in Jean Cochrane's professionalism and their appreciation of her kindness and cooperation. As for us, we and all who have served as senators over the past three decades know that Jean Cochrane's profound commitment to her responsibilities helps ensure the integrity and

vitality of the Senate in our parliamentary democracy. On the occasion of her retirement, we offer our warmest thanks and good wishes.

Hon. Senators: Hear, hear!

NATIONAL ABORIGINAL ACHIEVEMENT AWARDS 2005

CONGRATULATIONS TO JOHN JOE SARK

Hon. Elizabeth Hubley: Honourable senators, my province of Prince Edward Island has a long and illustrious history. During the French regime, it was known as Isle St. Jean. After the British conquest in 1763, this jewel in France's New World Empire was renamed after Prince Edward, the father of Queen Victoria.

However, long before the British and the French, of course, Prince Edward Island was home to our Native people, the Mi'kmaq, who knew it as *Epekwitk* or *Abegweit*, meaning "cradled in the waves."

As European conquerors, we did our best to trample upon the Mi'kmaq people and their centuries-old culture and way of life. We denied them the rights of citizenship, effectively exterminated the walrus, caribou and bear they depended upon for food and clothing, then herded them onto reservations and sent their children off to residential schools, where they were prohibited from speaking their own language and where many endured alienation and abuse.

It is a tragic and shameful chapter in our national history, honourable senators, but then cultural genocide is never a story easy to tell. On Prince Edward Island, the Mi'kmaq community has struggled to overcome prejudice and bigotry and, along with it, economic marginalization.

However, there is now a growing confidence among Native youth, especially as old ways are rediscovered and new strengths realized. At the front of this cultural and spiritual revival, together with others, has been a truly remarkable and heroic man. Most Islanders know John Joe Sark by name and reputation. This elected *Keptin* of the Mi'kmaq Grand Council has spent his entire life working to redress historical wrongs and win justice for his people. John Joe is an activist, an educator and a spiritual leader.

The first Mi'kmaq to graduate from the University of Prince Edward Island in 1979, John Joe has courageously taken on governments and the establishment, including the Roman Catholic Church, at great personal cost, to defend the legal, constitutional and cultural rights of his people. In an interview for *National Geographic* magazine several years ago, Mr. Sark explained his mission. He said:

To get the confidence we need to improve our lives, we have to develop pride in ourselves by discovering who we are and who we were.

Honourable senators, I am delighted to inform you that earlier today it was announced here in Ottawa that John Joe Sark has been selected as one of 14 recipients of the 2005 National Aboriginal Achievement Awards. This award is one of the Aboriginal community's highest honours bestowed upon its own

people. I know you will join with me in congratulating him and the other recipients from across the country for their unselfish and outstanding work.

NEWFOUNDLAND AND LABRADOR

AGREEMENT ON OFFSHORE OIL REVENUES

Hon. Ethel Cochrane: Honourable senators, I rise today to herald an exciting new beginning for my people and the Province of Newfoundland and Labrador.

On Friday evening past, Premier Danny Williams reached an agreement in principle on offshore revenues with the Government of Canada. The deal, worth an estimated \$2.6 billion over the next eight years, marks the beginning of the province's ascent from so-called have-not status.

Premier Williams said it best when he said the following:

Our effort to secure a better deal on the Atlantic Accord was about more than money....It was about integrity and dignity and honour, and it was about pride.

It is also a chance for us to break from the patterns and stereotypes of our past. Premier Williams also said the following:

This is a defining moment in the history of Newfoundland and Labrador.... Today we start a journey toward self-sufficiency and prosperity.

Indeed, we are now taking our rightful seat at the table of Canadian federation; we are becoming the masters of our destiny. Most important, however, our pending self-sufficiency will be to the benefit of all Canadians.

For my province, this deal represents hope and optimism. It also symbolizes a turning of the corner from our past. As well, it holds the promise of a future in which our young people will no longer have to leave their roots to simply survive.

Honourable senators, this deal is a testament to both governments, that of Canada and of Newfoundland and Labrador. Following from a commitment made on the campaign trail, the deal is the product of impressive federal-provincial relations. It is a newly strengthened, productive relationship that spans political parties, regions and leadership styles. That, in my view, is an unbelievable feat in itself.

I commend all those involved — but especially the Prime Minister, Premier Williams, Finance Minister Loyola Sullivan, Leader of the Opposition Stephen Harper, and the Conservative members of Parliament — for their fine work. It is strictly due to their boundless determination and unwavering commitment to the province and people of Newfoundland and Labrador that this victory has been won.

• (1350)

Honourable senators, a new era is underway in my province thanks to the tenacity of our leaders. I am both hopeful and confident that it is only the start of Newfoundland and Labrador's prosperity.

THE LATE LATHAM B. JENSON, O.C.

Hon. Wilfred P. Moore: Honourable senators, I rise today to pay tribute to Commander Latham B. Jenson, late of Queensland, Nova Scotia, who was affectionately known as "Yogi" to his naval colleagues and many friends. When he crossed the bar on December 29 last, Commander Jenson left behind a wonderful legacy of service to Canada.

Born in Calgary, he was captivated by the sea and the idea of a career on the navy and enlisted in 1939 at 18 years of age. He served on HMS *Renown*, *Matabele* and *Hood*. On September 13, 1942, then Sub-Lieutenant Jenson was the 21-year-old gunnery and signals officer onboard HMCS *Ottawa* when she was torpedoed and sunk while on convoy escort duty in the North Atlantic. He and 68 shipmates were rescued by a British corvette after five hours in the water; sadly, 138 officers and men were lost. He then served in HMCS *Niagara*, *Long Branch* and *Algonquin*, the first ship to shell the shore defences on Juno Beach in Normandy on June 6, 1944. Following the war he served as an instructor at Royal Roads, where he taught future admirals and senior naval officers. Later he commanded HMCS *Crusader*, *Micmac* and *Fort Erie*, and the 7th Escort Squadron.

In 1964 he retired from the navy, swallowed the anchor and settled in Queensland. He turned his hand to his superb talents as an artist and writer. Among his seven books are *Vanishing Halifax*, *Nova Scotia Sketchbook*, *Fishermen of Nova Scotia*, the autobiography *Tin Hats*, *Oilskins and Seaboots*, and the limited edition portfolio *Last of the Tall Schooners*. His book titled *Saga of the Great Fishing Schooners* is "the" reference on how to rig a schooner and "the" guide for those wishing to build a model of *Bluenose II*. He illustrated nine other books.

While volunteering as Vice-President of the Heritage Trust of Nova Scotia, Yogi Jenson campaigned tirelessly and successfully to stop the demolition of historic buildings on the waterfront of Halifax. During his community service as Chairman of the Advisory Council of the Maritime Museum of the Atlantic, he led the acquisition of HMCS *Sackville*, the last remaining corvette from World War II, as a memorial to those who fought and won the Battle of the Atlantic.

Commander Jenson was awarded the Order of Canada in 2004 in recognition of his gallant services to Canada, both in wartime and peacetime.

We extend our deepest sympathy to Commander Jenson's wife, Alma, and their children, daughter Sarah and sons Lynn and Tom. We thank them for sharing this valiant sailor, artist, writer and community volunteer with us.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of our retiring Legislative Clerk, Jean Cochrane.

Welcome.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

NATIONAL SECURITY AND DEFENCE

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

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Security and Defence have the power to sit at 3:15 p.m. on Tuesday, February 8, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

civil marriage. When we are talking about civil marriage, I would like everyone to talk about civil marriage and to be careful to specify in their interventions that we are talking about civil marriage — and not the religious one.

In its polity and as a critical foundation, I must say that Canadian society has a separation of church and state that is clear from the structure of our Constitution. In the United Kingdom there is a de facto separation of church and state, but there are still some historical appendages to the Church of England. In the United States a separation of church and state is specifically provided in their Constitution.

• (1400)

Therefore, I can see no basis upon which anyone who is familiar with the way our constitutional system works could take exception to the remarks of Minister Pettigrew.

JUSTICE

SAME-SEX MARRIAGE—INVOLVEMENT OF CHURCH—FREEDOMS OF SPEECH AND RELIGION

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, we have put our fingers on the pulse of a change in the history of Canadian democracy. The doctrine of separation of church and state has a particular meaning within our Westminster model. Lest that be too academic a question, I want to find out for the benefit of all Canadians the position or policy of the Government of Canada when a minister of the Crown rises to challenge the right — under whatever pretext — of freedom of speech of a church leader or any other Canadian who disagrees with a given government policy of the time. Does this government see freedom of expression as a matter that is to be limited by its whims?

Hon. Jack Austin (Leader of the Government): Honourable senators, this government puts no limitation on the rights of Canadian citizens, whomsoever they may be, to debate public policy in this country. No other interpretation should be possible, nor did Minister Pettigrew put any limitations on such freedom of speech.

Some people are making a very fine argument that the Supreme Court of Canada's interpretation of the rights of individuals under the Charter, as implemented by Bill C-38, which was introduced in the House of Commons yesterday, is an interference with the rights of the church to determine who would be the subjects of marriage under their particular religions. That is not in any way the truth of the matter. The churches are free to decide on their own religious practices and under their religious beliefs what persons are eligible for marriage.

Hon. Gerry St. Germain: Honourable senators, if the honourable minister is that comfortable in his position, why is it that certain churches and religious institutions feel that freedom of religion is under attack? If Bill C-38 is such a panacea of greatness, why do we have to justify freedom of religion in this country? The fact that we have to defend it puts it in a position where, obviously, it must be under attack. Why would we even mention it? It is because these people feel that their ability to carry out their religious beliefs is under attack.

QUESTION PERIOD

FOREIGN AFFAIRS

SAME-SEX MARRIAGE—INVOLVEMENT OF CHURCH—COMMENTS BY MINISTER

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. Does the leader agree with the novel, and indeed new, doctrine of church and state separation that was recently proposed by the Minister of Foreign Affairs?

Hon. Jack Austin (Leader of the Government): Honourable senators, I was expecting to receive a question along the same lines from Senator St. Germain. I was given notice of a question of this kind yesterday. I have had the opportunity to see the media and to have a dialogue with the minister.

The question asked of me by Senator St. Germain used the phrase that is contained in the media story that appeared in the *Gazette* of February 1, 2005, in the headline, "Marriage predates government, foes say after minister urges churches to butt out." Minister Pettigrew never used the phrase "butt out." A quote attributed to Mary Ellen Douglas, President of the Campaign Life Coalition, states: "The statement from him was outrageous that the churches should butt out." The headline writer, unintentionally, I am sure, raised an innuendo. That hardly ever happens, of course, in the press.

Minister Pettigrew said:

I find that the separation of the church and the state is one of the most beautiful inventions of modern times.

He went on to say:

I've seen a lot of right-wing press put all kinds of things around it and some right-wing commentators. What I have said is that I believe that the separation of church and state is a wonderful invention of modernity. It allows us to have a

Minister Pettigrew and others may dismiss the cardinals, the Orthodox Jews and other religious leaders of these various organizations, but why is the government so dismissive? I believe the issue in regard to Bill C-38 will be the freedom of religion.

We have a situation right now in Port Coquitlam with the Knights of Columbus, and there are other examples that I will not go into during Question Period.

There is sound reason for clergy leaders to be concerned about freedom of expression and true freedom of religion as we have known it in this country. Does the minister not see that point of view in any way, shape or form?

Senator Austin: Honourable senators, the issue is not the freedom to practise a religion, and no religion is under attack in this country. Those who adhere to whatever religion are free to practise it within the context of their religious institutions.

Senator St. Germain: Today.

Senator Austin: The issue is different. The issue is the equality of rights of Canadians. It may be that some religious leaders object to the idea of civil marriage. It may be that they do not agree with the Constitution of Canada or they do not accept the Charter of Rights. When they take those positions, they are not reflecting on their religious adherence. They are reflecting on others who are not their supporters, and they are trying to subject those people to the religious beliefs of the community to which the honourable senator has referred. They may not recognize that this is what they are doing, but the Charter, as interpreted by the Supreme Court of Canada, makes it very clear that civil marriage is a right of Canadians. There is no going around the Charter and its rights, unless the Constitution is used. The Constitution does have a notwithstanding clause. If it is the position of the party to which Senator St. Germain adheres that the notwithstanding clause should be used, that is a proper constitutional debate and we can argue it.

Senator St. Germain: I never said that.

Senator Austin: Otherwise, let us be clear that the Charter of Rights, as interpreted by the Supreme Court of Canada, provides equal rights to all Canadians for a civil marriage.

Senator St. Germain: I never raised the notwithstanding clause. This is just a red herring, as Senator Kinsella points out, on the part of Prime Minister Martin. It was just a year ago that Prime Minister Martin clearly stated that it was not a human rights issue. From out of nowhere it became a human rights issue following certain incidents in this country.

My concern still is for people who refuse to carry out same-sex marriages. They are being discriminated against and told to resign their posts in various provinces. What is the government doing about it? You are doing nothing. You are standing back and watching while these people are being discriminated against because of their religious beliefs.

If the minister thinks for one moment that he will bamboozle the world into believing that religious organizations are not under attack, I think he is leading in the wrong direction. It is a false

position and Canadians deserve to know the truth. They deserve to know that if the bill must state that religion is protected by virtue of this legislation, it is obviously under attack given various current examples, such as the Knights of Columbus situation in Port Coquitlam and other incidents that have taken place in the courts. For example, in Ontario, a printer was fined and forced to print material that went against his religious beliefs. These situations provide a definitive case that is leading our cardinals and archbishops in the Catholic faith, as well as leaders of the evangelical faith and the Orthodox Jewish faith, to be truly concerned. The minister is remiss if he just pooh-poohs them to the sidelines.

Senator Austin: Honourable senators, Senator St. Germain has made a vigorous speech, and we will hear from him again when the bill is before this chamber. On this side, we would be willing to expedite the debate by conducting a pre-study of this particular bill so that we can engage in it at the earliest possible time. I can see that Senator St. Germain would be at least agreeable to that proposition.

Senator St. Germain: The honourable leader just wants to get this issue off the agenda because he knows it will bury him.

• (1410)

Senator Austin: I want to get on with it. If your debating point is correct, that there are church leaders who feel threatened, let us have the debate. Let us engage with them in evidence.

Senator St. Germain: Why should we debate freedom of religion? Freedom of religion is a right.

Senator Austin: Absolutely. I intended to make that very point. The Supreme Court of Canada said in its decision that freedom of religion is equally protected by the Charter, as is civil marriage.

As the honourable senator knows, the constitutional jurisdiction of marriage lies with the federal government. The solemnization jurisdiction is with the provinces. If the provinces in any way interfere with the freedom to practise religion, then those individuals who feel interfered with should insist on their Charter rights. The federal government takes the position that everyone is free to practise their religion. I want to make it clear, and I will make it clear repeatedly, that there is no threat to the freedom of any individual to practise his or her religious beliefs in this country. The Charter permits it. The civil rights of one group are the civil rights of another.

I do not know whether Senator St. Germain is familiar with the famous dictum of Pastor Niemöller, a leading figure during the 1930s in Nazi Germany. After the war, he said:

First they came for the Communists, but I was not a Communist, so I said nothing. Then they came for the Social Democrats, but I was not a Social Democrat, so I did nothing. Then they came for the trade unionists, but I was not a trade unionist. And then they came for the Jews, but I was not a Jew, so I did little. Then when they came for me, there was no one left to stand up for me.

Honourable senators, civil rights are the essence of this country. The Charter is the essence of this country.

Senator St. Germain: Freedom of religion is the essence of this country.

It is the Liberals who denied the Jews entry in 1939.

Senator Austin: I heard the Conservatives up and quarrelling with the Liberal decision at that time, did I?

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, I have a supplementary question. I am pleased that the minister has quite clearly reaffirmed the distinction between civil society and religion. It might be useful to remind the members of this chamber, while duly taking into consideration the concerns just expressed — which a great many Canadians share — that this Parliament has already clearly made the distinction between civil society and religion when it comes to ethics.

For example, Catholicism opposes birth control, abortion and divorce, and affirms marriage's indissolubility. As the spokesperson for civil society, Parliament has already enacted legislation with regard to these three questions and this was never perceived as an attack, in any way, shape or form, on the freedom of religions and of Canadians who share religious beliefs.

It is extremely important to reaffirm such distinctions between civil society and religious society and to demonstrate, as the bill very clearly indicates, Parliament's deep respect for all religions. This concerns civil matters and a civil institution; therefore, it is about the pre-eminence of the Charter and the equality of all citizens.

[English]

Senator Austin: I want to thank Senator Rivest for what he has just added to Question Period. While he was speaking, I was reminded of the difficulties that leaders in civil society have had over the years in squaring their particular civil responsibilities as elected political people or appointed political people with their religious convictions or with the convictions of the religious institutions to which they belong.

Sir Wilfrid Laurier was the first elected Prime Minister of this country to be Roman Catholic. There was a debate at that time about whether the church would control the behaviour of a Catholic politician. In the United States, a candidate in 1928 by the name of Alfred E. Smith probably lost the election to Herbert Hoover because he was a Catholic. John Kennedy was able to reverse that by repudiating any control by religious authorities over his political responsibilities to the country as a whole.

These are difficult issues, honourable senators, but we have made adjustments in this country. No one wonders today whether the Prime Minister is a Catholic or a Protestant. That is the right way for society to see the situation. It is the quality of the person, not the religious belief.

HEALTH

APPROVAL AND MONITORING PROCESS OF VIOXX

Hon. Wilbert J. Keon: Honourable senators, it has come to my attention that the *Canadian Medical Association Journal* had some harsh words for Health Canada and for the U.S. Food and Drug Administration over their approval process and monitoring of the recalled arthritis drug Vioxx. An editorial in the journal asked why it took so long for Health Canada to disclose what it knew about the cardiovascular risks associated with this drug. The editorial also stated that by not using an active surveillance system to quickly uncover adverse reactions:

Both the FDA and Health Canada have failed miserably in carrying out this important aspect of their public mandates.

Is this a fair criticism? If so, what explanation does Health Canada have on its behalf and on behalf of the FDA for allowing this to happen?

Hon. Jack Austin (Leader of the Government): Honourable senators, I do not know whether it is a fair criticism. I do not know whether anyone in this chamber can actually take a position based on the substantial information available. That leads me to suggest to Senator Keon that perhaps the matter might be dealt with by a motion on his part and perhaps a committee could examine the very questions that he is asking.

TRANSPORT

BRITISH COLUMBIA—EFFECT OF CONGESTED COMMERCIAL CORRIDORS

Hon. Gerry St. Germain: Honourable senators, my question is to the Leader of the Government in the Senate.

According to Stephen Poloz, Export Development Canada's chief economist, congestion in the Vancouver trade corridor is dragging down the Canadian economy. As a result, Mr. Poloz has cut his 2005 growth estimate for the economy to 2.9 per cent from 3.2 per cent. As well, Transport Canada estimates that congestion in Vancouver's commercial thoroughfare costs more than \$1 billion per year. Commercial traffic in trucks, which transport more than 70 per cent of the value of goods moving through the Port of Vancouver, are taking longer to reach their destination, raising costs for businesses and consumers.

A transportation report completed by UBC Professor Michael Goldberg blames systemic infrastructure under-investment for the problems. It also suggests widening the main east-west and north-south highways out of Vancouver to eight lanes.

The Liberal government has had the infrastructure program in place since it first came to power in 1993. According to these people, the government is failing and it is hurting Canada's economic outlook. Would the Leader of the Government in the Senate please account for these failings?

• (1420)

Hon. Jack Austin (Leader of the Government): Honourable senators, I wish to thank Senator St. Germain for drawing our attention to a very significant issue that affects that economy of British Columbia, Western Canada and, indeed, the whole of Canada.

As I understand it, the issue is that none of the planners, whether in the government sector, the railway sector, the transportation sector or the port sector, foresaw the growth in sea traffic that has taken place from Asia to Canada, particularly from China to Canada. The railways have been caught unprepared to carry the traffic from the Port of Vancouver. Indeed, the Canadian Pacific Railway has announced that it is considering making an investment in excess of \$500 million in twinning lines, to make it possible to move traffic much more quickly out of the Lower Mainland, across British Columbia and over the Rockies. The Canadian National Railway, as well, is looking at Port of Vancouver rail developments.

The port has never been busier. What Senator St. Germain is talking about is the additional business we could be booking if these strategic decisions had been taken. As Senator St. Germain knows, the Port of Vancouver is run independently, under the Canada Marine Act, as are other ports in Canada, a policy that was much advocated by both sides of this chamber. I warrant that it has been better managed by the existing Vancouver Port Authority than it was by the Department of Transport in times past. However, it is under-invested, and we need to find new financial resources. The railways need to act more promptly.

In addition to adding to rail and road capacity, we have to widen the corridors, which involves environmental processes that are required by law and cannot be sped up. What do we do about existing residences and commercial properties in settled communities? Are they to be expropriated? It is a difficult issue.

The truth of the matter, as set out in the EDC report by that eminent economist, is that China's steady growth of 8.9 to 9 per cent GDP is streaming an enormous amount of commerce across the Pacific, and it will not stop. Therefore, we have to respond.

Finally, Senator St. Germain and I, both coming from British Columbia, are looking at what can be developed at the Port of Prince Rupert, which is served by CN, to take container traffic. The private sector, in the form of an American investor, CN and the Province of British Columbia have offered additional capital for the expansion of the Port of Prince Rupert that would reduce the travel time by two days for traffic heading for the U.S. Midwest, which is where much of the traffic goes.

Senator St. Germain: Honourable senators, I obviously agree with the minister that foreseeing the growth was most likely impossible. However, the growth has occurred. The Province of British Columbia, under the leadership of the government of Gordon Campbell, is doing an excellent job of facilitating developments in this situation.

With regard to the Port of Prince Rupert, I think we should be considering turning it over to the province in some way in order that we have a more hands-on situation to expedite this process. There would be a reduction of two days in travel time to Chicago if this port facility were fully exploited in the way it should be. The federal government should be giving serious thought to bringing the province into the picture more quickly.

As the honourable senator knows, the Lower Mainland of British Columbia is virtually in gridlock at certain times, and the cost to transportation is horrific, as Professor Goldberg from UBC has enunciated well.

We obviously need money from the federal gas tax transfer as soon as possible. As announced yesterday, \$2 billion of this transfer is to be earmarked for the fifth year of the agreement. However, according to John Godfrey, Minister of State (Infrastructure and Communities), the amount transferred over the first two years of the five-year agreement will be relatively modest. That is reported in *The Globe and Mail* in an article headlined, "Gas-tax funds steered to big-ticket projects." This money is urgently needed.

Although the Leader of the Government and I have differed on certain issues in the past, I will say that he provided great leadership in British Columbia when he was a minister in the years before the Conservative government and in the later years of the Trudeau government. It is now time that he shine again and get these funds expedited for the expansion of British Columbia infrastructure.

Senator Austin: Honourable senators, I have been a big fan of the New Deal for Cities and Communities, one of the government's priorities. The new deal is an intervention in an area that is provincial jurisdiction, pure and simple. However, the provinces have welcomed the federal government's role in providing new funding for community infrastructure.

The announcement of yesterday, to which the honourable senator referred, allocates \$5 billion of gas tax revenue to the municipalities. Each province has now been advised of the share it will be receiving based on a per capita distribution. P.E.I. and the territories will receive a set amount rather than a per capita amount, given their size.

The announcement has been made with the approval of the stakeholders. It is the result of an agreement, and legislation will be introduced to ensure that the funds that the government has announced, and which have been agreed to by the provinces, the cities and the communities, flow as quickly as possible. I look forward to the assistance of the honourable senator in passing that legislation.

As the honourable senator was saying, the funds are to support sustainable municipal infrastructure such as public transport and water systems. The final details are being dealt with, and I am pleased that the honourable senator drew the attention of the chamber to this issue.

ORDERS OF THE DAY

MIGRATORY BIRDS CONVENTION ACT, 1994 CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Hubley, seconded by the Honourable Senator Ringuette, for the second reading of Bill C-15, to amend the Migratory Birds Convention Act, 1994 and the Canadian Environment Protection Act, 1999.

Hon. Ethel Cochrane: Honourable senators, I am pleased to have an opportunity to speak at second reading of Bill C-15. This bill is the latest incarnation of Bill C-34, which was introduced in the thirty-seventh Parliament but died on the Order Paper when the last general election was called.

Bill C-15 is born of positive intentions. It seeks to strengthen existing measures established to protect Canada's marine environments from the ravages of pollution. I am sure honourable senators are aware that the marine waters off Canada's coasts are among the richest in the world in terms of seabird life.

An estimated 30 million seabirds use Canada's eastern coastal waters at all times of the year. Their habitat is shared by the thousands of sea-going ships that criss-cross our oceans annually.

• (1430)

In this place, many honourable senators have fervently called for greater protection of species, whether the species be endangered, at risk or otherwise. If we are to protect species, the first step is to protect habitat. In principle, that is what the bill seeks to do.

Our marine environment is not immune to pollution, as countless recent examples have reminded us. Late last year, for instance, there were a couple of oil spills off the Terra Nova platform. The biggest spill occurred on November 21, when more than 1,000 barrels of oil were discharged into the ocean. About a month later, another two barrels of oil went into the ocean from the platform.

There are other sources of oil spills and marine pollutants that cause great harm to our environment. Perhaps principal among them is discharged oil from ships. We often think of oil spills causing devastation in the context of large and catastrophic accidents such as in the case of the *Exxon Valdez*. However, small spills, whether resulting from equipment malfunction, negligence or intentional illegal actions, wreak the same sort of destruction. They are not less harmful.

The World Wildlife Fund reports that there is no significant correlation between the volume of oil spilled and the number of

seabirds oiled. It is further noted by the wildlife fund that "long-term sustained mortality rates caused by chronic oil pollution have as great an effect — or an even greater effect — on seabird populations as occasional large spills."

You see, honourable senators, even a very small amount of oil poses a serious threat to seabirds. A tiny drop of oil is all it takes to decrease a bird's insulation, waterproofing and buoyancy. This leads to hypothermia and starvation. Of course, birds can also ingest or inhale the oil, and this too causes serious damage to internal organs, potentially resulting in death.

Seabirds have been called "the most conspicuous organisms of the marine ecosystem," and they are also most frequently used as an indicator of marine oil pollution. I suggest to honourable senators that if this is the case, then we really need to sound the alarm bells.

The first incident of oiled birds on the beaches of Newfoundland and Labrador was documented in the 1950s. Current estimates place the annual mortality rate off Newfoundland's Avalon Peninsula alone to be 300,000 birds. That is just one part of one of our coasts. Unfortunately, at this time, Government of Canada estimates on the Pacific coast are incomplete.

Admittedly, getting a handle on how many birds die each year is difficult. The reality is that when birds die at sea, they soon lose their buoyancy and sink to the bottom. Some bird carcasses get eaten by other members of the food chain, and wind conditions allow others to drift farther out to sea or to shore. In reality only a relatively small percentage of dead birds actually wash up on the shore and catch our attention.

All of this is to say that the numbers we do collect, though inadequate, do not necessarily present an accurate view of the problem. However, according to data collected by the Canadian Wildlife Services between 1984 and 1999, what we do know is that 62 per cent of dead birds found on our beaches are oiled. However, it is important to note that the data from the last five years actually indicate that the rate was closer to 75 per cent. This suggests that three out of four birds found dead on beaches died as a result of oil. According to a recent World Wildlife Federation study, this also tells us "that the risk to birds of contacting spilled oil and dying as a result is very high in Atlantic Canada."

Honourable senators, allow me to put these death rates in an international context. Germany and Denmark's rates have remained stable at 47 per cent, and the Netherlands has seen its rate decline from 57 per cent down to 38 per cent in the last 20 years. Those numbers are significantly lower than the ones recorded here at home in both the recent and the not-so-recent past.

The World Wildlife Federation observes that public pressure over the last two decades has led governments around the world to develop legislation to protect marine and coastal environments. The International Convention for the Prevention of Pollution from Ships and the United Nations Convention on the Law of the Sea are two such agreements that Canada has signed; yet in spite of those agreements, we still find oiled birds washing up on shorelines worldwide.

Vessels that navigate our waters are, of course, subject to Canadian law. Canada currently has numerous laws in place to deal with the potential environmental effects of ship traffic, including the release of oil into marine waters. These laws include the Migratory Birds Convention Act of 1994, the Canadian Environmental Protection Act of 1999, the Fisheries Act and the Canada Shipping Act.

The problems that exist lie in penalties and enforcement, and that is where these amendments will make a difference. While the bill before us follows in the tradition of these conventions and others, it seeks to do more. It seeks to strengthen Canada's current regulations and to cover the gaps that continue to exist.

First and foremost, from an environmental perspective, Bill C-15 gives rise to new protection measures for migratory birds that will shield them from the effects of harmful substances such as oil.

The bill also seeks to amend the Migratory Birds Convention Act of 1994 by ensuring that it applies in the exclusive economic zone of Canada and expanding the jurisdiction of our courts to include Canada's EEZ.

Passing this bill will mean that the Migratory Birds Convention Act of 1994 will apply not only to shipowners and operators but to the vessels themselves, and that enforcement powers will be expanded to allow Canada to direct and detain vessels that contravene the MBCA of 1994. Above all, the bill before us will mean significantly greater penalties and fines for marine polluters.

As indicated in its official title, Bill C-15 will make strong amendments to the Canadian Environmental Protection Act of 1999. I should note that many of these mirror the proposed amendments to the MBCA of 1994. Essentially, it will further strengthen the existing CEPA, 1999 by protecting the marine environment from the wrongful activities of ships as well as of people by expanding enforcement powers in matters concerning ships that fail to comply with the CEPA of 1999 or its regulations and by including prohibitions dealing with disposal and incineration of substances at sea by ships.

With these amendments, we will be able to deal more effectively with law enforcement issues in cases of marine pollution. Additionally, these legislative measures will provide clarity with respect to the new 200-mile exclusive economic zone by affirming that enforcement officers have authority in that area.

By increasing the fines to a maximum of \$1 million, this legislation is falling into step with the big business ways of shipping. However, its significance goes well beyond that. It also makes our approach more consistent with that of our neighbour, the U.S., a country which has stricter laws in place to protect marine habitat.

The data available internationally is clear: Steep fines effectively communicate to ship operators that illegal activities will not be tolerated. We need look no further than the U.S. and the U.K. for evidence of this. The governments of both countries have imposed fines on marine polluters that cost in the hundreds of thousands of dollars. It is not surprising then that beached bird surveys in both of these countries reveal low proportions of oiled birds.

• (1440)

With this bill, I believe Canada is finally sending a strong message to those shipping companies that would discharge toxic substances illegally at sea. We are saying: "If you abuse our marine environment, you will face strict sanctions." Make no mistake, modern shipping is big business today. As such, time means money. It is when people start cutting corners that our environment suffers and we experience devastating results.

Ships, as you know, have bilge oil that they need to dump. When proper procedure — that is, the law — is followed, ships go to port, pump out the bilge at the port's facility — an act for which ships are handsomely charged — and then go on their way. Honourable senators can appreciate that this can be time consuming, and when faced with the pressure of deadlines and bottom-line profits, it is not surprising that some would seek to skip a step or two.

Up to this point, considering the business demands and minimal penalties, there have been practically disincentives for ships to follow procedures. When one considers the paltry fines that are attached to acts such as oil dumping, combined with the bare-bones surveillance that takes place, illegal dumping poses only the smallest of risks and great potential for sweet payoffs.

However, while the intentions of this bill are noble, I do have concerns that relate directly to surveillance and enforcement. Time and time again, we have heard in witness testimony before the committee, in the media and elsewhere that our Coast Guard is gravely underfunded and that our surveillance and enforcement capabilities have been cut. Hence, I am interested in hearing from witnesses when this bill is before us in the committee just how we will be able to provide the monitoring and the follow-up necessary to ensure that these amendments become more than just words on paper.

We know from international examples that enforcement and surveillance are important factors in fighting oil pollution. The Netherlands has monitored its beaches for close to a century, and over the last 20 years its surveys of beached birds along the North Sea have indicated a 57 per cent decline in chronic oil pollution. The WWF credits this decline "directly both to increased enforcement and surveillance in this area and to decisions to clean up oil slicks rather than to wait for them to dissipate naturally."

Another concern I have relates to infrastructure. Again, to use an international case study, Germany reported a decline in the proportion of oiled birds after no-charge oil-disposal facilities were introduced in late 1980s. However, after the fee was reintroduced, the proportion of oiled birds also increased again.

I hope our committee work will at least touch on issues relating to Canada's marine infrastructure and any possibilities that may exist further to augment compliance with our laws.

Honourable senators, I do support Bill C-15 in principle. I look forward to investigating this bill more closely in committee. In particular, I hope we can address some of the concerns of industry stakeholders that have recently arisen.

I know, for instance, the shipping industry has voiced some concern about the bill. The most recent edition of the marine issues update featured some criticism of our colleagues in the other place for allowing only two marine advocacy organizations to present their views on the bill. While they felt that was inadequate, they remain hopeful that industry stakeholders will be allowed a fair hearing. I am confident that, over the course of our consideration of Bill C-15, we may be able to address some of these concerns.

As I said earlier, the principles behind this bill are sound. As such, it is my hope that Bill C-15 will go a long way in allowing Canada to dispel her image as a safe haven for illegal oil dumping and will provide great protection for seabirds and their habitat.

Hon. Willie Adams: Honourable senators, may I ask a question of the honourable senator?

Senator Cochrane: Yes, of course.

Senator Adams: The honourable senator is Deputy Chair of the Senate Energy Committee. I am a hunter and, as such, I know that populations of seabirds have been depleted as a result of oil spills. However, my concern relates to the additional costs that shipowners who operate in the Arctic may have to pay, and how that will be reflected in the cost of shipping freight to the North. The Arctic is mostly populated by Canada geese, snow geese and mallard ducks, what I would call our “domestic” birds. They provide food for the hunters. Will passage of this bill result in an increased cost of freight? People living in the North already pay extremely high prices for freight to be brought into the communities. It is sometimes a difficult task.

I recognize, however, if we do not pass legislation to stop this activity, nothing will change.

Of course, we can do nothing to prevent an oil or a chemical spill when a ship sinks. Navigation near land can be difficult for the operator of a ship. A ship could have an engine breakdown during a storm. All of these situations are not within our control. Would the regulations apply to accidents of nature?

Will there be stiffer regulations and stiffer fines for shipowners who do not comply with the legislation?

Senator Cochrane: I am glad that the honourable senator is a member of the committee. We will be consulting members regarding the appropriate witnesses we should hear from so that all of his questions can be answered.

Hon. Serge Joyal: Honourable senators, I listened carefully today to the honourable senator and yesterday to the Honourable Senator Hubley who moved the second reading of the bill. I cannot disassociate myself with the objective of the legislation. However, while I listened to the well prepared speeches yesterday and today, I could not but recall the debate we had in this chamber some years ago when we voted to pass the endangered species bill. Some honourable senators will remember the discussion we had at that time. I believe Senator Sibbeston was the sponsor of the bill. One of the major concerns we expressed at that time — and I see Senator Adams nodding his head — was the

involvement of the Aboriginal people in the implementation of the objectives of the bill. We in this chamber share the common commitment that, when proposed legislation will affect the status of Aboriginal people, we will ask if they have been consulted in the drafting process about the definition of the objective of the bill, about how the bill will be implemented, and the impact of the bill on traditional fishing, hunting and harvesting practices. I believe we have all raised issues. You will remember — I acknowledge our colleague Senator Bryden — in relation to the animal cruelty bill that was a recurring preoccupation. Senator St. Germain was a spokesperson on that issue in this chamber.

I am not a member of the committee because I cannot, of course, be on every committee, but I am concerned that we ensure that when a bill that impacts Aboriginal people is introduced, the consultation process, the preparatory process, as it involves the Aboriginal people, is followed. We could then be satisfied, when the bill is introduced in the Senate, that we have paid due respect and given proper recognition to Aboriginal people's rights.

• (1450)

That is my concern, and I invite the honourable senators who sit on that committee and the chair of that committee to ensure that, among the witnesses referred to in the chair's speech, representatives of the Aboriginal people who might be affected by the objective and the scope of this legislation, are invited to testify before the committee.

My second point concerns the impact of section 35 of the Constitution Act on the recognition of the traditional rights of Aboriginal people. You will remember, honourable senators, that when we adopted the endangered species bill, the then government leader, Senator Carstairs, introduced a motion following that bill referring the issue of the study of the impact of the non-derogation clause to the Standing Senate Committee on Legal and Constitutional Affairs, which was chaired at that time by the Honourable Senator Milne. We started the study on that issue, but Parliament was dissolved. The problem still exists, and we have not addressed that point fundamentally. It keeps popping up in proposed legislation.

The role of this chamber is to be seized of proposed legislation and to pronounce on any such legislation that impacts on Aboriginal people. I simply alert my honourable colleagues to this point, because I strongly believe that we must make progress on the process to be followed when the government drafts legislation so that when the legislation is introduced in the Senate we can be satisfied that the process has been followed and due respect paid to the interests of the Aboriginal people.

I was pleased to hear Senator Adams raise certain issues, and I am sure other honourable senators will also have issues to raise so that we serve the objective of the Constitution of Canada in relation to the Aboriginal people.

I had the opportunity to share those views yesterday with Senator Hubley. I certainly do not want to delay the bill. It is up to the committee to address those issues, but I think it fair, honourable senators, to raise them today so that progress can be made on the bill.

Senator Cochrane: Honourable senators, if I may, I must tell the honourable senator that Aboriginal peoples are also first and foremost on my mind. Ever since I became a senator, I too have wanted to see a process followed through until we have refinement in all aspects. I will ensure that the honourable senator is invited to attend the committee meeting when the pertinent witnesses come to testify. Perhaps his schedule will allow that. I will inform the honourable senator when they will appear so that he will have an opportunity to ask those relevant questions. I realize that the honourable senator, as a lawyer, will pose good questions, as will the other members of the committee. He will have that opportunity.

Hon. Senators: Question!

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?

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. Elizabeth Hubley: Honourable senators, I would thank my colleague Senator Cochrane for her very informative reply to Bill C-15, which graphically highlighted the importance to Canada of Bill C-15. It speaks to clean Canadian water safety for our migratory birds and a legal framework capable of dealing with the few who would cause pollution by discharges of illegal, oil contaminated water at sea.

The Hon. the Speaker *pro tempore*: Senator Hubley, this matter is not debatable. I asked: When shall this bill be read the third time?

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

STATISTICS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Losier-Cool, for the second reading of Bill S-18, to amend the Statistics Act.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I rise to participate in the debate at second reading on Bill S-18, to amend the Statistics Act.

It is my intention to focus on the process rather than on the substance of the bill. The substance has been thoroughly examined, but, to date, the process has engendered a great deal of concern. In particular, I will briefly address concerns relating to the defamation of Senator Lynch-Staunton, the contempt brought upon this chamber, the breach of our privileges as senators, and the confusion or confounding of the role of the executive and the legislative function of Parliament.

The different roles played by the executive in Parliament have, I think, been aptly summarized by the maxim “government proposes; Parliament disposes.” There is an exception in that individual parliamentarians are able to propose their own ideas for new laws or changes to existing laws in the form of public bills in the Senate or private members’ bills in the other place. This is an exercise in which all honourable senators engage, to the good of the work of Parliament, in my opinion.

This exception has generally not been the source of significant confusion between the two functions, that is, government as a general proposer of legislation and the role of parliament to dispose of these proposed bills. In our experience, there has been a full understanding of the role of the legislative branch and the role of the executive and that, in part, is due to the stringent limitation on so-called backbench bills which forbids a proposal involving the expenditure of public funds.

Honourable senators, in the case of this Bill S-18, we all know that its genesis was the very hard work of the honourable senator who has moved second reading of the bill. That honourable senator proposed a series of similar bills in her capacity as an individual parliamentarian and worked assiduously on those bills. She was an able and ardent advocate for the cause of providing public access to the confidential information provided by Canadians to the census taker.

Something which has not previously been mentioned in this debate is that responding to the census questionnaire is not a voluntary undertaking on the part of Canadians. The government obtains this information under the threat of financial penalty and even incarceration. Section 31 of the Statistics Act reads as follows:

31. Every person who, without lawful excuse,

(a) refuses or neglects to answer, or wilfully answers falsely, any question requisite for obtaining any information sought in respect of the objects of this Act or pertinent thereto that has been asked of him by any person employed or deemed to be employed under this Act, or

(b) refuses or neglects to furnish any information or to fill in to the best of his knowledge and belief any schedule or form that the person has been required to fill in, and to return the same when and as required of him pursuant to this Act, or knowingly gives false or misleading information or practises any other deception thereunder

is, for every refusal or neglect, or false answer or deception, guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both.

• (1500)

In other words, honourable senators, Canadians must, under the pain of significant sanction, give the information that is asked of them by the census taker.

It is interesting that the Government of Canada, having bluntly invoked its criminal law powers to threaten Canadians who might be disinclined to provide the information and then having promised Canadians that the trade-off is that the information will not be divulged, now seems to be willing to abandon its half of that bargain, even with the proviso that it will delay the release of the data for a period of time. Clearly, one can logically ask: Will Canadians in future census responses risk the sanction to keep their information private?

I can readily understand that the Chief Statistician might have some concerns in this regard. It would not surprise me if the government next finds it necessary to increase the penalties to encourage Canadians to continue to provide accurate information in future censuses.

My colleague Senator Comeau spoke at some length about the value of a government promise and the effect of retroactive legislation. I do not propose to cover that ground again. However, I do hope that the committee that will study this bill will hear specific testimony and questions that will be put by the honourable members of that committee on this point.

Honourable senators, there is another issue that is yet to be explored, which is a relatively new field of data mining. Most of the support for this bill emanates from Canadians who have a good-faith desire to learn about their ancestors. I hope the committee will also give some consideration to the possibility that commercial interests might find the information of use, even though it might not be with respect to a direct application to people who are still living. The patterns established by our ancestors may still have relevance to us and to our descendants when it comes to various enterprises, not the least of which might be insurance companies who operate that industry on actuarial data.

Turning back to my concerns about the process and the advocacy of some for this government proposal, I have viewed with some alarm the misinformation being propagated about the process and about the intentions of some honourable senators. I am sure that all honourable senators understand that it is much easier to give wings to propaganda than it is to stop its circulation or to correct it once it has been released.

It was with some alarm that many honourable senators listened to Senator Lynch-Staunton's opening remarks on the subject on December 2, 2004. Indeed, had it not been for the letter-writing campaign of intimidation in November, which raised a number of concerns in my mind and likely in the minds of other honourable senators, I expect this bill might have completed second reading prior to Christmas.

I wish to stress that I have no opposition whatsoever to seeing the usual thoughtful and comprehensive study of the issues that a Senate committee typically provides. That said, I do want to place on the record a number of corrections to the misinformation that has been in circulation and which continues to be thrust forward through emails and correspondence.

First, what is before us — what we are debating at second reading — is a government bill. Although the honourable senator who has moved second reading of this bill was chosen by the government to speak to it first, no doubt because of her previous work on this subject matter, it remains a government initiative. That means that the government may, at any time, introduce a motion to limit debate or to use other mechanisms falling under the rubric of closure. The *Rules of the Senate of Canada*, with which we in this chamber are only too familiar, provide the government with the tools it needs to ensure that the business of the government is not unduly delayed.

The notion that a few senators, whether Conservative, Liberal or independent, can delay this bill indefinitely is simply incorrect. Thus, when the assistant of the honourable senator who has moved second reading of this bill wrote that the senator needs your help and that "We can't do much from our end because Conservatives can tell us to go to hell without there being any consequences," he was in error. The fact is that the government had the power then, as it is a government bill, and has the power now to force this bill through, providing only that it has the support of half the senators voting. For those outside this chamber who may not keep track of such things, the government has held a substantial majority in the Senate for some time now.

Second, there was a claim that Senator Lynch-Staunton's absence meant that no progress could be made on the bill until he spoke. Honourable senators know that this chamber goes through the entire Order Paper every sitting day. We often choose not to speak to some items, but any senator who has not already spoken to a bill may take up any bill on any day and it makes no difference in whose name it stands. There is no requirement that it be held for a particular senator beyond the demands of courtesy and a desire to ensure that those who wish to speak to a subject are given an opportunity to do so. I am pleased to say that this is a chamber not just of sober second thought, but a chamber where proprieties are generally carefully observed.

There was also a claim that this bill was being improperly held up to obtain other considerations. I will not pursue this allegation further since I understand that an apology has already been proffered. I will reiterate that under our rules the government has the means by which to set its priorities and advance its legislative proposals within the demands of its agenda and its own timetable.

Honourable senators, without recapitulating the specifics of the allegations that are in circulation, I trust that we will not see a continuation of the orchestrated campaign of interference during the course of our further study of this bill. These efforts at intimidation, or attempted intimidation, which commenced prior to the Christmas break, are unlikely to have a favourable impact on any honourable senator irrespective of where they sit in this honourable house.

• (1510)

Honourable senators, trust me: The senators who sit on this committee to do a detailed study of this bill, including clause-by-clause consideration, have an understanding that they will not be subjected to the abuse of thousands of emails and nasty telephone calls that made their way to this institution during second reading.

The Hon. the Speaker: I see no senator rising. Are honourable senators ready for the question?

Hon. Senators: Question!

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Milne, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

FEDERAL NOMINATIONS BILL

SECOND READING—SUBJECT MATTER REFERRED TO COMMITTEE

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton, for the second reading of Bill S-20, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(*Honourable Senator Rompkey, P.C.*)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, there have been discussions across this chamber that indicate there is agreement to refer this important matter to committee for detailed study. Therefore, I move:

That Bill S-20 be not now read the second time but that the subject matter thereof be referred to the Standing Senate Committee on Legal and Constitutional Affairs; and

That the Order to resume debate on the motion for second reading of the bill remain on the *Order Paper and Notice Paper*.

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

Hon. Senators: Question!

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

Motion agreed to and the subject matter of the bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

STUDY ON STATE OF HEALTH CARE SYSTEM

FIRST INTERIM REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the third report (first interim) of the Standing Senate Committee on Social Affairs, Science and Technology entitled: *Mental Health, Mental Illness and Addiction: Overview of Policies and Programs in Canada*, tabled in the Senate on November 23, 2004.—(*Honourable Senator Kirby*)

Hon. Michael Kirby: Honourable senators, I rise to make a few comments in the debate on the three reports that the Standing Senate Committee on Social Affairs, Science and Technology presented to the house and tabled for debate on November 23, 2004. The first of the three reports is *Mental Health, Mental Illness and Addiction: Overview of Policies and Programs in Canada*, which is essentially the first national overview of the state of mental health service delivery in Canada. The second report is *Mental Health Policies and Programs in Selected Countries*, specifically Australia, New Zealand, the United States and the United Kingdom, and provides a comparison of Canada with the programs of those countries. The third report is *Mental Health, Mental Illness and Addiction: Issues and Options for Canada*, which will form the basis of the cross-country hearings that the committee will hold between now and the end of June in every province and territory of Canada.

Allow me to provide honourable senators with some interesting statistics from the nine weeks since the report was published. The Clerk of the Social Affairs Committee has told me that she has had requests for and has mailed out 1,705 copies of the report. To put that in perspective, the figure does not include copies that were downloaded from the committee's website. In the book publishing business, 2,000 copies would be deemed a best seller in Canada. Perhaps of more surprise to all, including members of the committee, is that while we do not know the number of hits on our website during the month of January because it takes several days into the next month to determine that figure, between November 23 and December 31 — some five weeks — there were in excess of 111,000 hits on the committee's website.

We tried a new exercise that had never been done by a parliamentary committee before. We put a short, simple questionnaire on our website in an attempt to give mental health consumers, their families and caregivers an opportunity to tell us their real life stories. There were about seven questions. We had anticipated that we might be fortunate enough to receive 100 to 120 responses, but as of yesterday we had received over 500 responses, and they continue to trickle in at the rate of two or three per day. Thus, this method of e-consultation works if you have the right questions. Obviously the committee has touched a nerve with this subject because Canadians have taken the time to tell their stories. The questionnaires will be extraordinarily helpful to the committee to enable us to put a human face on our final report that will be out at the end of the year. It will contain the committee's recommendations for transforming the mental health, mental illness and addiction system.

Many reports prepared by committees are often not read because of lack of time, but I would ask all senators to read the first two chapters of the first report on Canada entitled "The Human Face of Mental Illness." Certainly, it is true that everyone I have asked to read those chapters comes away with two strong emotions: They want to cry and they want to be angry. If honourable senators truly want to understand why the mental health system is in the state that it is, I urge them to take the time to read those two chapters. That is why the human face of this issue is so critical.

The enormous interest, as evidenced by the hits on the website, has been generated because consumers, family members, caregivers, policy makers, providers, academics, et cetera, have never had a focal point around which there could be a sensible discussion of mental health and mental illness issues in Canada. Indeed, the ultimate objective of the committee is to produce a report that will become a focal point around which all the various interest groups can rally to help to change that part of the health care system — the part that has been referred to by a number of people over the years as the orphan of the health care system, the part that was supposed to be not seen, not heard and not invested in. We are hoping to produce a report that will have a significant impact on the mental health system.

I will give honourable senators an inkling of how serious the problem is. Many committee members were surprised by the data, even though a majority of the committee members has experienced a member of their reasonably immediate family with a mental illness problem at some time. We understood the problem was fairly widespread. Repeated surveys over the years have shown that approximately one in five Canadians, or 4.5 million, will personally experience a bout of mental illness in their lifetime.

• (1520)

It is more troubling that 1.2 million children and adolescents experience mental illness or addiction problems of sufficient severity to cause significant distress and impaired functioning. Of those 1.2 million children, relatively few receive any treatment. Early diagnosis is terrible and the amount of resources available for treating them is terrible. When you add to that the fact that 70 per cent of adults with a mental illness had the illness as a child and the problem got worse because it was not treated, you understand the huge social and human impact caused by the failure to adequately provide for children's mental health services in Canada.

Mental health and addiction rank as the first and second causes of disability in Canada. It is not heart; it is not cancer; it is mental illness and addiction. Canada is not unique in that. Mental illness and addiction are first and second in every European country, every industrialized country, in Australia and in the United States. Yet, that part of the health care system has been largely ignored.

The economic impact of mental illness on business is staggering. A detailed analysis was done based on 1998 data — so the number would obviously be much greater today, six years later. The

1998 estimate was that the cost to the economy of people being mentally ill, partly due to absenteeism and partly due to people coming to work when they could not be truly productive, was \$14.4 billion. The direct cost of health care for mental illness was \$6.3 billion in 1998 dollars and would be substantially greater today.

The cause of this is quite striking. First, although we would like to believe it does not exist, stigmatization and discrimination is still rampant with respect to mental illness. Indeed, many of the questionnaires we have received from consumers have shown that the stigma of mental illness is the biggest burden they have to bear. They have told us that the stigma is actually a bigger problem than the illness, because they believe that if they tell friends, family or employer, there will be an extremely negative reaction.

Second, only one third of the people who have a mental illness in Canada get treated at all. To put it another way, two thirds do not. If two thirds of Canadians with any other type of illness were not treated, the outcry would be enormous. With respect to mental illness, people just pretend that the problem will go away naturally.

Third, our committee looked in great detail at the so-called medicare system, and we thought that was in trouble. I will tell you that the single most disorganized delivery system I have seen in my 30 years in the public service is the mental health system. It has so many silos; it is so fragmented; it is so uncoordinated that it makes the hospital and doctor system look extraordinarily efficient. One of the things that we will clearly have to deal with is the question of what to do with all the silos.

Finally, I will make an observation that troubles me as a Canadian. Canada is the only OECD country with no national mental health strategy. All the other OECD countries have a national plan, be it federal or not federal. The issue is not federalism. Australia, for example, which has essentially the same constitutional structure as us — health services are delivered by the states and the national government does much of the funding — has a plan, as does Germany and various European countries. Canada does not, and clearly the lack of a national mental health strategy is a huge gap in the system. Indeed, seldom has a federal politician even spoken out on the issue of mental health. It has been sort of out of sight, out of mind.

Three segments of the population are particularly badly underserved. I talked about children and adolescents. The data shows that Aboriginal Canadians are significantly worse off than the rest of the population. The data I cited previously about only one third being treated was for the population as a whole. The data with respect to Aboriginal Canadians is significantly worse.

Finally, seniors are extremely badly served, and that is not due to the demographics, which would be the easy answer. It is due to the fact that for many decades when seniors started to suffer a little bit of dementia — or "senility," as it was called when most of us were young — it was never treated as it ought to have been.

Has there been some improvement? There has been some. Is there a long way to go yet? There is an enormous way to go.

Our committee intends to develop a set of recommendations to serve as a focal point for federal and provincial governments to finally begin to address this issue. We have had enormous support from provincial governments on this issue. We are not getting any opposition whatsoever. The committee is getting enthusiastic support from provincial governments who love the notion of some element of coordination in policy planning.

We will try to do what we think we accomplished with our last report, that is, to provide something that can actually be used. We have set two constraints or boundaries on our recommendations.

The first is that, in order to be achievable, we will try to ensure that our recommendations are just inside the outer edge of political feasibility. That means that we will push the system as far as we believe it can be pushed while not pushing it so far that everyone just walks away and says that it cannot be done.

The second objective we will try to achieve, which I think we achieved in our last report, is that time-honoured Canadian principle of equalized unhappiness. By that we mean that, when we are finished, most interest groups will be happy with about three quarters of what we have done and most of them will dislike a different 25 per cent. Therefore, if they want to get the 75 per cent that they like, they will have to compromise and agree to take the 25 per cent they do not like. With one or two notable exceptions, like the Canadian Health Coalition, that happened with respect to our previous report.

Our objective, honourable senators, is to hold national hearings in every provincial and territorial capital. I urge all colleagues to attend our meetings when we are in your province. We welcome the participation of all senators, as if each of you were a full member of the committee. We do not have a priority ranking of any kind and we think it is important that you be seen to be interested in this issue.

We will use those hearings to produce a report that will be targeted very much at a role for the federal government and at transforming the delivery system to get away from the incredible number of silos and the fragmentation that currently exists.

We hope to ultimately produce a report that contains a plan for providing mental health and addiction services to Canadians across their lifespan, services provided in a way that is both linguistically and culturally sensitive, which is particularly appropriate given the nature of Canada. It is critical that the various cultures within the country be respected. It must be a consumer-centred approach, that is, one oriented around the patient and not, as it currently is, around those who deliver the service. It must be focused around the principle that most people with mental illness will be able to get better. That is a remarkably different perspective than the system has historically had.

I will remind honourable senators of something that came as a shock to us. Mental health institutions are not covered under the Canada Health Act. From day one, these institutions were excluded from the Canada Health Act. In fact, they were excluded from the original hospital insurance act of 1957. The reason for their exclusion is that in those days it was assumed that mentally ill people could never improve and, therefore, if they were in an institution they were there for life and, thus, they were not part of

a hospital program that is targeted at making people better but rather part of a long-term care program. The federal government argued in 1957, and repeated it all the way up to and including the 1984 debate on the Canada Health Act, that people who were mentally ill really belonged in long-term care institutions, that the federal government was funding long-term care through the CPP program and, therefore, these institutions and those people would be excluded under the Canada Health Act.

Clearly, the approach today must be much more oriented toward recovery, in much the same way that 20 years ago someone with a severe spinal cord injury was doomed to never be able to do anything useful.

• (1530)

I ask honourable senators to look at the changes that we have made in laws, in access, in parking spaces and whole variety of other things to make life much better for people who are physically disabled.

The Hon. the Speaker: Senator Kirby, your 15 minutes have expired.

Is leave granted, honourable senators, to allow Senator Kirby to continue?

Hon. Senators: Agreed.

Senator Kirby: Honourable senators, the attitude in the last quarter century that has enabled Canadians suffering from physical disabilities to lead much more productive lives in Canada must be applied to people suffering from mental health and addiction issues. We have a long way to go because we are exactly back to where we were when there was no accommodation made for anyone in a wheelchair or who was physically disabled. It is not like we have to do a little bit of improvement here; it is as if we are a long way back.

Finally, there is a huge role for the federal government — for all governments, but the federal government in particular — in promoting mental health awareness, in promoting the things Canadians can do to be mentally healthy and in promoting anti-stigma campaigns.

Australia, despite its macho image, started a coordinated national state anti-stigma program, and the change in the attitude of the population over the last decade has been absolutely striking. The program has been run and paid for by the national government. The acceptance of Australians with a mental illness is much greater now than when the program began 10 years ago. They have just started their third five-year plan and are making considerable progress.

I urge honourable senators to attend our hearings. When we come back before the end of the year — or, if worse comes to worst, the very early weeks of 2006 — we will be trying to lay out a plan that we hope all Canadians, whether they are direct consumers, caregivers, interest groups or the federal-provincial governments, will begin to rally around and start what will clearly be a long-term process.

[Senator Kirby]

Honourable senators, we are on a journey; it is not a one-shot effort. It is a journey that will have to be continued by people long after this committee has completed its work. We need to bring those Canadians who suffer from mental illness and addiction problems back into society and accomplish for them exactly what has been accomplished for the physically disabled over the last 25 years. My colleagues and I on the committee would feel an enormous sense of satisfaction if, as we hope, our report becomes the cornerstone around which that process begins.

On motion of Senator Keon, debate adjourned.

DECENTRALIZATION OF FEDERAL DEPARTMENTS, AGENCIES AND CROWN CORPORATIONS

INQUIRY—DEBATE ADJOURNED

Hon. Percy Downe rose pursuant to notice of November 25, 2004:

That he will call the attention of the Senate to the benefits to the decentralization of federal departments, agencies and Crown corporations from the National Capital to the regions of Canada.

He said: Honourable senators, for a long time now Prime Minister Paul Martin has made it clear that he has no difficulty dealing with provinces and regions as separate entities. The latest and most dramatic expression of that policy direction was the decision to allow a side deal for Quebec during the recent health care summit.

Many thoughtful Canadians, including members of this chamber, argue that such an approach weakens the role of the federal government, but there is an element to this policy that could offer enormous benefits in the public perception of the federal government and the role it plays in every region of the country. For too long, bureaucratic power has been centralized in the hands of a few institutions concentrated in the National Capital Region. Now is the time for the Government of Canada to separate policy from process and decentralize federal departments, agencies and Crown corporations away from the National Capital area to the regions of Canada.

The reluctance to pursue decentralization was compounded during the period of federal fiscal constraint that started in February 1995. That year, the federal budget announced government-wide plans to eliminate programs and decrease the size of the government workforce. According to the Treasury Board website, provinces like Manitoba and British Columbia lost thousands of federal public service jobs while employment in the National Capital Region remained constant. At the highest executive levels of the public service, EX1 to EX5, the Ottawa area has continued to hold 70 per cent of positions from 1994 to 2003. To my mind, these facts point out a problem in the way the federal government is administered.

The potential benefits of relocating government departments are enormous. The initial upfront costs would be recouped many times over in many different ways. The region receiving the relocated institution would secure well-paying, permanent

positions. In turn, such moves would reduce the need for other forms of regional development. At the same time, the affected department or agency would reduce staff turnover and save recruitment and training costs. Just as important as any other factor, the Government of Canada would gain a permanent and strong presence in the affected region, helping to reduce the stresses of regional alienation.

Relocation should be done not only as an economic development tool, but because it is a logical move that better reflects the challenges of a geographically vast and diverse nation. For example, the National Energy Board was relocated to Calgary years ago and is now closer to energy production. Why, then, is the Export Development Corporation currently located in downtown Ottawa? It could be situated in Vancouver. After all, Canada does more than \$20 billion of trade with the state of California alone.

Does it make sense for the employees of the Department of Fisheries and Oceans to locate themselves in a high-rise in Ottawa where they cannot see a harbour or a fishing boat, or does it make more sense for them to be located on one of Canada's coasts where they can see the impact of their decisions on fishing communities and the residents more directly?

Some would say it is too difficult to embark on a real program of decentralization. This argument, however, is based on the assumption that important work can only be done in Ottawa. Such a notion is dispelled by new communication technologies, which include video conferencing, that allow far greater flexibility to all organizations.

The government can look abroad for examples of decentralization. British Prime Minister Tony Blair announced in his spring budget of 2004 the relocation of 20,000 public servants from London to the regions of the United Kingdom. In 2003, the Norwegian government announced plans to move eight state agencies outside its capital. Relocation is possible; all that is needed is political will.

In the past, there have been moves in this direction. In 1976, Jean Chrétien, then President of the federal Treasury Board, and Dan MacDonald, then Minister of Veterans Affairs, announced the relocation of the national headquarters of the Department of Veterans Affairs to my home community of Charlottetown, Prince Edward Island. The plan met opposition, including the then mayor of Ottawa, who called the relocation a mindless action. Twenty-eight years later, the benefits for Prince Edward Island are obvious and highly valued.

• (1540)

I have mentioned before the economic benefits of relocating the headquarters of Veterans Affairs to Charlottetown, and I will highlight them once again. They include 1,200 full-time public service jobs, an annual payroll of \$68 million, many student jobs during the summer, and a career path for generations who want to stay in the region.

Beyond the economic contribution, the presence of Veterans Affairs has made a significant contribution socially. Veterans Affairs has broadened Prince Edward Island society to include a vast array of highly trained professional public servants who contribute their every working day to public affairs and to Prince Edward Island society.

At a completely different level, one of the most exciting impacts of Veterans Affairs headquarters being in Charlottetown has been the remarkable increase in the use of the French language. Prince Edward Island has always had a thriving Acadian community, but the addition of Veterans Affairs deepened the role of the French language. According to Statistics Canada, after Quebec and New Brunswick, Prince Edward Islanders are third amongst the provinces in their knowledge of the two official languages. There is no doubt that the strength of the Acadian community assisted in that regard; however, to my mind, the greatest single contribution to the increase in the use of the French language is the presence of Veterans Affairs.

Sadly, and in spite of all the benefits, the intense controversy surrounding the relocation of Veterans Affairs many years ago forced the national decentralization program to be quietly dropped. As I mentioned, when the dust cleared, Veterans Affairs was and remains today the only federal department with its national headquarters located outside of Ottawa.

However, there are indications that this could change. There has been a proposal to relocate the Canadian Tourism Commission, an agency of less than 100 employees, from Ottawa to Vancouver. At the same time, recent announcements made by the Minister of Public Works, Scott Brison, could hold great potential for decentralization. Minister Brison unveiled the proposal of selling government buildings to the private sector, to save operational costs. This move would further ease the relocation of departments and agencies to the regions. Mr. Brison himself alluded to this possibility, saying that the release of ownership would help create opportunities in places like Halifax or Moncton. However, these proposals should only be the start to a greater decentralization program.

In closing, honourable senators, in addition to the national headquarters of Veterans Affairs, I would like to also acknowledge the leadership of the Right Honourable Brian Mulroney, who relocated the GST Centre to Summerside, P.E.I. I believe it is now time for Prime Minister Paul Martin to restart the decentralization program and give the other regions of Canada the same opportunities and benefits enjoyed by Prince Edward Island over the past 28 years.

Hon. Terry M. Mercer: Honourable senators, I rise in support of the comments of Senator Downe. The theory of decentralization of government services is one that has a dramatic effect in all the communities. Anyone who has visited Charlottetown since Veterans Affairs has relocated there can see the change. Many communities across the country could benefit from this.

Many resources currently owned by the Government of Canada are being declared redundant or surplus. Prior to disposing of

these assets, we should look at whether there is a federal government department or agency that could perhaps be decentralized to those locations. A prime example is in my own province, where large tracts of CFB Shearwater have been turned over to Canada Lands. I fear we will end up with housing as opposed to a good industrial use or a use that would require airports.

Honourable senators, I refer you to several decisions by the Fisheries Committee in the other place. That committee has unanimously pushed for the decentralization of the Department of Fisheries and Oceans to both the West Coast and the East Coast. God forbid that anyone in that department would ever actually relocate to one of those coasts and bump into a fisherman. If there is a department that needs to get out there with the people it is supposed to be servicing and working with, it is DFO.

Decentralization can be very helpful to smaller parts of Canada. I am concerned about relocating an agency with 100 employees to Vancouver; however, if 100 employees were relocated to, say, Kamloops or to some other part of the B.C. interior, their impact on the local economy would be considerable.

Canada is one of the most wired countries in the world. It is not necessary for people to be here in Ottawa to do much of the work.

Take, for example, some of the communities across Atlantic Canada. There is a debate in New Brunswick about the airport in Saint Leonard that it is about to close. If there were a federal government agency somewhere in that community, whether in Grand Falls or Edmundston or some other place, it would draw people who travel frequently on business, which in turn would give some more support to that other infrastructure that is in the community. Relocation is not just a matter of jobs and a payroll; there are other benefits to relocation.

Senator Downe's comment about language issues is important. Wherever government agencies have relocated outside of the National Capital Region, the effect has been positive, Charlottetown being a prime example, as well as Summerside, and Vegreville and the Tax Centre in Shawinigan. Some of the offices in Moncton have had a positive effect around New Brunswick.

This is a study that is worth pursuing and, as such, I support Senator Downe in his inquiry.

On motion of Senator Robichaud, debate adjourned.

The Senate adjourned until Thursday, February 3, 2005, at 1:30 p.m.

Wednesday, February 2, 2005

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