CANADA

Debates of the Senate

1st SESSION • 39th PARLIAMENT • VOLUME 143 • NUMBER 109

OFFICIAL REPORT
(HANSARD)

Monday, June 18, 2007

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

CONTENTS

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

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

THE SENATE

Monday, June 18, 2007

The Senate met at 6 p.m., the Speaker in the chair.

Prayers.

[*Translation*]

ROUTINE PROCEEDINGS

ABORIGINAL HEALING FOUNDATION

2006 ANNUAL REPORT TABLED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour of tabling, in both official languages, the 2006 annual report of the Aboriginal Healing Foundation.

• (1805)

[*English*]

QUARANTINE ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-42, to amend the Quarantine Act.

Bill read first time.

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have not had a chance to consult with the opposite side, but if it is agreeable, I would say later this day.

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

On motion of Senator Comeau, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

[*Translation*]

INCOME TAX AMENDMENTS ACT, 2006

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-33, to amend the Income Tax Act, including amendments in relation to foreign investment entities and non-resident trusts, and to provide for the bijural expression of the provisions of that Act.

Bill read first time.

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

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

[*English*]

BUSINESS OF THE SENATE

COMMITTEES AUTHORIZED
TO MEET DURING SITTING OF THE SENATE

Hon. A. Raynell Andreychuk: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

> That the Standing Senate Committee on Human Rights have the power to sit at 7 p.m. on Tuesday, June 19, 2007, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Hon. Eymard G. Corbin: Honourable senators, I have a question for Senator Comeau. Will other committees be allowed to sit during that period?

Hon. Gerald J. Comeau (Deputy Leader of the Government): My understanding is that two more committees will probably seek leave to sit at that time.

Senator Corbin: Should we not give blanket leave for all committees to sit?

Senator Comeau: By all means, with leave of the Senate, for those committees that intend to sit past six o'clock tomorrow night, even though the Senate may then be sitting, I would seek leave to put a motion to do so.

The Hon. the Speaker: Honourable senators, is leave granted that all committees that wish to sit tomorrow evening after six o'clock, even though the Senate may be sitting —

Hon. Anne C. Cools: Honourable senators, I think leave is requested to put the motion, not to grant permission. It is to allow the suspending of the rule, notwithstanding the rule, so that he may introduce a motion. I believe Senator Comeau thought he was making a motion. Perhaps he should make it clear. The leave is to allow him to move the motion.

• (1810)

The Hon. the Speaker: I was making it clear that leave is being requested. Is it perfectly clear, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

Senator Comeau: Honourable senators, I move:

> That the Standing Senate Committee on National Finance, the Standing Senate Committee on Human Rights, and the Standing Senate Committee on Foreign Affairs and International Trade have permission to sit tomorrow evening after six o'clock, even though the Senate may then be sitting.

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

Motion agreed to.

[*Translation*]

ORDERS OF THE DAY

BILL TO AMEND CERTAIN ACTS IN RELATION TO DNA IDENTIFICATION

THIRD READING—DEBATE ADJOURNED

Hon. Pierre Claude Nolin moved that Bill C-18, to amend certain acts in relation to DNA identification, be read the third time.

He said: Honourable senators, I am very pleased to participate, once again, in the debate on Bill C-18, to amend certain acts in relation to DNA identification.

At second reading, I focused on the bill's unusual background and the fact that it is highly technical. I also discussed the main improvements that were introduced in Bill C-13, but that are not yet in force.

I emphasized the importance of bringing this bill into force soon. Bill C-18, which we are considering this evening, will improve Bill C-13 in many ways. It simplifies the wording, but does not change the offences in it.

Honourable senators may recall that former Bill C-72 was introduced in November 2005 to make changes officials had recommended. When Bill C-72 died on the Order Paper, the Department of Justice organized a two-day meeting in Toronto for police, prosecutors, judges and corrections staff. All of these stakeholders took a very close look at Bills C-13 and C-72.

During the meeting, they found still more shortcomings in the legislation and recommended another round of changes. They pointed out that the definitions required clarification, that the forms did not reflect the latest changes, and that the procedure to ensure that an individual provided a sample for DNA analysis lacked bite. They also pointed out that there were no provisions concerning the rules governing a person found guilty of an offence added to the list of designated offences under Bill C-13 if the offence was committed before the legislation came into force.

[*English*]

Therefore this bill is truly not a partisan measure. Indeed, its main effect is to make it possible for a bill that was presented by the former Liberal government to come into force. Why is it important for Bill C-13 to come into force? It is important because it will make Canada safer by multiplying the number of investigative leads provided to the police by the National DNA Data Bank. The effectiveness of the National DNA Data Bank depends on the number of profiles in the Convicted Offenders Index and the number of profiles from the crime scenes uploaded to the NDDB by the forensic laboratories of the RCMP, Ontario and Quebec.

It is not a straight line increase so that a 25 per cent increase in profiles produces a 25 per cent increase in matches. It will produce a greater increase because every week new convicted offender profiles match crime scene profiles that have been in the NDDB for years, and new crime scene profiles match the profiles of convicted offenders that have also been in the data bank for years.

[*Translation*]

I would remind honourable senators that, after coming into force, Bill C-13 will: allow courts to order the taking of bodily substances for forensic DNA analysis from persons found "not criminally responsible on account of mental disorder"; add Internet luring of a child, uttering threats, criminal harassment, and "criminal organization" offences to the list of designated offences; move "robbery" and "break and enter into a dwelling house" and child pornography related offences from the list of secondary offences to the list of primary designated offences; create, within the list of primary designated offences, a new sub-category of 16 extremely violent offences for which the courts will have no discretion whatsoever and will have to order the taking of a sample; broaden the definition of secondary designated offences to cover all offences that are punishable on indictment by five years or more.

Each of these changes will contribute to making more offenders subject to DNA analysis.

However, it would be impossible to predict exactly how many additional samples might be added to the data bank, to be analyzed and added to the convicted offenders index, because the results depend largely on how much the new provisions are applied by prosecutors and how judges exercise their discretionary powers, where applicable.

Nevertheless, I think it is safe to assume that the number of samples will double, and perhaps triple. Representatives from the RCMP assured the Standing Senate Committee on Legal and Constitutional Affairs that the bank can analyze 30,000 samples taken from offenders. Yet, it now receives only around 18,000, on an annual basis, of course.

The bank's equipment can handle up to 60,000 samples, thus tripling the number of requests, but it would then have to hire and train additional staff.

[*English*]

The committee also heard from the RCMP about the impact of Bill C-13 on the regional forensic laboratories. Honourable senators are aware that the Auditor General recently criticized the time the RCMP labs take to complete crime scene analysis. Representatives of the RCMP presented their plan to meet the problems and to increase their capacity. Honourable senators will remember that question was raised in the debate in second reading and their committee addressed that question, interviewing representatives from the RCMP.

[*Translation*]

The amendments proposed in Bill C-13, specifically the addition of offences punishable by five or more years in prison — a total of 172 offences — have broadened the definition of a designated offence. Consequently, more samples taken at crime scenes can be uploaded than before.

• (1820)

The RCMP has estimated that this legislation will increase the genetic analysis workload of forensic laboratories by 42 per cent per year.

The RCMP estimates that it will need $15 million in the first year, as well as a permanent budget of approximately $7 million. The forensic laboratories currently have a budget of approximately $10 million annually. Laboratories in Quebec and Ontario will likely also see an increase in demand.

However, we cannot predict exactly how many more samples to expect. This depends mainly on the police resources that are available to look for DNA evidence at a crime scene and on the laboratories' analysis capacity.

[*English*]

The RCMP also advised the committee that it will be presenting more detailed information to Parliament so that we can monitor the progress that it is making in improving service to the police. The committee also heard at length about the international exchange of DNA information. Although requests from other states to Canada and from Canada to other states to search DNA databases are handled through Interpol, so that DNA information may be shared with almost 200 countries, there have been only about 250 such requests in more than five years. The overwhelming majority of these have been with the United States, the United Kingdom and European states. However, more and more countries will develop DNA labs, so certainly, we will have to keep an eye on the development of international exchanges.

[*Translation*]

Honourable senators, even though Bill C-18 and the former Bill C-13 will have a major impact, there is still a great deal to be done. When the legislation that created the National DNA Data Bank was before Parliament in 1998 this chamber made two important recommendations.

First, we suggested that there was a need for a panel of experts to advise the Commissioner of the RCMP on matters related to the operation of the National DNA Data Bank. In May 2000, in response to our concerns, the government set up the National DNA Data Bank Advisory Committee, which is responsible for advising the commissioner on all matters related to the establishment and operation of the data bank. The advisory committee was created and is doing an excellent job. Its annual reports, which are available on its Web site, provide an overview of the issues the committee has addressed.

Second, given that this was new legislation, technology was changing rapidly and there were questions about the procedures that would be developed to protect people's privacy and safeguard the information in the data banks, we recommended that the legislation and the operation of the data bank be reviewed within five years of the coming into force of the act.

The government accepted this recommendation, and article 13 of the DNA identification legislation provides:

> Within five years after this Act comes into force, a review of the provisions and operation of this Act shall be undertaken by any committee of the Senate, of the House of Commons or of both Houses of Parliament that is designated or established for that purpose.

Honourable senators, when the Minister of Justice appeared as the first witness he acknowledged that Bill C-18 needed to come into force, but he wanted the department to take a few months to update all the various provisions under various legislation to ensure full compliance and to publish the reports in accordance with the law.

[*English*]

It is urgent that we, as parliamentarians, begin the review of the DNA legislation as soon as possible. It is up to us to decide that, and no one else. We need to consider jurisprudence over the last seven years regarding our present legislation. We are already two years behind schedule. We need to hear from Charter and privacy experts on the implications of adopting the system of the United States or of the United Kingdom.

[*Translation*]

It is important to us, on this side, that this review indeed be done this coming fall. We have to take the necessary time to ensure that Canada once again has the best possible system for monitoring DNA identification. I am sure my colleagues opposite share this concern and that, together, we could plan this legislative review that is already two years behind schedule.

In the meantime, honourable senators, I invite you and urge you to support Bill C-18.

[*English*]

Hon. Serge Joyal: Honourable senators, I rise to speak to the intervention by Senator Nolin. I had the benefit of sitting on the Legal and Constitutional Affairs Committee with Senator Nolin, Senator Andreychuk and Senator Milne, the then Chair of the committee, when the first bill establishing the National DNA Data Bank was introduced in 1998. Following a study, the Senate Legal Affairs Committee recommended two fundamental amendments, referred to by Senator Nolin in his speech today.

I insist on the importance of the Senate beginning its review of the bill, which is long over due. Why is that? Since the establishment of the data bank, two major bills have broadened the scope of the National DNA Data Bank: Bill C-13, as Senator Nolin mentioned; and Bill C-18. The bills made the following changes: Originally the DNA Data bank addressed violent crime and crimes related to sexual assault. Such crimes are directly associated with violence against the person. With these two bills, we have widened the scope of the act so much, particularly by Bill C-18, that the parameters to be protected by the Charter and interpreted by the court in the original bill, have been lost, and the Charter now affords protection to other crimes within the proposed framework of the DNA Data bank. Among them, is the offence of helping someone to escape a crime, any crime. It is such a wide new horizon that we have to be sure that the parameters of the Charter are well understood within the function and operation of the data bank. Concern on both sides of the committee was expressed when we studied this bill.

It is unfortunate that the committee in its observations and Senator Nolin in his speech referred to the importance of this chamber reviewing, after seven years of operation, the function and protection afforded to Canadians within the framework of the Charter. This concern is deeply shared on all sides of the chamber, without any special political allegiance.

This is so important that the last decision of the Supreme Court given in *R. v. Rodgers* in 2006 was split four to three. The dissenting justices confirmed that the DNA operation of the bank is "a substantive intrusion in the private life of citizens." The Supreme Court recognized the importance and the significance of compelling someone to provide, even under force, a DNA sample.

• (1830)

Honourable senators, it is most important that we associate ourselves with Senator Nolin. I hope this fall the Legal and Constitutional Affairs Committee will be in a position to start its review and recommend to the government and, of course, the other place the conclusions that stem from that examination. It is long overdue. This bill offers us an additional opportunity and urgency to move in that direction.

I am sure than many honourable senators who participated in the three bills to which Senator Nolin referred — this bill, Bill C-13 and the original bill establishing the data bank — are still members of the committee. Senator Milne, Senator Andreychuk, Senator Nolin, Senator Baker and I participated in the original establishment of the bank. With our memory of what we heard in those three studies, we are in a position, with the help of other senators who will join the effort, to bring forth a good report.

I join with Senator Nolin in requesting honourable senators to support this bill and to support the motion in this chamber next fall so that we can open the review of that functioning of the bank and the protection of citizens within the parameters of the Charter.

Hon. George Baker: Perhaps this comment could be a notation in the form of a question, but maybe an observation would be more appropriate at this point.

[Senator Joyal]

I congratulate the members of the Standing Senate Committee on Legal and Constitutional Affairs for an excellent job concerning this bill. I note for the record that observations were made concerning the bill. It was not amended, but observations were made. One observation is important. An amendment was not made concerning it, but it should be on the record.

As Senator Joyal and Senator Nolin pointed out, the Supreme Court of Canada decision declared that the *ex parte* order to have the blood sample referred to the data bank was constitutional. This present legislation allows for a procedure whereby, if the RCMP finds that the order that was executed to take the blood and put it in the bank is facially defective, they can follow a procedure in the bill to correct the error. This error would be one that the RCMP solicitor would see upon acceptance of the blood at the bank.

We did not amend the bill to force the RCMP to redo the entire process, but the observation the committee made was that the accused person in this particular instance, or the solicitor for the accused, should be notified. In other words, disclosure should be made that a correction was made to the order. Normally they would not be aware of a defect that was facially present in the order that was issued by the court and declared constitutional by the Supreme Court of Canada.

I wanted to put that on the record in saying that the committee did an excellent job. I notice that Senator Oliver, the chair, is here. The committee is to be congratulated for the work they completed. I hope the Minister of Justice will take note of the observation and follow through with some legislation. Perhaps the record of this proceeding will be read by certain defence lawyers who will do a second take and find out if a facially defective order was issued in the first place. Thank you.

On motion of Senator Tardif, debate adjourned.

[*Translation*]

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I would like us to move immediately to item No. 2 under Reports of Committees, consideration of the sixteenth report of the Standing Senate Committee on National Finance (*Main Estimates 2007-2008*), presented in the Senate on June 6, 2007.

[*English*]

THE ESTIMATES, 2007-08

SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE—DEBATE SUSPENDED

The Senate proceeded to consideration of the sixteenth report (second interim) of the Standing Senate Committee on National Finance (*Main Estimates 2007-2008*), presented in the Senate on June 6, 2007.

Hon. Joseph A. Day moved the adoption of the report.

He said: Honourable senators, this report of the Standing Senate Committee on National Finance was presented by our Deputy Chair, Senator Nancy Ruth. I thank her for doing that. I want to refer to a few items with respect to this report as I thank the committee for the fine work they have done.

Honourable senators will know that, with respect to supply bills, we typically prepare a report prior to receipt of the supply bill. I anticipate the supply bill, Bill C-60, will be dealt with next. I therefore ask that this report be reviewed and considered prior to consideration of the supply bill.

The supply bill typically is not sent to the National Finance Committee, but the items we deal with in the report relate to supply since supply appears in the Main Estimates that we receive in March. In fact, the attachments to the supply bill appear in these Main Estimates. When we are given a mandate with respect to the Main Estimates, we have that mandate throughout the year, and we can explore various issues in relation to the estimates throughout the year.

The sixteenth report, which we have under consideration at this time, is the second interim report with respect to those Main Estimates. We dealt with, on an ongoing basis, a number of issues under that general mandate. One of those, honourable senators, is the issue with respect to financial statement reporting.

At this stage, I want to thank my honourable colleague, Senator Segal, for sponsoring Bill S-217, which gave us an opportunity to focus again on the issue of accrual accounting. Also provided for in that private member's bill of Senator Segal is quarterly reports.

We were able to bring in a number of witnesses to debate this ongoing issue of considerable importance to the Standing Senate Committee on National Finance.

Charles-Antoine St-Jean, the Comptroller General of Canada, appeared before us. He was helpful in giving us an outline of where the government is now with respect to accrual accounting. Some honourable senators may recall the debate we had with respect to that issue at the time of interim supply, and the difficulty we have with respect to various accounting methods used by the government.

Mr. St-Jean explains that, currently, appropriations, which are what the supply bill is all about, are not on the same basis as generally accepted accounting principles. At present, the Government of Canada has one basis for accounting for appropriations, which is near cash, and one for financial reporting, which is near accrual. Honourable senators will appreciate that that presents some difficulty in making comparisons and in reviewing these various financial statements.

• (1840)

At the back of our report, honourable senators will find our addendum explaining the various types of accounting methods. At one extreme is cash accounting, which essentially reports cash transactions when cash is received or paid out by any organization. That cash transaction basis is often used by departments in their budgeting process. Therefore, financial statement items such as accounts owed to or by the government or other non-cash items are not recorded.

At the other extreme, full accrual accounting recognizes transactions when they have been earned or incurred rather than when cash comes in or goes out. Between these two systems are two modified or hybrid systems, one near cash and the other near accrual. We find all of those systems being used in government.

I know that honourable senators will join with the National Finance Committee in urging the government to adopt one system throughout that will be helpful to us in our job of reviewing and overseeing the role of government and various government departments.

Mr. St-Jean indicated to us that it is government policy, as it was with the previous government, to move in that direction. He indicated that 22 of the largest departments will be required to prepare annual financial statements on an accrual basis ready for audit by March 31, 2009. He indicated that that will be a major undertaking, but it will comprise approximately 90 per cent of spending by government. We will be keeping an eye on that, honourable senators. Two years hence, we will hopefully be 90 per cent of the way there.

In the meantime, we hope to deal with Senator Segal's private bill soon. Our committee has not yet reported it back to the Senate because we were trying to adjust to realities in the government, and we did not want to report a bill that had no chance of being implemented at the present time. However, we very much appreciate having had the opportunity to focus on this issue again.

I want to bring the attention of honourable senators to the report of the Auditor General of Canada that was issued in February, as well as reports issued in May. We typically bring the Auditor General in to talk with us annually, and a few weeks ago she came to speak with us again. She indicated that her office received $80.6 million in appropriations through Main Estimates and employs 625 full-time equivalent people. That is a huge organization, honourable senators. She is, of course, an officer of Parliament and provides us with a tremendous amount of information that helps us hold the government to account.

Honourable senators will recall that the Office of the Commissioner of the Environment and Sustainable Development resides within the Auditor General's department. We may want to take a look at whether it is appropriate, in this day and age when the environment and sustainable development has such an important and unique role, for that group to stay within the Office of the Auditor General or whether it should become a stand-alone organization. That is a debate for another time.

The Auditor General informed us that the report from her office in February 2008 will consist entirely of follow-up reports on audits completed by the Commissioner of the Environment and Sustainable Development. That gives honourable senators an indication of the intensity of the focus on the environment.

Honourable senators, we learned from the Auditor General that the Department of Indian Affairs Canada receives 60,000 reports per year as a result of requirements from various grant and contribution programs.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, it being 6:45 p.m., pursuant to the order of the Senate adopted on June 14, and rule 66(3), I must interrupt the proceedings in order for the bells to call in the senators to be sounded until 7:00, at which time the Senate will proceed to the taking of the deferred vote on the subamendment to Bill C-288.

Call in the senators.

KYOTO PROTOCOL IMPLEMENTATION BILL

THIRD READING—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(*a*) in clause 3, on page 3, by replacing line 19 with the following:

"Canada makes all reasonable efforts to take effective and timely action to meet";

(*b*) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

"to ensure that Canada makes all reasonable efforts to meet its obligations",

(B) by replacing line 6 with the following:

"ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,", and

(C) by adding after line 13 the following:

"(iii.2) the recognition of early action to reduce greenhouse gas emissions, and",

(ii) on page 5,

(A) by replacing line 9 with the following:

"(*a*) within 10 days after the expiry of each",

(B) by replacing line 23 with the following:

"first 15 days on which that House is sitting", and

(C) by replacing lines 26 and 27 with the following:

"each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that";

(*c*) in clause 6, on page 6, by adding after line 29 the following:

"(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by "large industrial emitters", persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada's greenhouse gas emissions, namely,

(*a*) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(*b*) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(*c*) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.";

(*d*) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

"that Canada makes all reasonable attempts to meet its obligations under", and

(B) by replacing line 38 with the following:

"ensure that Canada makes all reasonable attempts to meet its obligations", and

(ii) on page 7, by replacing line 4 with the following:

"(3) In ensuring that Canada makes all reasonable attempts to meet its";

(*e*) in clause 9,

(i) on page 7, by replacing line 33 with the following:

"ensure that Canada makes all reasonable attempts to meet its obligations", and

(ii) on page 8,

(A) by replacing line 3 with the following:

"Minister considers appropriate within 30 days", and

(B) by replacing line 7 with the following:

"(1) or on any of the first fifteen days on which";

(*f*) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

"**10.** (1) Within 180 days after the Minister",

(B) by replacing line 11 with the following:

"tion 5(3), or within 90 days after the Minister", and

(C) by replacing line 38 with the following:

"(*a*) within 15 days after receiving the", and

(ii) on page 9,

(A) by replacing line 6 with the following:

"Houses on any of the first 15 days on", and

(B) by replacing line 9 with the following

"(*b*) within 30 days after receiving the advice,";

(*g*) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

"and Sustainable Development may prepare a",

(ii) by replacing line 32 with the following:

"report to the Speakers of the Senate and the House of Commons", and

(iii) by replacing lines 34 and 35 with the following:

"Speakers shall table the report in their respective Houses on any of the first 15 days on which that House".

On the subamendment of the Honourable Senator Eyton, seconded by the Honourable Senator Tkachuk, that the motion in amendment be amended by deleting amendment (*b*)(i)(C).

Motion on subamendment negatived on the following division:

• (1900)

YEAS
THE HONOURABLE SENATORS

Andreychuk
Cochrane
Comeau
Di Nino
Gustafson
Johnson
Keon
LeBreton
Nancy Ruth
Nolin
Oliver
Segal
St. Germain
Stratton
Tkachuk—15

NAYS
THE HONOURABLE SENATORS

Baker
Banks
Biron
Callbeck
Campbell
Carstairs
Chaput
Cools
Corbin
Cordy
Cowan
Dallaire
Dawson
Day
De Bané
Dyck
Eggleton
Fairbairn
Goldstein
Grafstein
Harb
Hervieux-Payette
Hubley
Jaffer
Joyal
Lapointe
Lavigne
Losier-Cool
Lovelace Nicholas
Milne
Mitchell
Moore
Munson
Pépin
Phalen
Poulin
Ringuette
Robichaud
Rompkey
Spivak
Tardif
Watt
Zimmer—43

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

THE ESTIMATES, 2007-08

SECOND INTERIM REPORT
OF NATIONAL FINANCE COMMITTEE ADOPTED

On the Order:

Resuming debate on the consideration of the sixteenth report (second interim) of the Standing Senate Committee on National Finance (Main Estimates 2007-08), presented in the Senate on June 6, 2007.

Hon. Joseph A. Day: Honourable senators, I was talking about how the Auditor General brought to our attention that Indian and Northern Affairs requires 60,000 reports per year to be sent to them. Honourable senators, that is an area we may want to take a look at in the future, as I suspect very much that various First Nations groups and others dealing with Indian and Northern Affairs wonder whether their reports are even being looked at, given the number of reports being sent daily to Indian and Northern Affairs.

The Auditor General brought to our attention a matter of concern throughout government, and that is the aging population of the employees in human resources. She pointed out in particular that the Department of Foreign Affairs and International Trade does not have a plan to deal with the situation. Most departments do, but DFAIT is lacking in that regard. That is another item that is worthy of further investigation. We have that on our list.

Finally, honourable senators, the Canadian Coast Guard got a very poor report from the Auditor General. She had done two reports over the past five years and a follow-up report — much the same as we do. Our committees follow up to see how the recommendations in our reports have been implemented. She did the same and found that very little of the previous two reports had been implemented. That is all outlined in the February 2007 follow-up report by the Auditor General on the Coast Guard. There is a very serious problem with respect to underfunding, equipment malfunctioning and management not having the ability to handle the situation and the responsibilities the Coast Guard is growing into. The Coast Guard is not properly equipped or staffed to handle its important security role and function.

Honourable senators, we asked the Auditor General about the budget for her department. We felt that in the past there has been a concern about not only the salaries of the main people working within the Auditor General's department, but generally the budget. When Treasury Board was determining the budget, there was a conflict of interest. The Auditor General, in fact, is an officer of Parliament, and government should not be controlling the resources of an officer of Parliament.

We had been concerned about that. There has been some action taken by the government in that regard. A special advisory panel was established that includes the House of Commons Speaker and several members of different departments within the House of Commons. Honourable senators will be sad to hear that, even though we raised this issue some time ago, the Senate has not been invited to participate in that advisory panel.

• (1910)

Honourable senators, those are the issues that come from this particular sixteenth report. I respectfully request the adoption of this report.

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?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

APPROPRIATION BILL NO. 2, 2007-08

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Nancy Ruth, seconded by the Honourable Senator Johnson, for the second reading of Bill C-60, for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008.

Hon. Joseph A. Day: Honourable senators, this matter has already been moved by the sponsor of this bill, and I have had the opportunity to read the Honourable Senator Nancy Ruth's comments with respect to Bill C-60.

Honourable senators, I have spoken mainly about the issue during the report with which we just dealt. There are two or three other matters with respect to Bill C-60. Basically, I adopted the points outlined by the honourable deputy chairman of the National Finance Committee in her presentation to the Senate last Thursday.

Honourable senators, during the report that we just adopted, I spoke about the importance of being able to compare one year to the next and, if we cannot do that, how we are not really able to do the job we are charged to do in holding the government accountable.

I have the report and the expenditure plan, the Main Estimates for 2006-07. The total budgetary expenses for 2006-07 were $205 billion. The total Main Estimates budgetary expenses for 2007-08 are shown as $210 billion. However, honourable senators, there had to be an adjustment because the accounting process was different in those two years. The adjustment is almost $15 billion. If we want to compare apples to apples, we have to take what we have seen from the past year and get someone who is knowledgeable to make the adjustment. The adjustment here says, "net adjustments from net to gross basis of budget presentations."

Comparing Main Estimates, year over year, 2006-07 to 2007-08, the Main Estimates go up from $205 billion to $230.7 billion, an increase of 12.5 per cent. Honourable senators will want to take a close look at that significant increase in budgetary expenditures year over year.

Honourable senators, when we look at the bill that before us, which is Bill C-60, there are two schedules. The first schedule is for $30 billion, and that is the balance that was not given in interim supply at the end of March. I have checked through the schedule, and it is the same schedule that appears in the Main Estimates.

The point I want to raise is that it is important to watch for the fine print on these matters. The second schedule it says $3 billion less $1 billion, which had previously been voted during interim supply. Sums granted to Her Majesty by this act for the financial year ending March 31, 2008, that may be charged to that fiscal year and the following fiscal year ending March 31, and the purposes for which they are granted.

There is a tendency to start asking for approvals not on an annual basis, but small amounts, $2 billion on this one, for more than one year — for two years. We will forget about this next year, honourable senators. It is important for us not to be forgetting about the fact that we are approving two years hence. The period referenced is not just for one year with respect to $2 billion in Bill C-60.

Honourable senators, this is government supply. I have pointed out some of the points that I think are important. We will continue to keep an eye on the Main Estimates throughout the year. I would respectfully request that we should support this bill.

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

Motion agreed to and bill read second time.

The Hon. the Speaker: When shall this bill be read a third time?

On motion of Senator Nancy Ruth, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

BUDGET IMPLEMENTATION BILL, 2007

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Angus, seconded by the Honourable Senator Stratton, for the second reading of Bill C-52, to implement certain provisions of the budget tabled in Parliament on March 19, 2007.

Hon. Bill Rompkey: Honourable senators, presenting this budget on March 19, 2007, the Minister of Finance stood in the other place and proclaimed:

> The long, tiring, unproductive era of bickering between the provincial and federal governments is over.

Honourable senators, I did not make that up. That was in the budget speech. That is what the man said. That was the government's attempt to spin a terribly divisive budget for Canadians, but the truth will out. Since then, we have had the spectacle of the Prime Minister taunting several provinces to sue him over the budget. One premier has announced that his government intends to do just that, and there are several more who may well join him.

I will speak about the government's treatment of the Atlantic accords and the equalization program later. While this issue is receiving a great deal of attention, it is not the only aspect of this budget that seems calculated to sow discord and divisiveness among regions and individual Canadians.

This is a budget replete with broken promises and bad public policy. In what we are coming to recognize as the hallmark of this government, they are using all means at their disposal to pressure parliamentarians into quickly passing the budget implementation bill, preferably with as little scrutiny as possible. They say it is urgent. When Bill C-52 was in the other place, the government took it off the legislative agenda for three weeks in April and May with no explanation and then had the audacity to invoke closure to bring the bill to a final vote. If this bill is urgent, why would the government take the unprecedented step of taking it off the agenda for three weeks? The same government has now turned its heavy hand on us.

We have heard cries from the government that, as the unelected Senate, we have no right to take the time necessary to study this controversial bill and certainly we have no right to consider amending it. Honourable senators, we not only have the right, but we also have the constitutional duty.

• (1920)

There is one aspect of the budget that I note with pride, and that is the new Canadian Mental Health Commission. Honourable senators will know that this commission is based on the recommendations of our own Standing Senate Committee on Social Affairs, Science and Technology in a report released one year ago. Indeed, our former colleague, the Honourable Senator Kirby, has agreed to serve as chair of this commission. I point that out because we can take some credit for that. Senator Eggleton, who is now the chair, and Senator Keon can take some credit for that. It is in the budget and we did it.

Honourable senators, I focus in this speech on what is in the budget implemented by Bill C-52. However, perhaps the most distressing aspects of this bill are the items that are ignored by the government. First, the serious pressing needs of Aboriginal Canadians are essentially ignored by this government. *The Globe and Mail* reported the other day, after the budget was announced, "The Conservative government has rejected calls for a new social spending to address the devastating poverty on many native reserves, tabling a budget that left Canada's top Aboriginal leader fighting back tears."

I turn now to literacy programs. Here, I look at Senator Fairbairn, and at other senators who led the fight to restore literacy funding. Literacy funding was cut by this government and not restored in this budget. The Court Challenges Program was not restored in this budget.

Honourable senators, a long list of mistakes has been made by the government that will not be fixed by the budget or by the bill. With this budget, Finance Minister Flaherty, as one editorial has said, "is now the biggest spending finance minister in Canadian history." I regret that bigger is not always better.

Honourable senators, the government has said its budget supports hard-working families. In support of this claim, they are creating a working-families tax plan, but many Canadian working families are left out of the plan. The centre piece of this plan is a $2,000 Child Tax Credit. That sounds good, but when we look at the fine print, first, it is not actually worth $2,000. It is a non-refundable tax credit, which means that its maximum real value in federal income tax savings will be $310. However, because it is not refundable, it is helpful only for those who have enough taxable income to make use of it. All well-to-do families, including the rich, will receive the $310. Poor families, however, will receive much less. Furthermore, a single parent making $20,000 a year or less will not receive any money at all from this measure.

The Caledon Institute of Social Policy, in its report, called this tax credit a policy zombie. They said the measure will make income inequality among families worse and not better. The authors of the report, the Caledon Institute of Social Policy, asked: How can a government decide to spend billions of dollars to resurrect obsolete programs that do not gear their payments according to need? Honourable senators, this is not intelligent social policy. The plan would also provide a $209 tax reduction if a taxpayer has a dependent spouse or child. This reduction is also a non-refundable tax credit, which means that lower income families will not benefit at all. Meanwhile, the government is standing by its decision last year to raise personal income tax for

the lowest income bracket. That decision affected all Canadians but especially hurt lower income Canadians. With the 2007 budget, we see once again that these families are being pushed aside.

In the fall economic update, the government promised to devote all interest payment savings from reducing the debt to personal income tax reductions. At the current level of planned debt repayment, Canadians will not see a reversal of the 2006 tax increase until 2010. Worse still, we see in the 2007 budget that the government has not used the interest savings for tax relief that will help all Canadians. Instead, the government used it for targeted tax credits that will do nothing to help millions of left-out Canadians.

There is one area of the 2007 budget where this government tries to do something for the working poor, namely by introducing the Working Income Tax Benefit. However, honourable senators, this government copied that plan from the 2005 fiscal update of the Liberal government. In this initiative, it showed admirable judgment. Unfortunately, the present Government of Canada chose to put in only half the money originally planned by the Liberal government.

Regarding income trusts, Bill C-52 would also implement this government's decision to break its promise to Canadians and tax income trusts. Honourable senators, that broken promise cost over two million Canadian investors $25 billion of their hard-earned savings. Many of us have met or heard from Canadians who lost all their retirement savings or their savings for their children's university education because they believed Prime Minister Harper when he promised he would preserve income trusts by not imposing any taxes on them.

To try to placate the many senior citizens devastated by this broken promise, the government announced it would allow splitting of pension income and increase the non-refundable age credit for persons 65 years of age and over. According to Department of Finance estimates, these two measures will cost the government more than $6 billion in foregone tax revenues over six years. Honourable senators, $6 billion is a lot of money. It will go far to help the senior citizens in our country who have barely enough to live by. However, that is not what will not happen. Only well-to-do senior couples will see substantial tax savings from income splitting.

According to the Caledon Institute report, a senior couple with $100,000 in pension income will see a tax reduction of $7,280. That is nine times the $802 tax savings for a couple with $30,000 of private pension income, and more than 23 times the $310 savings of a couple with $20,000 in private pension incomes. In other words, these senior couples who lost the most because of the government's broken promise will benefit the least from these measures. Only those wealthy couples who either knew not to trust the Prime Minister's word in the first place or had enough money to have a lot remaining after the income trust fiasco will truly benefit.

With respect to child care, many of us have been particularly dismayed to see this government cavalierly toss out all the agreements carefully negotiated between the previous Liberal government and the provinces and territories for early learning and child care programs across the country.

Dr. Fraser Mustard, an internationally recognized expert in the field of early childhood development and a companion of the Order of Canada, recently published a report showing that Canada ranks last among countries in the Organization for Economic Co-operation and Development in its spending on early childhood education. That is last among the United States, New Zealand, Australia, Japan, most of Europe, and Mexico. Canada expenses 0.25 per cent of GDP on early childhood programs, in contrast to other developed nations that spend up to 2 per cent. It is clear from this budget that this government believes the rest of the developed world is wrong and it alone knows the true path, for this budget continues to shortchange our children.

Instead of $1.2 billion in funding next year to the provinces and territories for child care, as the previous federal government and all provincial governments had agreed, this budget commits to transferring only $250 million to the provinces and territories — a net loss of $950 million for the children of Canada and for child care in Canada.

According to the Child Care Advocacy Association of Canada, words and funding cuts will not sustain child care spaces. A credible approach to expanding child care services in communities across the country requires adequate resources, public standards and provincial and territorial planning. So far, the current government spaces initiative lacks all of these things. The words and the numbers simply do not match. Indeed, Monica Lysack, executive director of the association, describes this government's approach as a cut-and-run approach: Cut the cheques and run from responsibility. However, our children's welfare and development and the future of our country is at stake.

• (1930)

Honourable senators, there is another aspect of this government's proposed change to child care funding and funding for social and health programs generally that should cause us great concern. With this budget, the government is changing the basis on which the Canada Social Transfer and the Canada Health Transfer are allocated to provinces and territories.

The CST is the main federal transfer program that provides financial support for post-secondary education, social assistance and social services involving early childhood development and early learning and child care. With Budget 2007, the CST will be allocated on an equal per capita basis, legislated to take effect in 2014-15 when the current legislation expires. This will have a far-reaching and negative consequence for my province, and for all Atlantic provinces — and I suspect that we will not be alone.

The budget announces increased funding for post-secondary education — a goal we all support. However, the move to equal per capita allocation means that most provinces will see very little of this. According to the Canadian Association of University Teachers, because of the new allocation, "this money will flow almost entirely to Ontario and Alberta."

Senator Murray spoke to this in this chamber on May 8 — I think it was Senator Moore who introduced the issue and spoke eloquently to it. Senator Murray quoted a statement by the Honourable Michael Baker, Minister of Finance of Nova Scotia, in his budget address. He said — and I quote:

> Measures in the federal budget will widen — not close — the gap that exists between the richer and poorer provinces in this country.
>
> And new methods of allocating other federal transfers, based on a cash amount per capita, actually favours the more populous provinces like Alberta and Ontario — the ones that already have a far greater fiscal capacity relative to Nova Scotia.
>
> The best example of this is the Canada Social Transfer, which is used to cover the cost of higher education and social services. The federal government will increase national CST funding for post-secondary education by $800 million in 2008-2009.
>
> But Nova Scotia will see only $6 million more.

This is a measure, honourable senators, putting it on a per capita basis where the less populated provinces are worse off than they were before. Nova Scotia has five or six universities. Education is an industry in Nova Scotia; they are educating the world. I was at a convocation ceremony recently, in Newfoundland and Labrador, where only one person from the MBA program was not from China. These universities are not only educating people in the region, they are educating people from all over the world — and they need to keep doing that. They are strong and they need to keep being strong. However, if they are refused the funds, if the funds go elsewhere based on a per capita basis, how will they survive? This is an extremely important issue for us.

As Senator Murray pointed out, Nova Scotia has more universities and more university students per capita than most provinces in Canada; yet, this fact will not be reflected in the funding. It will significantly hurt post-secondary education in our smaller provinces, the very key to providing a strong economic future. In the knowledge economy, education is essential. Education is the key tool in turning economies around. That is what is being cut and diverted, and that is what is wrong.

What is the answer? Is the government saying that each province should only look to service its own people? Will the result be that provinces begin to close their doors on students from outside their provincial borders, or charge exorbitant tuition rates to compensate for the shortfall?

Remember that old hymn *Jesus Bids Us Shine* and the line, "You in your small corner, and I in mine"? The government is turning that on its head. You stay in your corner; we are only giving you enough to service your corner and very little else.

In this country, we pride ourselves on the mobility of citizens. Surely, it is a good thing when students from British Columbia or Ontario come to Memorial or Dalhousie to study and to learn about other parts of this great country. What values are reflected in a policy that would discourage this kind of national interchange, this movement across Canada, this getting together of students? What are the values of a government that brings in a policy such as that? What kind of a nation will we become if our national government makes policies that discourage young people from broadening their minds and their understanding?

In 2004, the Caledon Institute of Social Policy published a study on the impact that per capita cash payments would have on provinces with an aging population relative to other provinces. This is with regard to the Canada Health Transfer, and the results are very worrying.

Health care costs increase with age, and the increase accelerates after age 75. Provinces with a faster aging population will therefore experience a higher rate in health care spending as their share of the senior population rises over time. Guess what provinces they are? Who exports people in this country? What provinces will be affected? Who is left to pay the debts of that export?

As the study notes, under these conditions, per capita cash entitlements will be unfair to those provinces where the share of the senior population increases at a faster rate than the national average due to low fertility rates and the out-migration of young people. I know Senator Moore has raised this issue before, and I suspect he will bring it up again; I want to give him the credit for raising this issue previously, because it is very serious.

Honourable senators, moving to an equal per capita allocation will be to the advantage of a province like the Prime Minister's, while it is a significant disadvantage to provinces like those of Atlantic Canada.

The study then looked specifically at the province of New Brunswick as a case study. The institute's results show that the equal per capita payment would lead to a "substantial underpayment" to New Brunswick.

The proposal in the budget is presented by the government as one that will ensure equal treatment of all provinces and territories, but the result is the exact opposite.

My province already has difficulty meeting the costs of social services, health care and education. We have an aging population, and, as I said before, we are exporting to provinces, notably Alberta. Therefore, a province like Alberta would benefit doubly, first benefiting from Newfoundland and Labrador having borne the cost of education and health care for those workers and then benefiting again when these people are working in Alberta, contributing to the provincial economic boom but not drawing on Alberta's social services to the same extent. Meanwhile, Newfoundland and Labrador suffers twice, first carrying the costs of education, health care and other social services for people who move to places like Alberta, and then carrying the heightened health care and social service needs of the remaining older population.

Honourable senators, I shall now turn to this so-called strengthened equalization plan. In fact, it is now clear that this new equalization plan will significantly harm my province and all of the Atlantic provinces. In other words, we are being hit several times, and with cumulative effect. The Government of Canada has the audacity to tell Canadians that this is equal treatment and a strengthened equalization program.

Let us look at the facts. I shall begin with Minister Flaherty's budget speech. He says there has been a lot of talk about fiscal balance. What is it really about, he says? It is about better roads, renewed public transit, better health care, better equipped

universities and training to help Canadians get the skills they need. It is about building a better future for our country. He says, "We get that. The provinces get that. Canadians get that." That is what he said.

That is the real issue, making sure that Canadians, wherever they are in this country, have the same opportunities to lead productive, satisfying and healthy lives. However, this new plan, in fact, appears to make it more difficult for those of us in the Atlantic provinces to reach those common goals. They said they get it, but they do not get it.

Throughout the budget document, there are references to long-term, equitable and predictable funding; however, honourable senators, these are empty words if promises can later be nullified or ignored. We have seen almost a dozen instances of where promises were made and then ignored either in this budget or elsewhere.

• (1940)

Let me talk about some of those instances. The Prime Minister made a solemn promise to the government and people of my province, not once but several times. In March 2004, Mr. Harper, who was then a candidate for the leadership of the Conservative Party, wrote to the premier of Newfoundland and Labrador. The letter was in the form of questions and answers so I want to quote from a question and answer.

> Will you support Newfoundland and Labrador's claim to 100 per cent of our offshore oil and gas provincial revenues making the province the true "principal beneficiary" as intended under the Atlantic Accord?

That was the question. Mr. Harper's answer was:

> Yes. I would support the exclusion of non-renewable resource revenues from the Equalization formula.

By November, Mr. Harper was then the Leader of the Official Opposition. On November 4, 2004, he stood in the other place and reiterated "a long-standing Conservative commitment to ensure that the Atlantic provinces would enjoy 100 per cent of their non-renewable resource royalties." He said:

> This is a commitment that was made by me in my capacity as leader of the Canadian Alliance when I first arrived here and has its origins in the intentions of the Atlantic Accord signed by former Prime Minister Mulroney in the mid-1980s. These are long-standing commitments, our commitment to 100 per cent of non-renewable resource royalties. It was our commitment during the election, before the election, and it remains our commitment today.

Mr. Harper then went on in that speech to detail the discussion on that issue between the government of then Prime Minister Martin and Premier Williams. Let me read from Mr. Harper's speech:

> Finally, on October 24 —

He is talking about the Liberal government now:

> . . . the Minister of Finance finally replied offering: additional annual payments that will ensure the province effectively retains 100 per cent of its offshore revenues.

Then, Mr. Harper says, quoting from the Liberal Minister of Finance:

> . . . for an eight-year period covering 2004-05 through 2011-2012, subject to the provision that no such additional payments result in the fiscal capacity of the province exceeding that of the province of Ontario in any given year.

This is Mr. Harper. The eight-year time limit and the Ontario clause effectively gutted the commitment made to the people of Newfoundland and Labrador during the election campaign. Stephen Harper went on to say:

> Why should Newfoundland's possibility of achieving levels of prosperity comparable to the rest of Canada be limited to an artificial eight-year period? Remember in particular that these are . . . non-renewable resources that will run out. Why is the government so eager to ensure that Newfoundland and Labrador always remain below the economic level of Ontario?

Mr. Harper goes on to say that:

> The Ontario clause is unfair and insulting to the people of Newfoundland and Labrador, and its message to that province, to Nova Scotia and to all of Atlantic Canada is absolutely clear. They can only get what they were promised if they agree to remain have-not provinces forever. That is absolutely unacceptable.

Yes, it is totally unacceptable, Mr. Harper, when you said it and it is totally unacceptable now.

In February 2005, the Conservative Party sent a mailing to households all across Newfoundland and Labrador. Emblazoned on the front is the Gaelic proverb, "There is no greater fraud than a promise not kept." Inside, that circular says:

> The Conservative Party of Canada believes that offshore oil and gas revenues are the key to real economic growth in Atlantic Canada.
>
> That's why we would leave you with 100 per cent of your oil and gas revenues.
>
> No small print.
> No excuses.
> No caps.

On January 4, 2006, in the middle of the election campaign, Mr. Harper again wrote to Premier Williams:

> We will remove non-renewable natural resource revenue from the equalization formula to encourage the development of economic growth in the non-renewable resource sectors across Canada.

We now have Budget 2007. I am saddened to say, honourable senators, that these promises that I referred to and I quoted have been broken. The equalization formula contains a cap. You will remember that in their brochure; no conditions, no caps. The budget contains a cap, drafted to do exactly the same thing as the infamous Ontario clause. In 2004, Mr. Harper said that clause

had "effectively gutted" the Liberal election commitment that Newfoundland and Labrador ought to be the primary beneficiary of the offshore results. Now, in 2007, Prime Minister Harper sees fit to include this in his budget and to enshrine it in legislation.

Honourable senators, if it effectively gutted the commitment in 2004, it effectively guts the commitment in 2007. If it was "unfair and insulting to the people" then and absolutely unacceptable, it is unacceptable now and it is insulting.

It never made it into the 2005 Atlantic accords. It was considered and rejected. Honourable senators, it should not be in this budget and it should not be in this bill.

The voters of my province of Nova Scotia and Saskatchewan were betrayed by the Prime Minister. This formula does not exclude 100 per cent of non-renewable resource revenues. The formula includes a cap and the infamous Ontario clause. Promises were made and promises were broken.

The 2005 Atlantic accord was signed by Prime Minister Martin and built upon the 1985 accord signed by the Progressive Conservative government of Prime Minister Mulroney.

Honourable senators, as Senator Murray, who is familiar with the accords and the equalization formula, reminded us in this chamber earlier:

> I would say that those provinces —

He was referring to Newfoundland and Labrador and Nova Scotia,

> — and the federal government have always considered those offshore accords not a part of equalization, not part of section 36(2) of the Constitution Act, 1982, but, rather, of section 36(1) of the Constitution Act, 1982, which imposes upon all of us federal and provincial obligations for regional economic development.

That is the key. The accords were regional economic development instruments. They were not about equalization. They were regional economic development instruments and that is the thing to be clear about; the same as an aerospace agreement with Quebec and with provinces across this country. agreements have been made for decades with provinces to enhance their economies. It is important to keep that in mind because this issue is being characterized as purely an equalization issue.

The Atlantic accords were never about equalization, but about a province keeping its resources, about economic development, about becoming a contributor to Canada, not just for a moment in time, but for always. They begin:

> The Government of Canada recognizes the unique economic and fiscal challenges faced by Newfoundland and Labrador and the strong commitment of the province to improve its fiscal situation.

By the way, the same agreement was made with Alberta. When Alberta discovered oil, it was receiving equalization, and for seven years after that it continued to receive equalization even though it was obtaining resource royalties.

This is not a new situation we have faced. The same language is found in the opening paragraph of the Nova Scotia accord as well, and this is reinforced in the Backgrounder to the Accords, prepared by the Department of Finance:

> Offset payments under both the 1985 Accord and the 2005 Arrangement are separate from the Equalization program.

That is what the accord says. That is important. The principles underlying the accord, negotiated agreements, solemnly concluded between two levels of government are separate and distinct from those of the Equalization Program. The mechanism of the accord relates to the Equalization Program. We cannot escape the Equalization Program. It is there. We have to deal with it, but the accords are separate from it. The offsets to the accords, to equalization loss, came from the Department of Natural Resources and not from the Department of Finance.

• (1950)

This was an offset that compensated the clawback of equalization dollars. In other words, if you made a dollar from oil and you lost a dollar from equalization, you are no further ahead. The principle behind the offset was to give people the real return from their resources. It is important to remember that the offsets came from the Department of Natural Resources and not from the Department of Finance.

The accords stand on their own merit and their terms are clear. Both Nova Scotia and Newfoundland and Labrador already receive, and will continue to receive, 100 per cent of these offshore revenues as if these resources were on land, the same as Alberta. The accords say that the Government of Canada intends to provide additional offset payments from the Department of Natural Resources to the province in respect of offshore-related equalization reductions, effectively allowing the province to retain the benefit of 100 per cent of its offshore revenues. The accords go on to say that from 2006-07 continuing through to 2012, the annual offset payment shall be equal to 100 per cent of any reduction in equalization payments resulting from offshore resource revenues.

The amount of additional offset payment for a year shall be calculated as the difference between the equalization payment that would be received by the province under the equalization formula as it exists at the time, if the province received no offshore petroleum resources in that year, and the equalization payment for the province in that year under the equalization formula as it exists at that time.

Honourable senators, note that the accords do not say "so long as the government of the day accepts this equalization formula." They say "under the equalization formula as it exists at the time." This is carefully drafted and in the language of an agreement that was written to last and to apply for a number of years. To me, that language shows that the negotiators recognized the possibility that the equalization might be changed and they were specifically stipulating that the terms of the accord would hold and be applied. There would be no cap under the accord. The calculations are clear. It is wrong for this government to unilaterally change the terms of those agreements.

Some Hon. Senators: Hear, hear!

Senator Rompkey: Honourable senators, those accords were negotiated and concluded to meet the particular needs of our provinces. The premise of the equalization program is to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services. Equalization is based on a province's revenue-raising capacity. It does not speak about needs. It does not speak about debts. It does not speak about economic development. It does not speak about education. It does not speak about infrastructure. Equalization speaks about none of these things.

The Atlantic accords were concluded to assist in economic development for the particular needs of the provinces. The negotiators of the 2005 accord recognized, for example, that Newfoundland and Labrador has the highest debt and debt-servicing burden in the country, more than double the provincial average. For the government to have the fiscal resources to be able to deliver comparable public services, impose reasonable taxes and transition its economy, it must address the debt challenge. That was the primary objective of both Newfoundland and Nova Scotia.

When the first cheques went to Nova Scotia, they went to pay down the debt. If they could not pay down the debt, they could not do anything else. It is like a home mortgage. Any investment banker will suggest paying down a mortgage in order to have disposable income to improve lifestyle. That is exactly what my province wants to do: We have to pay down our mortgage if we want to improve our lifestyle and if we want to grow, develop and be contributors in the Canadian economy. That is where this money was going. It is important to remember that it was going to provinces with a debt so they could pay the debt down and become producing provinces, contributors to the Canadian economy.

Budget 2007 and Bill C-52 will change the equalization program and the negotiated terms of the Atlantic accords. The Ontario clause which Prime Minister Harper denounced in 2004 will now be part of the equalization program, imposing a cap on equalization payments; so much for "no small print, no excuses and no caps."

Professors Hobson and Locke, of the Atlantic Provinces Economic Council, say that Bill C-52 imposes a new qualifying trigger. They say this qualifying trigger effectively precludes Newfoundland and Labrador from receiving the protection of the Atlantic accord. They later elaborate:

> Moreover, the definition of fiscal capacity for purposes of the trigger that would invoke the restriction on additional offset payments mentioned under the budget implementation bill violates the accord since it can deny a province its additional offset payment precisely because it has offshore oil and gas revenue. While this may not be a matter of immediate concern to Nova Scotia, it most certainly is to Newfoundland and Labrador.

We are in the peculiar position where we can be denied additional offset payments because we have offshore oil revenues, the ultimate clawback and precisely that which the accords were intended to ensure against.

I referred earlier to the provision in the Atlantic accords that entitles the provinces to receive offset payments to compensate for any reduction in equalization payments. Under Budget 2007, the inclusion of 100 per cent of offshore oil and gas revenues in the calculation of total fiscal capacity for purposes of the cap can result in a province which, before the cap, would receive equalization, receiving either a reduced equalization payment or none at all. Yet, there is no provision in Bill C-52 that I can find for the payment of offsets in this situation, as would be required by the accords.

The Honourable John Crosbie, finance minister in the Progressive Conservative government of Brian Mulroney, which signed the original Atlantic accord — God bless them — which concluded in 1985, agrees that this budget changes the Atlantic accords. The new equalization formula and the manner in which the federal Department of Finance will be calculating the payments to Nova Scotia and Newfoundland and Labrador, Mr. Crosbie says, "will result in significant differences from those that would have occurred under the 2005 arrangement."

The Leader of the Government in the Senate has repeatedly told this chamber that our concerns are misplaced, as these provinces have an option: to stay with the 2005 accord or move on to the new formula. However, according to John Crosbie, the changes to the 2005 arrangement and legislation by the federal government:

> . . . are compounded by the "one-way option" that has been presented to the provinces. That option states, "you can elect to stay with the 2005 arrangement as we interpret it and calculate it, or you can elect to go with the new 2007 equalization formula with a 'cap'; but once you choose, you must stay with that option."

You are doomed for all time.

The Honourable John Crosbie concluded:

> The Federal Government has chosen unilaterally to change the 2005 Arrangement with Nova Scotia, and Newfoundland and Labrador, with significant financial consequences.

Professors Hobson and Locke reached the same conclusion. Interestingly, their analysis concludes that it Nova Scotia and Newfoundland will not be the only province to suffer financially under the new equalization program. New Brunswick and Prince Edward Island will also receive many millions of dollars less under the new program than the existing one.

While each of Nova Scotia, New Brunswick and Prince Edward Island would receive increased revenues under the new program for the first two years, thereafter they would lose, and indeed lose much more than was gained in those first two years. In the aggregate, for the period 2007-08 to 2019-20 — the remaining life of the Atlantic accords — Nova Scotia would receive $1.4 billion less under the new program; New Brunswick would receive $1.1 billion less; Prince Edward Island would receive $196 million less; and my province would lose money right away and, in aggregate, Newfoundland and Labrador would receive $1.4 billion less under the new program.

• (2000)

Honourable senators, in the budget speech, the Minister of Finance said: "As we promised, every province will be better off under the new plan." This is the new government's Newspeak.

I want to address one other matter that has been raised about the new equalization plan. Some have argued that the proposed changes are necessary to address concerns by the Province of Ontario that the program is unfair.

Professor Hobson commented on this to the press. He said that the changes will actually do nothing to address Ontario's concerns. He pointed out that the equalization program is paid for out of the federal government's general revenues. We all pay into equalization, from coast to coast to coast. We all pay into the government coffers from which equalization is distributed. There will not be anything more to Ontario; there will not be anything less to Ontario. Unless, as Professor Hobson says, the Government of Canada makes tax reductions, there will be no benefit to Ontario. I do not understand those who argue that this will be an extra burden for Ontario, because there will be no extra payments from Ontario into the equalization program.

Honourable senators, let us be clear. This is not a cash grab by Newfoundland and Labrador and/or by Nova Scotia. It is not a partisan issue. It is well known that members of the federal Conservative Party and the Progressive Conservative Party have come out strongly opposing these proposals. Premier Williams and Premier MacDonald are both leaders of Conservative governments. Saskatchewan has an NDP government under Premier Calvert, who has strongly advocated his province's right to keep revenues from its non-renewable resources —

The Hon. the Speaker *pro tempore***:** Honourable senators, I am sorry to inform the senator that his time has expired.

Senator Rompkey, are you asking for more time?

Senator Rompkey: Five minutes.

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

Hon. Senators: Agreed.

Senator Rompkey: I want to close with a quotation from John Crosbie:

> This debate is not about "having one's cake and eating it too," as some are portraying it. For example, Newfoundland and Labrador's annual equalization has already declined significantly from a peak of $1.2 billion in 1999-2000 to a projected $477 million in 2007-08, partly because of the increase in its non-renewable petroleum revenues, but also because its population has significantly declined. Meanwhile, its per capita debt remains the highest in Canada. . . . There is no cake, only a long struggle for economic and social survival.

Honourable senators, let me close with that, except to remind you of what happened in Ireland. The example we often look to, because we are so close to Ireland, is what happened to that country. Like Newfoundland and Labrador, Ireland had to systematically and stubbornly transform its economy, but the EU did not withdraw its support as Ireland began to do better. To the contrary, it continued to help Ireland with critical investments in education and infrastructure and bringing down its debt. Ireland is now an economic miracle, the Celtic tiger. We can and must do the same in the Atlantic provinces.

This is about driving down debt, improving services, improving the education of our people, building roads and infrastructure, and making our own contribution to Canada, making a significant contribution to Canada and not being just a drain. That is the importance of the Atlantic accords. This budget guts those accords and that is why, honourable senators, I will vote against this budget.

The Hon. the Speaker: Continuing debate?

Are honourable senators ready for the question?

Hon. Senators: Question!

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

Some Hon. Senators: No.

Some Hon. Senators: Agreed.

Motion agreed to, on division, 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 Comeau, bill referred to the Standing Senate Committee on National Finance.

GENEVA CONVENTIONS ACT
ACT TO INCORPORATE THE CANADIAN RED CROSS SOCIETY
TRADEMARKS ACT

BILL TO AMEND—SECOND READING

Hon. Janis G. Johnson moved second reading of Bill C-61, to amend the Geneva Conventions Act, to incorporate the Canadian Red Cross Society and the Trademarks Act.

She said: Honourable senators, I am pleased to speak with you today on Bill C-61, to implement the Third Additional Protocol to the Geneva Conventions. The Third Additional Protocol is also known by the name of Protocol III, and establishes the Red Crystal as an additional, distinctive emblem for the Red Cross movement.

Canada signed Protocol III in June 2006. That signature was a public undertaking that Canada intended to pass legislation so that we could ratify the protocol. This bill is the fulfillment of that undertaking.

The Geneva Conventions are fundamental pillars of international humanitarian law and govern the conduct of parties to an armed conflict. To date, 194 states are now

parties to the Geneva Conventions, making them the first international treaties to enjoy universal ratification. This underscores their critical importance and relevance in contemporary armed conflicts.

Bill C-61 was introduced in the House of Commons on June 8, which also marked the thirtieth anniversary of the Protocols I and II additional to the Geneva Conventions. These additional protocols provided a crucial framework to strengthen the protection of civilians and others in armed conflict, introducing essential rules on the conduct of hostilities and the methods and means of warfare. They enjoy wide support, with some 165 ratifications each.

For its part, Protocol III establishes an additional distinctive emblem — the Red Crystal — for the Red Cross and the Red Crescent movement. Distinctive emblems were developed to protect humanitarian workers of the movement to provide critical assistance to people affected by conflicts and natural disasters.

Allow me now to provide honourable senators with a description of what Protocol III is, an overview of the bill and what it does, and an explanation of the benefits of timely ratification for Canada.

Adopted in December 2005, Protocol III recognizes the Red Crystal as an additional emblem to the existing Red Cross, Red Crescent and red lion and sun, although the latter is no longer in use. It entered into force on January 14, 2007. The Red Crystal is meant to be free of extraneous religious or political connotations. It has taken more than 50 years to secure its agreement, primarily because the use became entangled in Middle East politics despite its humanitarian nature.

Protocol III will benefit those national societies of the Red Cross movement that are not comfortable with using either the Red Cross or the Red Crescent. For example, the national societies of Eritrea and Kazakhstan have indicated an interest in using the Red Crystal, which should facilitate their entry into the Red Cross movement.

Indeed, with the adoption of Protocol III, the entry into the movement of Megan David Adom — the Israeli society — and the Palestinian Red Crescent Society was facilitated in June of 2006. It is hoped that Protocol III will precisely help to further enhance the universality, impartiality and effectiveness of the Red Cross Movement in responding to conflicts and natural disasters wherever they occur worldwide.

• (2010)

Honourable senators, Protocol III provides that the Red Crystal enjoy the same status and conditions for its respect and use as those enjoyed by the existing Red Cross and Red Crescent emblems. Technical amendments to three Canadian acts — namely, the Geneva Convention Act, the Canadian Red Cross Society Act and the Trademarks Act — are required to comply with Protocol III. The amendments are not controversial and do not change the acts in substance. The Canadian Red Cross Society is supportive of these changes, as are concerned federal departments and agencies. There are no financial or environmental implications and no provincial or territorial considerations.

These amendments seek to give the same level of protection in Canadian law to the Red Crystal as enjoyed by the Red Cross. This bill offers the opportunity to strengthen the protection of the Red Crescent to the level of the Red Cross in the Canadian Red Cross Society Act.

With the coming into force of this legislation, the amendments would have the effect of prohibiting persons from wearing, using or displaying the emblem of the Red Crystal or the words "Red Crystal" or an imitation, except with the written authorization of the Canadian Red Cross Society, making it a crime to kill or seriously injure an enemy in a war by disloyally using the Red Crystal to feign protected status.

In closing, I would like to speak to the importance of timely ratification of Protocol III. In order to encourage the widest acceptance of the Red Crystal emblem, it is essential that as many states as possible ratify Protocol III. Canada can play a key role in this respect. If this bill is passed by the end of September, it will enable Canada to ratify Protocol III by the time of the International Conference of the Red Cross and the Red Crescent Movement to be held in November of this year in Geneva. The conference, which takes place every four years and brings together all parts of the movement, including 194 state parties and 186 national societies, is a key opportunity to promote the Red Crystal and Canada's support for it.

Protocol III entered into force on January 14, 2007. Some 84 states have now signed, including Canada, the United States, Israel, Switzerland, Norway and some EU members. However, only 17 states have ratified it. The United States, an ardent supporter of the protocol, ratified Protocol III on March 8.

Canada's timely ratification would effectively position our country to advocate for the wide acceptance of the Red Crystal. Quick ratification would also be consistent with Canada's proactive role throughout the process, leading to the adoption of Protocol III and helping to resolve a long-standing irritant for the Red Cross movement for the past 50 years. It would facilitate our leadership with other states that retain reservations and allow us to enjoy the universal accession of like-minded countries, such as the United States, Switzerland, Norway, and some key European Union members, such as the U.K. and the Netherlands, which attach great importance to the Red Crystal. We need to implement our commitment to ratify as soon as possible and provide a key deliverable for Canada at the November 2007 conference.

These are the reasons for our government presenting Bill C-61 and asking the Senate to consider it on an expeditious basis.

[*Translation*]

Hon. Eymard G. Corbin: Honourable senators, after Senator Johnson's introductory speech I would normally adjourn the debate to the next sitting of the Senate. However, I will not do that this evening.

The bill was presented and explained so well that it would be a waste of the Senate's time to repeat the arguments in support of the bill that were presented by its sponsor, or to get into long, lively and historical debates about the Red Cross.

[*English*]

The bill should be sent to the committee for the hearing of witnesses and given proper consideration. On the face of it, there is nothing controversial about this bill as far as I know. What it seeks to accomplish makes sense and I know of no one so far who opposes the objective of the bill.

I will be pleased to cooperate with the sponsor to ensure its passage through all remaining stages of the process: committee stage, report stage and third reading. I would, if no other senators wish to speak, invite the Honourable Senator Johnson to make her closing speech on second reading.

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 bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Johnson, bill referred to the Standing Senate Committee on Foreign Affairs and International Trade.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

Hon. Janis G. Johnson moved second reading of Bill C-59, to amend the Criminal Code (unauthorized recording of a movie).

She said: Honourable senators, Bill C-59 will deter unauthorized videotape camcord activities in movie theatres in Canada. The bill amends the Criminal Code to ensure that local police are able to respond quickly and efficiently to the unauthorized recording of films.

The legislation is of vital importance in the age of the Internet. I read a news report today that Michael Moore's new film *Sicko* is available on YouTube. The site removed 14 small video segments, clips that had several hundred viewings before being removed. The source of the clips was a sneak preview of the film at a benefit fundraiser.

Kevin Tierney, the producer of the popular Canadian film *Bon Cop, Bad Cop,* said he learned two days before his film was to have been released that a man had been found with 2,500 copies of the movie. He was selling it door to door in a Montreal neighbourhood, along with alcohol and cigarettes. That is just to frame the situation properly for honourable senators. Mr. Tierney says it is stealing, and I would have to agree.

These are just two examples in this age of electronics and Internet. There are new crimes every day and there is no question we have a problem. I run a film festival and I know this is a major problem. Anyone can come into a theatre and start filming what is on the screen.

Honourable senators, our country has been accused of being responsible for half of the pirated films in global circulation. That is a Canadian record. In February, Canada was named to a priority watch list of countries believed to be responsible for high rates of piracy. This problem has threatened our ability to receive access to timely new releases from Hollywood studios. The act of pirating movies for distribution is already illegal under the federal Copyright Act. The offence carries fines up to $1 million and up to five years imprisonment. Case law is also clear that the selling of pirated copyrighted materials constitutes fraud under the Criminal Code, regardless of whether there is actual economic loss to the copyright holder and/or any deception in regard to the authenticity of the DVD.

In the past, the law has been difficult to enforce because it could only be investigated by the RCMP and it put the onus on investigators to prove the recording was for a nefarious purpose. The onus will now shift to the front lines. The local theatre owners need to report these incidents to the local police. Bill C-59 will facilitate this.

• (2020)

Under this proposed legislation, two new offences are created. The first is simple camcording. The bill prohibits the recording of a movie in a movie theatre without the consent of the theatre manager. The second is camcording with a purpose. The bill prohibits the recording of a movie in a movie theatre without the consent of the theatre manager, for the purpose of selling, renting or other commercial distribution of a copy of the recorded movie.

Under this proposed legislation, simple camcording will be punishable by imprisonment of not more than two years, or on a summary conviction, by six months imprisonment or a fine of $2,000, or both.

Camcording for the purpose of sale, rental or other commercial distribution of a copy of a motion picture is a more serious offence. In addition to proof, the accused engaged in unauthorized recording of a motion picture in a movie theatre requires proof that it was done for the purpose of selling, renting or other commercial distribution of copies of the film. Camcording for the purpose would also be a hybrid offence, but it would be punishable on indictment by imprisonment of not more than five years. Bill C-59 also provides the court with the authority to order the surrender of anything used in the commission of these offences, such as a camcorder.

Honourable senators, the motion picture sector is an important component of Canada's culture industries. Canada not only has a vital domestic film industry, creating films domestically and internationally, but is also an important part of the U.S. film industry, which locates much of its production in Canada. Canada is also part of the U.S. domestic market for film exhibition, with Canadians enjoying the first release of major U.S. motion pictures at the same time they are released in the United States.

Unfortunately, this makes Canada an attractive venue for camcording — the making of unauthorized copies of first-release films that are in high demand around the world where these films have yet to be released. Digital technology and the Internet have facilitated the illicit reproduction and distribution of films.

There is broad-based support across the film production, distribution and exhibition industry in Canada for an explicit legislative measure to stem the flow of illicit copies of films that are made and put into circulation. Accordingly, the government is taking decisive action that will make camcording movies in theatres illegal.

In doing so, Canada is joining in international efforts to protect the intelligent property interests of the film industry in Canada and abroad from those who would make unauthorized copies of newly released movies either for their own use or, with or without the participation of others, for the purpose of selling, renting or commercial distribution of the pirated movies.

Honourable senators, this bill is necessary. There is nothing wrong with protecting intellectual property, and I encourage its speedy passage.

Hon. Dennis Dawson: Honourable senators, I will follow in Senator Corbin's footsteps and congratulate the honourable senator for her presentation. I move that the Senate adopt this proposed legislation as quickly as possible. I also join Senator Corbin in congratulating the minister. I do not do that very often, as honourable senators know.

[*Translation*]

Honourable senators, I would first like to congratulate the Minister of Justice — it is rare for me to congratulate a Conservative minister and a Conservative senator in the same day — for tabling Bill C-59, which I think is essential for the protection of the Canadian film industry. I would also like to congratulate my colleague, the member for Notre-Dame-de-Grâce—Lachine, as well as the member for Hochelaga for their hard work in getting the government to create legislation on this issue.

It goes without saying that pirating films on Canadian soil is a major problem which we must look at. The emergence of new technologies and access to the Internet have greatly contributed to this phenomenon. Simply with a personal video camera, it is now possible to make pirated copies available around the world. The situation is of such concern in Canada that some American distributors have threatened to delay releasing their films on Canadian screens by several weeks compared to the American market to protect themselves from piracy.

The Motion Picture Association of America stated that 20 per cent to 25 per cent of pirated movies found online or on DVD were recorded in Canadian movie theatres. The Canadian Motion Pictures Distributors Association estimates that its members had to absorb losses of US$180 million due to illegal recordings made in Canada.

Furthermore, in his speech on Bill C-59, the Minister of Justice referred to a *Globe and Mail* article that mentioned that:

[*English*]

> Canada was placed on a United States government watch list for a lack of intellectual property rights enforcement, along with the notorious film piracy hubs such as Lebanon, China, the Philippines and Russia.

This government should have a plan on cultural institutions and respond to our American counterparts. Had it not been for an American Republican governor, the "Governator," the minister probably would not have had permission from his Prime Minister to table this bill that had been requested for months. This new government must be proactive and initiate ideas, legislation and programs to protect, support and promote our culture. Let us hope that the next Speech from the Throne will be better than the last one on that measure.

[*Translation*]

It is important to bear in mind that, when discussing the issue of illegal recording, we are protecting our Canadian artists and creators first and foremost, not just the American industry. Think of the very successful Quebec movie that the honourable senator mentioned, *Bon Cop, Bad Cop*, which was also pirated. In this regard, it is important to remember that the Canadian film industry is a vital component of our cultural industry. It provides employment for many people, from creators to performers to all kinds of technicians. It is the responsibility of Parliament to protect Canadian artists.

Honourable senators, even though the current government is tabling a bill to discourage the illegal recording of movies shown in theatres, it is nevertheless not doing enough in other areas. It is well and good to deal with illegal recording in movie theatres, but what is the government doing to control the scourge of illegal decoders and the pirating of signals in Canada? What is it doing to counter the continued weakening of the CRTC?

With respect to signal piracy, it is important to mention that groups have already submitted briefs to the government, but that the government has not followed up. Does Arnold Schwarzenegger have to come up here again to kick-start the government?

I would note that the government has not yet acknowledged the existence of Internet broadcasting activities not regulated by the Canadian Radio-television and Telecommunications Commission. For example, Jeff Fillion is now unregulated, which means that he can do whatever he wants with no threat of CRTC intervention. He sells his programming to subscribers and contributes nothing to the CRTC or the Canadian Television Fund, which conventional broadcasters are required to do.

I would like to remind the government that when it was in opposition, it opposed Bills C-2 and C-52, both of which sought to strengthen measures enabling the authorities to fight piracy. Members of the distribution, programming and television industry appeared before the industry committee in the other place to discuss the negative impact of piracy. For example, money lost because of pirating in Quebec prevents licence holders from providing significant contributions to the Canadian Television Fund. These losses would be enough to produce two television series like *Omertà* and *Fortier* every year in Quebec.

Canada is known as a haven that shelters the biggest pirates. In Europe, it is not uncommon to find pirated cards that say "Made in Canada/Fait au Canada" on them. That is why people are asking that the Standing Senate Committee on Transport and Communications address the matter of signal piracy, because this illicit industry is tarnishing Canada's image abroad.

Although I fully support Bill C-59, I must say that the government should do more to convince the Canadian public of its interest in the cultural sector. The Canadian cultural industry is still waiting for the money the government promised in the last budget. Festivals throughout the country are the prime location for introducing Canadians to the most colourful cultural events and artists. The government should know that, for the most part, festivals are held in the lovely summer months and not in winter when it is -25º C.

In Quebec City, where I live, we are fortunate to have a summer festival that is an extraordinary showcase for our Canadian and Quebec artists. Honourable senators, the festival will run from July 5 to 15 — I would like to take this opportunity to invite my colleagues to visit beautiful Quebec City — but the festival needs federal support now; it has been receiving subsidies for 39 years and, this year, it is not receiving anything. While the government does nothing, the festivals across the country desperately need money and a number of cultural events are threatened.

• (2030)

This government must not only protect the film industry, but it must also establish concrete measures to support culture in all its forms. However, instead of taking concrete action, this government is attacking our cultural institutions. Because of the devastating cuts to the Museums Assistance Program announced by the government last fall, small, local museums across the country are forced to operate on a limited budget. The Canadian Museums Association, the Association of Manitoba Museums and the Alberta Museums Association, among other museum organizations across the country, have joined forces to denounce the lack of funding. This example shows once again that this government does not really care about Canada's culture and heritage.

Before closing, I would like to thank the Minister of Justice once again for tabling this bill, as well as all members of Parliament and honourable senators who will support it. As a senator and following the example of my Liberal colleagues, I am proud to support this bill. With this bill, Canada is taking a step in the right direction towards protecting the entire cultural film industry. I move second reading of this bill.

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 Johnson, bill referred to the Standing Senate Committee on Transport and Communications.

[*English*]

NUNAVIK INUIT LAND CLAIMS AGREEMENT BILL

SECOND READING—DEBATE ADJOURNED

Hon. Hugh Segal moved second reading of Bill C-51, to give effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act.

He said: Honourable senators, I am privileged today to rise in this chamber and begin our consideration of Bill C-51, to give effect to the Nunavik Inuit Land Claims Agreement, which honourable senators will know passed in the other place quickly based on a concerted effort of bipartisan cooperation between the minister and the critics for all the parties in a way that I think brings great honour to our commitment to First Nations and to the possibility of cooperation when the matters before us are important and have a measure of earnestness and significance.

I did a bit of research on the bill and on the history because, as is the case with so many matters, there are people in this place who have far more experience — detailed, substantive hard working experience — on the land claims agreement which this bill puts into place. In doing my research, I found a negotiation framework agreement that was signed on August 19, 1993 by the Honourable Pauline Browes for the Government of Canada and Charlie Watt for the Makivik Corporation. Standing in my place today to make the case for legislation, I would be ahistorical if I did not express my great admiration for the work that Senator Watt has done in the north with the Inuit for so many years on a consistent and ongoing basis.

Hon. Senators: Hear, hear!

Senator Segal: For those of us who are new to this place, to be able to sit in the same chamber as an individual like Senator Watt, who has worked so hard for one of our First Nations, for one of our critical regions, and whose work is bearing fruit today in the proposed legislation that I have the great privilege of recommending for second reading, is truly a privilege.

When adopted by Parliament, Bill C-51 will put into effect the Nunavik Inuit Land Claims Agreement, a historic settlement between the Government of Canada and the Nunavik Inuit. This is a landmark agreement that will enable the Nunavik Inuit to preserve their ancient heritage, strengthen their vibrant community and foster increased growth in the northern economy.

Today, almost 10,000 Nunavik Inuit, more than half of whom are under the age of 30, live in 15 remote communities along the coasts of Ungava Bay, Hudson Bay and Hudson Strait in Northern Quebec. There are no roads to connect these communities to each other or to the south. The only means of travel is by air or by sea, and sea travel is only possible during the summer and autumn months.

For more than 4,000 years, the Nunavik Inuit have thrived in the north, inhabiting vast tracks of territory in what is now Northern Quebec and Labrador. These remarkably resourceful people, however, have spent the past several decades trying to cope with rapid and transformative changes brought on by modern life, changes that have forced the Nunavik Inuit to abandon their traditional, nomadic lifestyle and settle in permanent villages.

[*Translation*]

In recent years, the Nunavik Inuit have worked hard to establish the economic, political and cultural relations needed to regain their autonomy, re-establish a basis for sustainable development and improve their quality of life. The leaders of the Nunavik Inuit realized that a great deal remained to be done to ensure the prosperity and development of their community. They

therefore decided to work with governments and other Aboriginal groups toward reaching a final agreement on the offshore marine region. The spirit of cooperation and the optimistic vision of the Nunavik Inuit resulted in Bill C-51, to give effect to the Nunavik Inuit Land Claims Agreement.

[*English*]

As I mentioned earlier, honourable senators, the bill will put into effect the Nunavik Inuit Land Claims Agreement that was signed by the Government of Canada and the Nunavik Inuit in December of last year. It was ratified by an overwhelming majority of 78 per cent of all the eligible beneficiaries and, in fact, more than 90 per cent of those who voted.

The area covered by the agreement includes the Nunavut offshore region adjacent to Quebec, composed of the islands and waters along the shores of James Bay, Hudson Bay, Hudson Strait and Ungava Bay, as well as a portion of northern Labrador and an offshore area near Labrador.

As a result of the agreement being submitted to this chamber for consideration, the Nunavik Inuit will own about 80 per cent of the total area of the islands in the region, known as the Nunavik Marine Region, a surface area of approximately 5,100 square kilometres. Ownership of these islands includes surface and subsurface rights, ensuring that the Nunavik Inuit will enjoy a substantial share of resource royalties that are expected to fuel economic growth throughout the region for years to come.

The agreement stipulates that the Nunavik Inuit will be entitled to 50 per cent of the first $2 million in annual resource royalties generated from the Nunavik Marine Region. They will also receive 5 per cent of any further resource royalties received by the Government of Canada.

These royalties are in addition to a financial package worth roughly $94 million that will be granted to the Nunavik Inuit. Some $55 million of this amount will be in the form of a capital transfer from the Government of Canada to the Nunavik Inuit trust that will be paid out over the next 10 years. These funds will be distributed to the Nunavik Inuit, both individually and through representative groups, and used to address a variety of educational, social, cultural and socio-economic needs.

The remaining almost $40 million will be used by the Nunavik Inuit to administer the agreement. Makivik Corporation, an Inuit-owned, non-profit organization that serves as the legal representative of the Nunavik Inuit, will receive and administer those funds.

[*Translation*]

I can assure you, honourable senators, that the Makivik Corporation has enjoyed a solid reputation in financial management and economic development for some time. Makivik was established in 1978 — our dear colleague Senator Watt was heavily involved — to administer and invest monies received from Inuit land claims under the James Bay and Northern Quebec Agreement.

Since then, the corporation has used the money from the agreements to set up and fund a number of successful Inuit companies, create jobs and enable the Nunavik Inuit to benefit from the many opportunities offered by the burgeoning northern economy.

• (2040)

[*English*]

Makivik has also played a leading role in helping the Nunavik Inuit preserve their culture, language and traditions, which are not only treasures they hold, but treasures all Canadians should value.

In addition to these vital financial measures, the agreement ensures that the Nunavik Inuit will share in commercial fishery opportunities in the region. Specifically, the Minister of Fisheries and Oceans will make available to the Nunavik Inuit 10 per cent of any new commercial fishing licences issued after the agreement comes into effect for identified species in a defined fishing area off the coast of Labrador.

To help safeguard the environment of the region while promoting economic growth, the agreement establishes three public governing institutions on which the Nunavik Inuit have been guaranteed representation. These institutions of public government are the Nunavik Marine Region Wildlife Board, the Nunavik Marine Region Planning Commission and the Nunavik Marine Region Impact Review Board.

The Nunavik Marine Region Wildlife Board will be the main instrument to manage and regulate wildlife in the Nunavik Marine Region. It will be the main regulator of access to wildlife. The Marine Region Planning Commission will establish, in conjunction with the federal government, planning policies, objectives and goals for the Nunavik Marine Region to develop land use plans for resource development. The Marine Region Impact Review Board will screen project proposals to determine the environmental impact of projects and will then monitor projects to ensure they abide by the environmental guidelines and processes.

[*Translation*]

The Nunavik Inuit Land Claims Agreement first had to address complicated jurisdictional problems. I will explain.

[*English*]

Land governed by the Nunavik Inuit Land Claims Agreement is under federal, provincial and territorial jurisdiction, and three Aboriginal groups have claims associated with portions of the claims area. Specifically, the Nunavik Inuit are residents of Quebec. However, the land that is subject to the agreement — traditional territory where the Nunavik Inuit have harvested wildlife for thousands of years — is under the jurisdictions of Nunavut and of Newfoundland and Labrador. Further complicating the issue, we have the original James Bay and Northern Quebec Agreement, of which Senator Watt was, in his remarkable work for his people, one of the signatories, along with the Nunavik Inuit and Quebec Cree. It deals only with the land areas in Quebec.

Compounding these marvelous complexities even further, since the signing of the James Bay and Northern Quebec Agreement, other land claim agreements have been signed by the Nunavut

Inuit and the Labrador Inuit, giving them rights over areas where the Nunavik Inuit assert Aboriginals rights.

On the jurisdictional front, the Government of Quebec is not a party to the Nunavik Inuit Land Claims Agreement, but Quebec officials have been kept fully briefed on the details of the agreement and are fully supportive of the final settlement.

The Government of Newfoundland and Labrador was not a party to the agreement, never having accepted the Nunavik Inuit claim in Labrador to begin with. The provincial government gave approval to the Nunavik Inuit and Labrador Inuit overlap provisions and was consulted about the certainty provisions contained in the agreement and agreed to those provisions.

The Government of Newfoundland and Labrador has not raised opposition to the agreement and is not expected to oppose Bill C-51 either.

Meanwhile, the Government of Nunavut and its predecessor, the Government of the Northwest Territories, has been part of the federal negotiating team since the beginning, providing regional perspective and input on issues within its jurisdiction. To address the myriad interests of the multiple Aboriginal parties with stakes in the land claim, the Nunavik Inuit Land Claims Agreement reflects three overlap agreements signed by the Nunavik Inuit with the Nunavut Inuit, the Quebec Cree and the Labrador Inuit.

The overlap agreements between the Nunavik Inuit and the Nunavut Inuit provide for the continuation of wildlife harvesting by both groups in traditional areas, regardless of the boundaries of land claim agreements. The agreement identifies areas of equal use and occupancy and provides for joint ownership of lands and the sharing of wildlife. It also ensures joint participation in regimes for wildlife management, land use planning impact assessment and the proper management of critical adjacent waters.

The Nunavik Inuit's overlap agreement wit the Quebec Cree covers the northern part of the Quebec Cree claim and the southern part of the Nunavik Inuit claim in the offshore James Bay and Hudson Bay marine regions. In this area, three adjacent zones have been created: the Inuit zone, the joint zone and the Cree zone. The Inuit zone is designated to the Nunavik Inuit, but the Quebec Cree may also harvest there. The joint zone is shared by the two groups, and the Cree zone is designated to the Quebec Cree, but the Nunavik Inuit may also harvest there. The Nunavik Inuit and Labrador Inuit also share an overlap area of their two claims in Northern Labrador. This area happens to overlap with the boundaries of the new Torngat Mountains National Park Reserve.

In 1998, the Federal Court ruled that Canada has a duty to consult with the Nunavik Inuit prior to establishing any park reserve in Northern Labrador. The court also stated that the federal government had a duty to negotiate Nunavik Inuit claims to Aboriginal rights in Labrador prior to the establishment of any national park.

As a result of this ruling, in February 2003, the Nunavik Inuit and Labrador Inuit submitted a joint proposal to the federal government to resolve their respective overlap issues. Under this proposal, the park reserve would be recognized as a shared use area in which both groups would share access to wildlife resources and negotiate a park impacts and benefits agreement.

Based on this proposal and subsequent negotiations, an overlap agreement was signed by Nunavik Inuit and Labrador Inuit in November of 2005. The Labrador Inuit Park Impacts and Benefits Agreement was concluded in January 2005, while the Nunavik Inuit Park Impacts and Benefits Agreement was concluded in December of 2006.

[*Translation*]

Honourable senators, I have explained the Nunavik Inuit Land Claims Agreement and the three joint use agreements because I wanted to demonstrate the comprehensive nature of the agreement. We all know, and history has proven, that comprehensive land claims agreements eliminate legal uncertainties, a major obstacle that limits the ability of Aboriginal peoples and their communities to reach their full potential.

[*English*]

In place of this uncertainty, Bill C-51 and the agreement on which it is based puts an end to any lingering doubts about who owns what or what their rights are in the Nunavut Marine Region and Northern Labrador. After 13 years of negotiations, honourable senators, Bill C-51 completes the unfinished business left over from the James Bay and Northern Quebec Agreement and settles, once and for all, all outstanding Inuit land claims in the region with broad, massive, democratic Inuit support.

Equally important, under the agreement, the Nunavik Inuit will release governments and others from all claims of past infringements of Aboriginal rights respecting lands and natural resources held by the Nunavik Inuit. The Nunavik Inuit will also replace ambiguous Aboriginal rights with those rights set out and guaranteed in the agreement. Armed with this certainty, the parties to the agreement, along with other potential investors and neighbouring communities, can now proceed with economic development initiatives in the region with full confidence. This stability and predictability in turn attracts investment, creating the conditions for prosperous, sustainable communities that can provide a better quality of life and standard of living for all people in the region.

Honourable senators do not need to take my word for it. Just look at what has been achieved in the North in the decades since the signing of the James Bay and Northern Quebec Agreement in Northern Quebec, or with the Innuvialuit and Gwich'en agreements in the Northwest Territories. Today, these isolated and once economically depressed regions employ thousands of people, in businesses ranging from oil and gas exploration, to air transportation and biosciences and are building a better tomorrow for future generations of First Nations.

[*Translation*]

Thanks to burgeoning economic development, major progress is being made in alleviating poverty, improving health and education services in communities and keeping languages and cultures vibrant. Are all Canadians not entitled to a future in which they enjoy economic prosperity, social security and personal fulfilment?

[*English*]

In addition to these worthy economic and social goals, passage of Bill C-51 would enable us to act decisively and quickly to preserve the culture and livelihoods of the Nunavik Inuit, to protect the land itself, the wildlife that roams across its Arctic tundra and marine resources in the coastal waters, and to establish Canada's newest national park and the first ever in Labrador, Torngat Mountains National Park.

• (2050)

One of the most spectacular parks ever created, Torngat Mountains National Park, covers an area of almost 10,000 square kilometres; from Saglek Fjord in the south to the northern tip of Labrador, from the provincial boundary with Quebec in the west, to the Labrador Sea to the east.

[*Translation*]

By creating protected areas like Torngat Mountains National Park, we are conserving the purity of the natural spaces that define Canada at home and abroad.

[*English*]

Passage of Bill C-51 will enable the Nunavik Inuit to achieve genuine sustainable progress of their own. I urge honourable senators to support this legislation and ensure its speedy passage through this place. I know that Senator Watt, who is a very thoughtful observer and proponent of his First Nations interests and the interests of the whole region, does have concerns about this bill. We have had a chance to speak about them, and I benefited immensely from his advice and counsel on the issue.

I would hope, as we proceed towards second reading, we find a way to move this particular bill to committee as quickly as possible so those concerns can be addressed in a way where folks with specific and detailed information, invited as witnesses, can share their views with members of this place and members of the committee. Senator Watt has a particular concern about which committee might consider this matter. While some would say that it would normally go to Aboriginal affairs, I have been able to consult with my own leadership, who are more than supportive, if it is the will of the house, that it go to the Standing Senate Committee on Legal and Constitutional Affairs. Matters dealing with the proposition of certainty can be addressed in a fulsome fashion that reflects a large part of the concerns that Senator Watt has expressed. That is not for me to determine; that is for the Senate to determine in the fullness of time. I urge colleagues to engage so we might pass this legislation to committee as quickly as is humanly possible.

Hon. Tommy Banks: May I ask a question? I have no wish other than to move this matter to committee as quickly as possible. However, I may not be able to attend those meetings, and I have a couple of questions to which I would appreciate answers if the honourable senator is are agreeable.

This act, as he has said, gives effect to an agreement. The agreement is not contained, per se, within the bill.

Did I understand the honourable senator to say that part of that agreement, as consideration for other things, is that the people who are affected by it are in effect agreeing to extinguish their rights?

Senator Segal: The honourable senator will know that in talking about the extinguishment of rights and the whole question of certainty, he enters into an area of debate which is of great importance and sensitivity.

Let me say there is no extinguishment proposed in the legislation before this place. Instead, because of the debates legal and otherwise around what constitutes certainty around existing rights and how those rights might be defined in the future, what has happened is similar to what has been done in other agreements in that First Nations have agreed, in return for specific considerations, not to assert their rights as they might exist both under the Constitution and elsewhere. In their judgment they are receiving fair and appropriate recompense for deciding not to make that assertion. The notion of any total extinguishment in perpetuity is not something contemplated by this legislation.

What the agreement provides for is the First Nations signatories agreeing not to assert those rights without specifying in detail what those rights may or may not be. That has left this territory to be pursued over time as may be necessary in the event some dispute might come to bear. This notion of non-assertion as a way of providing a measure of certainty without going down the road of extinguishment has been used in other First Nations treaty agreements, and that is the same model being proposed here for consideration by this chamber.

Senator Banks: I know the committee will pay attention to that question.

Does that fact account for the absence, in this present legislation, of a clause which is most often contained in legislation having to do with Aboriginal matters; that is to say a non-derogation clause?

Senator Segal: This matter will be looked at in committee to make sure people are comfortable. I do not think the non-existence of a non-derogation clause is in any way an anticipation of any extinguishment of rights not otherwise addressed in the context of an agreement not to assert relative to the context of the legislation itself.

Senator Tkachuk: We are with you all the way.

Senator Banks: I hate to tell you this, but I actually understood that.

That is another question that I trust will be addressed by the committee.

Senator Segal: The agreement is a public document. While it does not have statutory status, it is referenced in the legislation as a public document. The words in the agreements are binding on all sides.

On motion of Senator Watt, debate adjourned.

CANADA ELECTIONS ACT
PUBLIC SERVICE EMPLOYMENT ACT

MESSAGE FROM COMMONS—
DISAGREEMENT WITH SENATE AMENDMENT

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons which reads as follows:

ORDERED:

That the Clerk do carry back this Bill to the Senate and acquaint their Honours that this House has agreed to their amendments Nos. 1 to 11, however, amendment No. 12 has been amended and concurrence is desired.

AMENDMENT made by the House of Commons to Bill C-31, An Act to amend the Canada Elections Act and the Public Service Employment Act.

1. *Clause 42, page 17*:

(a) Replace line 23 with the following:

"17 to 19 and 34 come into force 10 months".

(b) Add after line 31 the following:

"(3) Paragraphs 162(*i.1*) and (*i.2*) of the Canada Elections Act, as enacted by section 28, come into force six months after the day on which this Act receives royal assent unless, before that day, the Chief Electoral Officer publishes a notice in the Canada Gazette that the necessary preparations have been made for the bringing into operation of the provisions set out in the notice and that they may come into force on the day set out in the notice."

ATTEST:

AUDREY O'BRIEN
The Clerk of the House of Commons

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

[*Translation*]

THE CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Pierre Claude Nolin moved the second reading of Bill C-23, to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments).

[*English*]

He said: Honourable senators, I appreciate having the opportunity to speak today on Bill C-23, to amend the Criminal Code, criminal procedure, language of the accused, sentencing and other amendments.

[*Translation*]

Fighting crime is a multi-faceted undertaking that requires a modern and efficient criminal justice system. The purpose of this bill is not to bring in major reforms, but to bring together a number of legislative changes that update and upgrade the current legislation.

• (2100)

Amendments like this are needed from time to time, and contribute to the proper functioning of our criminal justice system. Bill C-23 includes amendments aimed at updating, improving and modernizing certain provisions of the Criminal Code by enhancing the efficiency of criminal procedures, strengthening sentencing measures and clarifying court-related language rights provisions.

[*English*]

Most of these amendments are the result of changes that the provinces, territories and other stakeholders and have been instrumental in assisting the government.

The amendments contained in Bill C-23 fall principally within the three main categories: Criminal procedure, language of the accused and sentencing.

Without describing each amendment introduced by this bill, I propose to highlight some of them tonight.

[*Translation*]

I would first like to examine a few of the amendments made to the provisions concerning criminal procedures. Bill C-23 updates and clarifies the intention of many of these provisions, for instance, those dealing with proof of service of all documents, the endorsement of out-of-province search warrants, a new election for the accused regarding the mode of trial where the Supreme Court of Canada orders a new trial, and the reclassification of the offence of possession of break-in instruments.

[*English*]

With respect to the proof of service of court documents, one series of amendments will consolidate into one easily-referenced section of provisions dealing with proof of service of court documents such as notices and summonses. Subject to specific exemption provided in the Code, this general clause will present some standardized approach for dealing with proof of service of these documents.

With respect to the endorsement of out-of-province search warrants, one amendment will modernize and streamline the process by which they are transmitted and executed in a jurisdiction other than that where they have been issued.

Currently, in order to execute an out-of-province search warrant, the warrant must be presented to a judge or justice in its original paper form in the province where the search will take place so that it can be endorsed and subsequently executed.

The requirement that the original document be presented to the court in the other jurisdiction takes time and is labour as well as resource intensive. This amendment will allow the search warrant

issued in one province to be sent by facsimile or by other means of telecommunication to the other jurisdiction, thereby allowing a copy of the warrant to be endorsed by a judge or justice for execution in that other jurisdiction.

Another criminal procedure amendment will serve to clarify. It will set out the right of the accused person to change his or her mode of trial when the Supreme Court of Canada orders a new jury trial to be retried. This amendment will assist in avoiding unnecessary jury trials where the accused prefers to be retried by judge alone.

Before moving on to the other two categories, I will mention one last criminal procedure amendment. The offence of possessing break-in instruments is currently a straight indictable offence. The intent of the amendment is to reclassify this offence into a dual procedure offence or hybrid; that is, an offence for which Crown prosecutors may proceed by way of indictable offence or summary conviction procedure.

Currently, proceeding by indictment is the only option for prosecuting the offence of possessing break-and-enter instruments. However, experience has shown that this offence is often committed in conjunction with the offence of break and enter into a place other than a dwelling house, which is a dual procedure offence. The latter offence already provides prosecutors with the flexibility to choose the appropriate procedure, having regard to the facts of the case.

Reclassifying the offence of possessing break-in instruments into a dual procedure offence will offer prosecutors greater flexibility, including the possibility of proceeding, in appropriate circumstances, with one single trial for both offences. This amendment will contribute to more judicious use of resources of our criminal justice system.

[*Translation*]

I would now like to talk about the language rights of the accused in a criminal trial and the legislative amendments to clarify these rights. As you know, the right of an accused to be tried in either official language is not new. In fact, the right of an accused to be tried in the official language of his choice was first recognized by the Official Languages Act in 1969.

In 1978, and again in 1988, Parliament found it useful to broaden the scope of the language rights of an accused and to provide for the implications of criminal proceedings in the minority language. The existing sections 530 and 530.1 of the Criminal Code have been in effect since January 1, 1990. They provide an accused with the right to a preliminary hearing and trial before a court in his official language and to have a Crown attorney who speaks his official language.

Over the years, several problems of interpretation have been raised with respect to these provisions. The courts have had to grapple with these questions and their decisions demonstrate the need to fine-tune current provisions. Studies by the Commissioner of Official Languages and the Department of Justice have also confirmed the need to make certain changes to these provisions.

The government consulted the Commissioner of Official Languages, French language common law jurists and their national federation as well as the provinces with regard to the proposed amendments. In addition, both the commissioner and the federation appeared before the committee in the other place.

[*English*]

The purpose of these amendments is, therefore, to ensure better implementation of the language of trial provisions as well as to rectify some shortcomings identified in a number of studies by the courts.

For instance, one amendment would heed the Supreme Court of Canada judgment in *Beaulac* by requiring courts to inform all accused persons of the rights to be tried in their official language, whether or not they are represented by counsel.

The Commissioner of Official Languages, in a 1995 study entitled *The Equitable Use of English and French before the Courts in Canada*, also recommended that all accused persons be better informed of their right to a trial in the official language of their choice.

Another amendment will require that the charging document be translated in the language of the accused upon request. This follows court decisions requiring that such an important document be translated upon request since it is a logical complement to accused persons exercising their language rights.

Other amendments simply resolve certain anomalies and problems identified with the existing provisions. On the whole, these amendments bring the language of trial provisions of the Criminal Code in line with judicial interpretation while also removing some of the hurdles on the road to greater access to justice in both official languages.

[*Translation*]

I will now move on to amendments of the bill pertaining to sentencing. These amendments are for the most part technical in nature. They include provisions that seek to better represent the intent of the sections of the Code in this matter, to grant certain powers to the sentencing court, and to impose certain requirements.

• (2110)

[*English*]

With respect to clarifying amendments, this bill proposes provisions to set out clearly that the current minimum penalties that apply for a first, second and third impaired driving offence, including operation while impaired and refusing to provide a breath sample, also apply to more serious situations in impaired driving causing bodily harm or death. They are meant to respond to different interpretations by the courts as to whether the intent of these provisions is that the minimum penalties do apply to the more serious impaired driving situations involving bodily harm or death.

Bill C-23 also seeks to clarify that an offender is permitted to drive while subject to a driving prohibition order only if the offender is not only registered in the provincial alcohol ignition interlock device program but also complies with the provisions of such a program.

The bill also proposes to clarify that, where a person serving a youth sentence receives an adult sentence, only the remaining portion of the youth sentence is converted to an adult sentence. That portion of the sentence will be deemed one sentence of imprisonment for the purpose of determining parole eligibility, pursuant to the Corrections and Conditional Release Act. As it currently stands, the wording provides that when a person serving a youth sentence receives an adult sentence, the entire youth sentence should be converted to an adult sentence, which could result in the person being immediately eligible for release into the community upon conversion.

The bill also proposes an amendment to clarify that where no maximum jail term is provided in a federal statute for an offender who is in default of a monetary penalty imposed for an indictable offence, the maximum term of imprisonment will be five years.

Bill C-23 also proposes to provide sentencing courts with certain powers, including the power to order an offender not to communicate directly or indirectly with identified persons while serving a term of imprisonment and to enforce a penalty for breach of such an order; to delay sentencing proceedings so that an offender can participate in a provincially approved treatment program; and to order that a driving prohibition order be served consecutively to an existing prohibition order. Another amendment will set the maximum fine that can be imposed for a summary conviction offence at $5,000, where no other maximum fine is provided in a federal statute.

[*Translation*]

As far as that last amendment is concerned, Bill C-23, as introduced by the government in the other place, proposed a maximum fine of $10,000, which was then amended by that House's justice committee at the clause-by-clause consideration stage. Increasing the current fine of $2,000 to $5,000 instead of $10,000 is still in line with the underlying policy, which is to update this provision and provide more flexibility to Crown prosecutors when deciding whether to proceed on summary conviction if they feel that a fine is appropriate punishment. However, the amount of the fine should exceed the current amount of $2,000.

[*English*]

Finally, Bill C-23 seeks to impose certain requirements on sentencing courts to ensure that an offender receives an explanation from the court about the conditions of a prohibition order; an order imposing a fine; a conditional sentence order; and the consequences of failure to comply with any of these orders.

It may be strange, honourable senators, but it is true. That is why we must amend the Criminal Code.

These obligations will provide a mechanism to ensure that offenders receive the requisite information before they leave the courthouse. A corollary amendment will ensure that failure to give the offender the relevant information would not invalidate such an order.

[*Translation*]

In closing, I hope this very quick overview of the bill that I gave this evening shows that the purpose of this bill is not to proceed with an overhaul, but to propose amendments to maintain the proper functioning of the criminal justice system and make amendments to improve, update and clarify the law with respect to various provisions of the Criminal Code.

Honourable senators, I am of the opinion that this bill should be referred promptly to the Standing Senate Committee on Legal and Constitutional Affairs. I hope that all honourable senators will agree with me and support the bill. I would be pleased to answer any questions you might have.

On motion of Senator Tardif, debate adjourned.

[*English*]

OLYMPIC AND PARALYMPIC MARKS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)) moved second reading of Bill C-47, respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trade-marks Act.

She said: Honourable senators, I am particularly pleased to begin second reading debate of Bill C-47, the Olympic and Paralympic Marks Act. This is an important piece of legislation, as it will establish a solid and legal foundation for making the 2010 Winter Games in Vancouver the most successful ever.

Before turning to the bill itself, I would like to speak briefly about the 2010 Winter Games themselves, and what it means to our nation and to all Canadians to be accorded the privilege of hosting these prestigious events.

The 2010 Olympic and Paralympic Winter Games in Vancouver will be an opportunity for Canada to highlight to the world the excellence of our athletes, the vitality and diversity of our culture and our sense of hospitality. Canada's new government is proud to be a major partner of the games. Our commitment is clear. We have invested over $552 million in the games. This financial support contributes to event and venue construction, and to essential services such as security and health care.

With just over 900 days to go before the opening ceremonies, we are already seeing enthusiasm build across the country. Canada's Cultural Olympiad has officially begun. The Olympic and Paralympic flags have arrived in Canada, venue construction is well under way, and construction is scheduled to begin this summer on the Olympic and Paralympic villages.

Honourable senators, these preparations give us a chance to promote health and fitness at home and to demonstrate Canada's diversity and excellence to the world. Most importantly, they allow us to build a legacy that benefits Canadian business, communities and citizens in every part of the country — a legacy that will live long after the games have ended.

I would like to speak briefly about some of these lasting legacies. The 2010 Winter Games will generate enormous economic benefits, including a substantial investment in

facilities and infrastructure, employment opportunities and a dramatic increase in international visitors before, during and after the games — a huge boost to the tourism industry nationwide.

• (2120)

Hosting the games will generate important social benefits as well, including providing opportunities to gain valuable training and work experience, the promotion of volunteerism and social enterprises and an increased emphasis on fitness, especially among our youth.

Canada is recognized as a world leader in promoting the Paralympic movement and the 2010 Winter Games will further enhance that reputation. I know Senator Fairbairn is very involved in this.

Once the games have ended, they will offer important benefits for Canadians with disabilities, including access to world class venues in Vancouver and Whistler. The 2010 Winter Games offer Canada an unparalleled opportunity to demonstrate on the world stage our leadership role in environmental sustainability. We will be able to showcase "made in Canada" sustainable technologies and best practices, ranging from innovative green facilities to alternative energy technologies. These, too, will benefit all Canadians long after the Olympic flame has been extinguished.

I would now like to speak about our athletes. Canada's government is proud to support our Olympic and Paralympic athletes as they prepare to take on the world in 2010. Many of our athletes dream of the once-in-a-lifetime chance to turn their years of discipline, hard work and perseverance into success at home before Canadian fans.

To help this come about, a number of partners, including the federal government, have joined together to create the Own the Podium program. This initiative provides funding to Canadian athletes, coaches and support personnel to assist them in achieving podium success in 2010.

With this as a backdrop, I would like to remind honourable senators why Bill C-47 is important. Bill C-47 came about for two main reasons. First, it follows through on a commitment to the International Olympic Committee during the bid process phase of the 2010 Winter Games to adequately protect the Olympic and Paralympic brand if the games were awarded to Vancouver. Second, it will enable a Vancouver organizing committee for the 2010 Olympics and Paralympic Winter Games — VANOC for short — to maximize the private sector participation necessary to make the games a financial success.

Many companies are actively seeking opportunities to support the games as official partners and licensees. They are doing so out of a sense of pride. They are also doing so for sound business reasons. Bill C-47 makes it clear that these companies can sign on as official partners of the 2010 Winter Games and enjoy the benefits of that partnership. They can obtain licences to use Olympic signals and marks and enjoy the benefits of those licences.

Bill C-47 also responds to some gaps in current Canadian law. Although the current Trade-marks Act offers some protection to Olympic organizers with respect to Olympic signals, logos and words, the government is concerned that the act may not fully address the legitimate needs of Olympic organizers in responding to threats to their intellectual property rights.

The government is likewise concerned that the current legal framework does not provide sufficient protection against so-called "ambush marketing," an increasingly common phenomenon in which non-partner companies find ways to falsely associate their businesses with the games in the public's mind. The government is of the view that protecting Olympic and Paralympic marks is of sufficient importance to merit a stand-alone piece of legislation.

I will now speak to the essence of Bill C-47. The first thing Bill C-47 does is identify precisely what Olympic and Paralympic words, symbols and marks it serves to protect. These can be found in schedules 1 and 2 of the bill.

The next thing it does is identify VANOC, the Canadian Olympic Committee and the Canadian Paralympic Committee as the entities authorized to exercise the rights and remedies associated with these marks, or to licence those rights to their various corporate partners where appropriate. Bill C-47 then sets out two main types of conduct that would be prohibited.

The first prohibition applies to the use of an Olympic or Paralympic mark, or a mark that is likely to be mistaken for one, in connection with a business without the consent of VANOC until the end of 2010. After that, consent would have to be given by the Canadian Olympic or Paralympic committees.

The second prohibition applies to the so-called ambush marketing behaviour I mentioned earlier. It prohibits non-partner companies from behaving in a manner that is likely to mislead the public into believing that they or their products or services are endorsed by or otherwise commercially associated with the games, VANOC or the Canadian Olympic or Paralympic committees.

The bill sets out the various remedies available in the event these two prohibitions are not respected. For the most part, these are the same remedies available to rights holders under the Trade-marks Act, with one noteworthy exception, as I am about to explain.

Trademark litigation is often lengthy, and it can be very difficult to convince a court to put a stop to allegedly infringing activity pending the outcome of a trial. Given the short duration of the games and the tremendous potential for economic harm during that period, it is important that speedy interim remedies be available to immediately stop this type of misconduct. Bill C-47 thus provides that a rights holder, namely VANOC and the Canadian Olympic Committee and Canadian Paralympic Committee or a corporate partner, may apply to the court for an injunction against an alleged infringer or ambush marketer pending trial without having to prove it will suffer irreparable harm if the impugned activities continue.

Having to prove irreparable harm is the single greatest obstacle in convincing a court to grant this type of remedy in ordinary trademark cases. However, this is a time-limited exception that will expire at the end of 2010. Under Bill C-47, when a person or company seeks to profit improperly from the 2010 Winter Games, the legal framework will be in place for VANOC to protect its rights, and the rights of its partners and licensees, quickly and effectively.

As I have explained, Bill C-47 gives the designated Olympic organizers the authority to protect the Olympic brand from unauthorized and illegitimate use; but we have taken steps to ensure that the legislation is neither too broad nor oppressive.

Most importantly, it should be understood that Bill C-47 only applies in a commercial context. For example, the use of a protected Olympic or Paralympic mark is only prohibited when it is used in connection with a business. This phrase was taken from the Trade-marks Act and has been interpreted rather strictly by the courts. In order for the use of the mark to qualify as an infringement under the act, its primary purpose must be commercially driven. The use of a mark as a tool to promote goods and services in the marketplace would be the obvious example.

This distinction is key because some news coverage of Bill C-47 suggests that it could apply outside a commercial context to stifle artists' work or prevent individuals from parodying the games. That is not the government's intent, as evidenced by the "in connection with business" proviso and the inclusion of a "for greater certainty" provision, which confirms that the use of an Olympic or Paralympic mark in a news report, or for the purpose of criticism or parody, does not constitute infringement under this bill.

Should someone want to create a piece of art for non-commercial purposes, criticize the Olympic games in a sketch, publish an editorial cartoon or critique the games on a website or in a newspaper article, they can refer to an Olympic mark or include a representation of an Olympic logo as they see fit.

In addition, the bill contains a grandfathering provision that prevents it from applying to anyone who began using a protected Olympic or Paralympic mark before March 2, 2007, the date of the bill's introduction into the House of Commons. As a result, persons or companies that were already using an Olympic or Paralympic mark in connection with a business will continue to be able to do so without fear of facing legal proceedings under this bill, provided that the use in question relates to the same product or services or the same class of product or services as before.

• (2130)

Similarly, Bill C-47 contains a number of safeguards to protect the legitimate use of an Olympic or Paralympic mark in a business context. For example, a person may use such a mark in an address, in a geographical name of the place of business or to the extent necessary to explain a good or service to the public.

As well, honourable senators, the bill allows athletes to use certain protective words such "Olympian" or "Paralympian" for self promotion.

It is also important to remember that Bill C-47 has a time limit aspect. The special enforcement measures it confers will lapse on December 31, 2010, once the year of the games is over.

Finally, it is important to note that VANOC has committed to use its intellectual property rights under the bill in a disciplined, sensitive, fair and transparent manner. It will develop guidelines that describe the criteria and actions it will take to determine what types of activities it considers problematic under the bill.

I conclude my remarks today with a brief comment on the international context of Bill C-47. Much of the discussion on the 2010 Winter Games has been focused on Canada and what will happen here. This is not surprising given the tremendous economic and social benefits that all Canadians stand to derive from this event. However, the Olympics and Paralympics are among the most international of events. There is much we can draw from the experience of other host countries. Issues that Canada and the organizers of the games in Vancouver are addressing are ones where we can learn from the experience of others. That is the case when it comes to the protection of the Olympic and Paralympic marks and symbols.

In my remaining time, I shall comment on actions other countries have taken or are taking to achieve the same goals our government is seeking to achieve through Bill C-47.

Before I look to other countries, I can start here at home with the protection that Parliament provided for the symbols associated with the 1976 Olympics in Montreal. In July 1973, the 1976 Montreal Summer Olympic Games Act came into force and it included provisions for Olympic-related fund raising. In particular, it gave the federal government the power to raise funds through the issuance of Olympic coins and the holding of special lotteries.

In 1975, Parliament amended the act to include provisions that protected Olympic symbols. As committee testimony from that time makes clear, this change was designed to enable the Olympic Games organizing committee to raise funds through corporate partnership and licensing agreements. The amended 1976 Montreal Summer Olympic Games Act was broadly similar to Bill C-47 in many ways. It explicitly identified the relevant marks and gave exclusive rights of those marks to the organizing committee. The legislation set out prohibited uses of those marks and, similar to Bill C-47, contained a sunset clause, which automatically extinguished the special protection provided by the act at the end of the Olympic year 1976.

The similarities between the Montreal legislation and Bill C-47 extend to remedy provisions as well; for example, lowering the legal test for obtaining an injunction against a suspected contravention. Then, as now, we recognize the time-limited nature of the games and the corresponding importance of quickly putting a stop to behaviour that undermines their financial viability.

It is clear that Canada's Parliament has dealt with these issues before and Parliament responded with legislation fundamentally similar to Bill C-47. What began in support of the 1976 Montreal Olympics has since become standard practice worldwide for countries hosting Olympic and Paralympic Games.

Let me offer a list of countries that have passed special intellectual property legislation in connection with specific games and marks: Australia, for the 2000 Summer Games in Sydney; Greece, for the 2004 Summer Games in Athens; Italy, for 2006 Winter Games in Turin; China, for the 2008 Summer Games in Beijing; and the United Kingdom, for the 2012 Summer Games in London.

It is not just the Olympic and Paralympic Games that are the object of the special intellectual property protection. This has also become the norm for many international sporting events. Countries hosting the Rugby World Cup, the Cricket World Cup and other major events have passed the kind of legislation that is before us at this moment. Those countries have acted to ensure that event organizers can provide reliable protection to their partners and licensees. These laws vary, of course. They reflect the different legal regimes and particular circumstances in each country.

However, I think it will be helpful if I comment on a few examples. Let me begin with Australia, a country with a very similar constitutional and legal system to our own. The Australian Parliament initially provided protection for Olympic marks under its Olympic Insignia Protection Act in 1987, and they updated that act in 2001. Under Australian law, the Australian Olympic Committee has the exclusive right to use the many well-known Olympic terms and symbols.

In 1996, the Australian Parliament built on the existing legislation when it passed the Sydney 2000 Games (Indicia and Images) Protection Act. That legislation protected a number of terms specific to the 2000 Games and included special expedited remedies for contraventions just as Bill C-47 does.

The Australian legislation also dealt with ambush marketing, as does Bill C-47. An example of that might be a television advertising campaign that does not use a prohibited Olympic or Paralympic mark but nevertheless cleverly creates a link in the public's mind between the advertiser's logo and that of the games. Not only was this phenomenon addressed in the legislation for the Sydney Games, but it is also now part of permanent legislation in Australia providing protection for Olympic symbols.

I will now look at an example of our neighbours to the south, the United States. The Ted Stevens Olympic and Amateur Sports Act has been in force since 1950 and was amended in 1988. It updates previous legislation that provided a legal framework for the United States Olympic Committee known as the USOC and other national sports groups. A key element in that law is that it gives the USOC the exclusive rights to Olympic marks in addition to protections that are provided under other legislation. The USOC has the exclusive right to use the various well-known symbols and terms associated with the Olympics and Paralympics. As is the case in Bill C-47 and in the Australian legislation, American law also includes prohibitions against ambush marketing.

Finally, let me use the example of the United Kingdom where Olympic marks are protected under the Olympic Symbol Protection Act. As in the other countries, the legislation provides for exclusive rights in relation to the use of Olympic and Paralympic terms and symbols.

Under the London Olympic Games and Paralympic Games Act 2006, the British Parliament has provided the organizes of the 2012 Summer Games in London with many similar protections to those we are proposing for the Vancouver-Whistler Games, including a sunset clause at the end of the Olympic year.

Bill C-47 is fully in keeping with Canadian precedent and international practice. It is a reasonable approach to the legitimate needs of the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games.

Knowing how much Canadians will benefit from the 2010 Winter Games in terms of economic gain and enduring facilities, knowing that thousands of athletes and volunteers are eager to take part and knowing the world will be watching us, I urge honourable senators to support Bill C-47.

Hon. Tommy Banks: This is obviously a matter which has no partisan political interest, but I have two questions which perhaps the honourable senator can inform on later if not today. She referred to the sunset provision of this act, but it does not all quite expire on December 31, 2010.

• (2140)

If one looks at the coming-into-force clause, the second part says that clause 13, which is the sunset provision, comes into effect on December 31, 2010. That repeals schedules 2 and 3 of this bill, but not schedule 1, which will remain in force. Schedule 1 sets out not the logos or phrases that are particularly applicable to the Vancouver Games, but the general Olympic words, in other words, the word marks and not the logo marks.

Am I correct that this proposed legislation will, in perpetuity, protect those words from their commercial use, as the honourable senator described?

The second part of my question is whether this will further enable actions. There is now an action in place in the state of Washington either by VANOC, the Canadian Olympic Committee or the International Olympic Committee — I am not sure which — requiring that a fairly long-standing business there stop using the word "Olympic."

In northern Washington, there is the Olympic Peninsula and the Olympic Mountains. It is understandable that many businesses in that part of the world have the word "Olympic" in either their actual name or in word marks that they have been using for a long time. Notwithstanding the prior use, that action is now in place. Will this bill, when it comes into force, have any effect on that?

Senator LeBreton: I thank the honourable senator for the question. In answer to the first question, that is my understanding. I will seek clarification on that and I will provide the answer either before the bill is referred to committee or right away.

With regard to the situation in the state of Washington, we ran into a similar situation in Calgary during the Winter Olympics. There was a restaurant called "Olympic Pizza." In my remarks, I mentioned organizations that had a similar name. We would not want another situation developing like Olympic Pizza in Calgary. This bill would not in any way interfere with an existing company that had a similar name but which was obviously not in competition and which could not in any way be construed as being in conflict with the actual Olympic Games.

Hon. Joyce Fairbairn: Just a comment, if I may. First, I want to thank Senator LeBreton for repeatedly including the Paralympians in her speech tonight. In the past, all too often, Paralympians have been left on the sidelines, yet they bring home

tremendous honours to our country, and they will again. They are already hard at it. I am delighted to see the enthusiasm of the government to be as inclusive as the leader clearly indicated tonight.

Senator LeBreton: I thank the honourable senator. Clearly, we think of the Olympics and the Paralympics as parallel events; it is not the Olympics and then, "Oh, by the way, the Paralympics." They are both important events for Canada standing on their own right, as the situation should be.

On motion of Senator Tardif, debate adjourned.

QUARANTINE ACT

BILL TO AMEND—SECOND READING

Hon. Wilbert J. Keon moved second reading of Bill C-42, to amend the Quarantine Act.

He said: Honourable senators, Bill C-42 completes the necessary legislation that allows the Public Health Agency of Canada to fundamentally do its job in the prevention of pandemics.

Senator Segal: Lock them up.

Senator Keon: I do appreciate the contributions from my straight man, Honourable Senator Segal, but sometimes it is difficult to concentrate.

Senator Segal: Make sure there are no trans fats.

Senator Keon: The combination of emerging and re-emerging infectious disease and the sharp increase in air travel since the 1980s have brought with them the risk that communicable disease in one part of the world can be easily transmitted to another part of the world.

I had the privilege of attending a World Health Agency meeting last week, as did Senator Pépin. Many of the authorities in the World Health Agency think this issue remains by far the greatest threat to humankind. In equatorial Africa and in South America we have by far the greatest pool of infectious disease ever known to humankind. A mutation of one micro-organism, coupled with the capability of transmissions through air travel, sea travel, et cetera, could wipe out tens of millions of the world's population in any location.

To address these risks, the new Quarantine Act is now in force. With the exception of section 34, which incorporates lessons learned from the SARS crisis in Toronto, the new act replaces the previous Quarantine Act, which has remained relatively unchanged for more than 100 years.

Modern tools in the new act enable screening and quarantine, and allow for environmental health officers to better assess public health risks and to implement comprehensive measures to protect the public's health. New authorities include the ability to convert conveyances to an alternate landing site should it be necessary to isolate travellers and to conduct health assessments, to establish quarantine facilities anywhere in Canada, and to make an order prohibiting the entry of travellers arriving from a country outside of Canada where there has been an outbreak of a communicable disease.

These new tools became available with the coming into force of the new Quarantine Act. Specifically, the new authorities support an effective response to any potential influenza pandemic. Section 34 of the act is not in force, given the need for a minor technical amendment to the current order.

The bill will replace section 34 of the Quarantine Act with new wording. Section 34 obligates conveyance operators — that is, bus and truck drivers, pilots, and shipmasters — to report the need to take precautions in advance, before arriving in Canada, in the event of a public health issue arising on board.

The bill amends section 34 to require operators to notify the quarantine officer before the conveyance arrives at its destination in Canada rather than report to a designated authority situated at the nearest entry port, as specified in the current wording.

This was a serious defect in the previous legislation, because bus drivers, in particular, were sometimes not sure where the quarantine point was in coming into the country and did not know how to handle the situation.

• (2150)

The bill will ensure that Canada is in compliance with the global reporting obligations adopted under the newly revised international health regulations, to which Canada is a signatory.

The government will have access to the full range of authorities needed to protect Canadians from the onset and spread of communicable diseases. There is no risk to Canadians as a result of this proposed amendment.

With the exception of section 34, a modern Quarantine Act is now in force, giving federal officials access to the new and strengthened authorities to protect Canadians from contemporary risks to public health. The new Quarantine Act replaced existing quarantine legislation that had been in place protecting Canadians relatively unchanged for over 100 years. The new act maintains and enhances the federal government's authority to screen and assess, et cetera. In addition, new authorities provided to government the modern tools and the flexibility to address communicable disease outbreaks in an age where the effects are so potentially devastating. The Governor-in-Council has enacted a regulation that will maintain the status quo for conveyance operators in terms of advance public health reporting. This ensures that current advance notification obligations continue to apply, given that proposed new section 34 is not yet in force. The bill would come into force on Royal Assent, at which time proposed new section 34 of the Quarantine Act will come into force.

When Bill C-42 receives Royal Assent, we will have the full legislation necessary for the public health authorities, the RCMP and all the port and airport authorities and so forth in Canada to allow the social safety net to function and protect Canadians against a pandemic.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Lucie Pépin: Honourable senators, as Senator Keon said, Bill C-42 is not a controversial bill. We just need to clarify a few points. It can then be studied and easily improved if necessary. I therefore propose that this bill be referred to a committee for study.

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 Keon, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

[*English*]

KYOTO PROTOCOL IMPLEMENTATION BILL

THIRD READING—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Trenholme Counsell, for the third reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Angus, that Bill C-288 be not now read a third time but that it be amended:

(*a*) in clause 3, on page 3, by replacing line 19 with the following:

"Canada makes all reasonable efforts to take effective and timely action to meet";

(*b*) in clause 5,

(i) on page 4,

(A) by replacing line 2 with the following:

"to ensure that Canada makes all reasonable efforts to meet its obligations",

(B) by replacing line 6 with the following:

"ance standards for vehicle emissions that meet or exceed international best practices for any prescribed class of motor vehicle for any year,", and

(C) by adding after line 13 the following:

"(iii.2) the recognition of early action to reduce greenhouse gas emissions, and",

(ii) on page 5,

(A) by replacing line 9 with the following:

"(*a*) within 10 days after the expiry of each",

(B) by replacing line 23 with the following:

"first 15 days on which that House is sitting", and

(C) by replacing lines 26 and 27 with the following:

"each House of Parliament is deemed to be referred to the standing committee of the Senate and the House of Commons that";

(*c*) in clause 6, on page 6, by adding after line 29 the following:

"(3) For the purposes of this Act, the Governor-in-Council may make regulations restricting emissions by "large industrial emitters", persons that the Governor-in-Council considers are particularly responsible for a large portion of Canada's greenhouse gas emissions, namely,

(*a*) persons that are part of the electricity generation sector, including persons that use fossil fuels to produce electricity;

(*b*) persons that are part of the upstream oil and gas sector, including persons that produce and transport fossil fuels but excluding petroleum refiners and distributors of natural gas to end users; and

(*c*) persons that are part of energy-intensive industries, including persons that use energy derived from fossil fuels, petroleum refiners and distributors of natural gas to end users.";

(*d*) in clause 7,

(i) on page 6,

(A) by replacing line 32 with the following:

"that Canada makes all reasonable attempts to meet its obligations under", and

(B) by replacing line 38 with the following:

"ensure that Canada makes all reasonable attempts to meet its obligations", and

(ii) on page 7, by replacing line 4 with the following:

"(3) In ensuring that Canada makes all reasonable attempts to meet its";

(*e*) in clause 9,

(i) on page 7, by replacing line 33 with the following:

"ensure that Canada makes all reasonable attempts to meet its obligations", and

(ii) on page 8,

(A) by replacing line 3 with the following:

"Minister considers appropriate within 30 days", and

(B) by replacing line 7 with the following:

"(1) or on any of the first fifteen days on which";

(*f*) in clause 10,

(i) on page 8,

(A) by replacing line 9 with the following:

"**10.** (1) Within 180 days after the Minister",

(B) by replacing line 11 with the following:

"tion 5(3), or within 90 days after the Minister", and

(C) by replacing line 38 with the following:

"(*a*) within 15 days after receiving the", and

(ii) on page 9,

(A) by replacing line 6 with the following:

"Houses on any of the first 15 days on", and

(B) by replacing line 9 with the following

"(*b*) within 30 days after receiving the advice,";

(*g*) in clause 10.1, on page 9,

(i) by replacing line 17 with the following:

"and Sustainable Development may prepare a",

(ii) by replacing line 32 with the following:

"report to the Speakers of the Senate and the House of Commons", and

(iii) by replacing lines 34 and 35 with the following:

"Speakers shall table the report in their respective Houses on any of the first 15 days on which that House".

Hon. Consiglio Di Nino: I rise to participate in the debate on the proposed amendment to Bill C-288.

Honourable senators, several questions still remain with this bill. Questions about economic impacts, questions with respect to provincial concerns and questions about the impossible timelines have not been adequately addressed by this bill's proponents.

Instead, opposition members have glossed over serious scrutiny of the public policy consequences of this bill, to the detriment of the important cause of greenhouse gas mitigation.

Honourable senators, all evidence and recent developments considered, the fact remains that Bill C-288 is a desperate political manoeuvre, a last-gasp attempt to misuse and abuse the lawmaking process to hamstring the Government of Canada by foisting upon it a clumsy, unworkable and unattainable process, thereby giving a false impression that Canada can and will actually achieve the Kyoto targets.

As the recent proceedings at the G8 summit in Germany illustrate, the major industrialized countries of the world are moving rapidly to prepare for a post-Kyoto reality with respect to global greenhouse gas mitigation.

On this front, preparing for the post-Kyoto reality, the Government of Canada has taken a leadership role. First, upon taking office, Canada's new government did something that the opposition has failed to do: We recognized that Canada's Kyoto targets are unattainable within the short time left for the start of the 2008-12 period.

I would remind honourable senators that the Kyoto target is not 2012, as some environmentalists and writers now argue. The goal is to reach the target in just six months from now, on January 1, 2008.

Senator Oliver: Impossible.

Senator Di Nino: Thank you; I agree with you. The goal is to maintain that level of emission for the following four years. That goal for Canada is a 33 per cent reduction in emissions, which is to say, 6 per cent below the 1990 emission levels, beginning in just six months time.

If we miss that goal, as we surely will, greater reductions are required in subsequent years to compensate. Each year that we miss the target means that ever-larger reductions are required. The government recognizes, even if the proponents of this bill do not, that the Kyoto target is now out of reach unless Canada and Canadians are prepared to endure severe economic consequences, the likes of which we have not seen since the disastrous Liberal National Energy Program.

Some Hon. Senators: Oh, oh!

Senator Oliver: I remember that.

Senator Tkachuk: We remember it full well.

Senator Di Nino: In concluding that the Kyoto targets are no longer realistically achievable for Canada, the government has received some surprising support from certain quarters.

I will tell honourable senators who supported this.

For instance, since the time this bill was first introduced in the other place, Liberal leader Stéphane Dion has himself acknowledged that Canada would not meet its Kyoto targets.

Some Hon. Senators: Hear, hear!

Senator Di Nino: They did not get it done. Unfortunately, sponsors and supporters of this bill in this place have yet to effectively address this point made by their own leader.

Another Liberal of influence, Eddie Goldenberg, has also made statements supporting the same conclusions reached by Stéphane Dion.

• (2200)

Again, one would think that upon reviewing the interventions made by the supporters and sponsors of this bill, there would be some kind of coherent response to the points made by Eddie Goldenberg and the current Leader of the Liberal Party, but none has been forthcoming. Instead, we have witnessed an attempt by the opposition to revisit the past with respect to Kyoto, even as the rest of the world moves forward.

Why are they doing this with Bill C-288? Perhaps the proponents are trying to make the Canadian public forget about the pathetic record of the federal Liberals on climate change.

Senator Oliver: That is exactly what it is.

Senator Di Nino: After all, theirs was a performance that saw Canada's greenhouse gas emissions rise during their tenure in office until it was 33 per cent above the Kyoto target.

Senator Oliver: Shame.

Senator Di Nino: Emissions rose 33 per cent. That is a target that they accepted. As well, honourable senators, why has the opposition proceeded with Bill C-288 when they know full well the serious economic impacts associated with attempting to reach those targets they signed onto.

Senator Mitchell: Senator "Chicken Little."

Senator Di Nino: I would not point fingers. When you point your finger, three point back at you, my friend.

Senator Mitchell: Nothing but disaster.

Senator Di Nino: Listen and you may learn something.

Senator Cowan: I do not think so.

Senator Di Nino: Government projections show that attempting to meet the Kyoto targets would result in 275,000 lost jobs and a 4.2 per cent decline in GDP. Is that what you want?

An Hon. Senator: No.

Senator Di Nino: Does the opposition not care about such a potential cost?

An Hon. Senator: No.

Senator Di Nino: Do they not care about the tens of thousands of lost jobs?

Some Hon. Senators: No.

Senator Di Nino: Do they not care about the lives and livelihoods of Canadians that would be impacted by this bill?

Senator Segal: No.

Some Hon. Senators: No.

Senator Di Nino: Shame on them. They have also ignored projections that show electricity bills will jump 50 per cent after 2010, that the cost of filling up a car will jump 60 per cent, and that the cost of heating a home with natural gas will double. Tell that to your senior citizen constituents.

Senator Cordy: Gas has already gone up 60 per cent.

Senator Di Nino: Maybe you can afford it but most of the constituents in this country cannot.

Instead, in their advocacy of Bill C-288, the opposition is being dismissive of these economic cost projections provided to the committee, should Canada attempt to adhere to the Kyoto targets.

Senator Tkachuk: Irresponsible.

Senator Di Nino: Of course, these same Liberals were dismissive of the claims that the Firearms Registry would cost no more than half a billion dollars, a claim that proved to be an understatement, to say the least.

Senator Fox: You are being partisan.

Senator Di Nino: It is certainly the right of opposition members to urge that Canada attempt to reach the targets. It is their right to complain if we do not make the attempt and if we do not succeed. To attempt to compel the government through this bill to severely damage the economy, to compel the government to throw Canadians out of work, to compel the government to drive businesses out of the country or into bankruptcy, all to achieve in six months what the Liberal government did not and could not do in 10 years is absolutely irresponsible.

Senator Milne: What is your amendment?

Senator Di Nino: You can wait for that. I will tell you.

This bill is not about advancing sound and responsible public policy. This bill is about politics in the worst sense of the word. What is happening is simply an abuse of power and an abuse of process, and it is utterly irresponsible.

Honourable senators, both the political and public policy landscape with respect to Canada's efforts to address climate change is shifting. The page is being turned on this matter. As the discussion evolves, left behind will be the stale debate that the Liberals and yesterday's environmentalists are still trying to promote with respect to the 2008-2012 Kyoto targets.

Left behind will be the sorry record of the Liberals on climate change. Left behind will be the political gamesmanship that the Liberals have been playing. The focus will be on Canada's new plan to reduce greenhouse gas emissions by 60 per cent to

70 per cent over 2006 levels as set out in *Turning the Corner: An Action Plan to Reduce Greenhouse Gases and Air Pollution*, and the recent agreement by the G8 countries to participate in the process to follow the Kyoto Protocol.

Senator Segal: Responsible! Practical!

Senator Di Nino: Already the government is receiving support for its actions. For example, an editorial that recently appeared in the *Winnipeg Free Press* on June 6 stated the following about the new government's climate change policy:

> Canada's strategy in the war on climate change is different from Europe's, and anathema to the eco-extremists back home, but it is a useful and workable policy that might, if it were adopted by other nations, help to control global warming more effectively than Kyoto dreaming ever will. Mr. Harper touts it as a model and it could be that, particularly for nations that do not have the benefit of being able to meet Kyoto's requirements by happy circumstance, as the Europeans did. Germany and Russia met them by shutting down antiquated, highly polluting industries that were no longer profitable after the Cold War. Britain met it after Margaret Thatcher forced the nation to switch from coal to oil and natural gas as fuels for homes and industries. France did it by riding on the European Union's "all-for-one" emission quota.

The editorial goes on to say:

> Canada could easily meet Kyoto's requirements by shutting down Ontario or Alberta, but no serious politician has yet suggested that — even Mr. Dion has only flirted with the idea of closing Alberta.

Other voices have also endorsed the approach and leadership provided by Canada's New Government. Commenting on Canada's efforts at the G8 Summit, John Kirton, Director of the G8 Research Group at the University of Toronto, stated that Prime Minister Harper "succeeded" in demonstrating that this country's ''made-in-Canada climate-change plan was internationally respectable . . . .

Finally, honourable senators, Hans Verolme, Director of the World Wildlife Fund's Global Climate Change Programme, said with respect to developments at the G8 meeting:

> . . . the support by the EU, Japan and Canada to cut carbon pollution by 50 per cent by 2050 means we are a step closer to taking real action on the world's climate.

These are some sensible and credible endorsements.

MOTION IN SUBAMENDMENT

Hon. Consiglio Di Nino: Honourable senators, obviously I have given you something to think about. We can improve the bill by an amendment that I will propose. Accordingly, I move:

> That the motion in amendment be amended by replacing paragraph (*g*) with the following:
>
> (*g*) in clause 10.1, on page 9, by replacing line 17 with the following:
>
> "and Sustainable Development may prepare a "

I urge all honourable senators to support this amendment.

Senator Milne: It is okay if you forget to sign it.

Senator Corbin: Whoever wrote that speech, it is time for amendment.

The Hon. the Speaker: Honourable senators, the subamendment was moved by the Honourable Senator Di Nino, seconded by the Honourable Senator Oliver, that the motion in amendment be amended by replacing paragraph (*g*) with the following:

Hon. Senators: Dispense.

The Hon. the Speaker: Debate?

• (2210)

Hon. Jerahmiel S. Grafstein: Will the honourable senator allow just one question?

Senator Di Nino: I think the Speaker put the amendment.

The Hon. the Speaker: I am afraid he has no time. We are in debate on the subamendment. Are honourable senators ready for the question on the subamendment?

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Di Nino, seconded by the Honourable Senator Oliver — shall I dispense?

Hon. Senators: Dispense.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: All those in the favour of the motion will signify by saying "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will signify by saying "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I think the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Is there advice from the whips?

Hon. Terry Stratton: According to rules 67(1), (2) and (3), we would defer the vote until tomorrow at 5:30.

The Hon. the Speaker: The vote will be held tomorrow at 5:30, with a 15-minute bell.

NATIONAL CAPITAL ACT

BILL TO AMEND—REPORT OF COMMITTEE—
DEBATE ADJOURNED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (Bill S-210, to amend the National Capital Act (establishment and protection of Gatineau Park), with amendments and observations), presented in the Senate on June 7, 2007.—(*Honourable Senator Banks*)

Hon. Tommy Banks, moved adoption of the report.

He said: According to rule 99, I wish to explain to honourable senators the subject matter and the effect of the amendments that have been proposed and to quote to honourable senators the recommendation that has also been attached to the report of the committee.

There are two amendments. The first amendment is in two parts. The first part is a clause that dedicates Gatineau Park to the people of Canada and provides that it will be used and maintained in accordance with the principle that future generations can enjoy it; the second part is a clause that provides that ecological integrity will be the National Capital Commission's first priority in considering the management of Gatineau Park.

Honourable senators, in respect of that amendment, I should like to read the response of the National Capital Commission to a letter from me asking whether they support that amendment. I shall quote in part from their response in respect of the first amendment. This is letter from Ms. Micheline Dubé, the Chief Executive Officer of the NCC in response to my question as to whether they would support such an amendment:

> Yes, we would support an amendment that gives priority to ecological integrity in the management of Gatineau Park. Pursuant to the 2005 Gatineau Park Master Plan, the NCC's primary objective in managing Gatineau Park is to preserve the health and integrity of the park for current and future generations, while allowing environmentally-respectful recreational experiences for Canadians. This proposed amendment would put in legislation what the NCC has set out as the long-term direction for Gatineau Park and would ensure this objective does not change without Parliamentary approval.

The second part of the first amendment is one that repeats that ecological integrity will be the NCC's first priority.

The second amendment was drafted by the Senate's parliamentary counsel in response to a concern that the section in Bill S-210 as it was presented to us dealing with first refusal rights is susceptible to a circular interpretation that would prevent the NCC from purchasing land within the park boundaries. This is a question that was pointed out to us by Senator McCoy. It is a technical amendment that merely clarifies the language and ensures that the intent of the drafters is respected.

The NCC said the following about it, which inspired our law clerk to write the amendment. I quote from the same letter:

> Although it was clearly not the intention of the drafters of Bill S-210, the NCC is of the view that the current text of subsections 13.2(1) and (2) supports the interpretation . . . that the owner of real property situated in Gatineau Park may only sell that property if two conditions are met: the property is first offered to the NCC and the NCC expressly declines the offer or does not accept the offer within 60 days of receiving the offer. This suggests that, on a strict reading of the text, the NCC would be unable to purchase real property in Gatineau Park within 60 days of it being offered for sale to the NCC. Ironically, after the 60-day offer period expires, a sale to the NCC would be possible, but third party purchasers would also be able to validly acquire the land and the NCC would enjoy no pre-emptive right.

Therefore, honourable senators, the second amendment corrects that and restores the intent of the drafters of the bill by replacing, on page 4, clause 5, line 3, with the following:

> Park to anyone other than the Commission unless the person has given the right of

and then continuing the rest of the section.

These two amendments presented by the committee are supported by the NCC. I have read you excerpts from their letter to demonstrate that.

In addition, there is a recommendation from the committee in respect of the bill, which is:

> The Committee recommends that, in the interests of the ecological integrity of Gatineau Park, the National Capital Commission consider limiting automobile traffic in the Park, and consider the use of alternative fuel vehicles.

Once again, honourable senators, I move the adoption of the report.

The Hon. the Speaker: It was moved by the Honourable Senator Banks, seconded by the Honourable Senator Moore, that this report be adopted. Is there further debate on the motion?

Hon. Pierre Claude Nolin: I move adjournment of the debate.

The Hon. the Speaker: I wonder whether the honourable senator would just hold that for a moment. For procedural clarity, in order for the question to be put before the house, I probably should have risen before Senator Banks exercised his responsibility pursuant to rule 99 to put the question. When you read rule 99, indeed it says that the chairman of a committee is to provide an explanation to their amendments, but I think we need to get a question before us, which is why I probably should have first put one. Is it deemed to have been put?

Hon. Senators: Agreed.

On motion of Senator Nolin, debate adjourned.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SIXTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Committee on Rules, Procedures and the Rights of Parliament, (amendments to the Rules of the Senate—reinstatement of bills from the previous session of the same Parliament), presented in the Senate on June 6, 2007. —(*Honourable Senator Keon*)

Hon. Wilbert J. Keon: I move the adoption of the report standing in my name.

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

Hon. Anne C. Cools: Is Senator Keon not going to explain?

Senator Keon: I shall explain.

Senator Cools: He can do it later. It is not a problem.

Senator Keon: I would be happy to do it now. I was intending to let it go because, as honourable senators know, there was prolonged discussion and debate on this report when Senator Di Nino was chairing the Standing Committee on Rules, Procedures and the Rights of Parliament, and I inherited the debate. We brought it to a conclusion.

The report fundamentally lays out 11 scenarios that can occur when bills are reinstated from the previous session of the same Parliament.

• (2220)

There are 11 scenarios that were discussed and reported upon in this report. I thought perhaps it was better if people read the report that was circulated.

If the honourable senator wishes, I will go through the 11 scenarios.

Senator Cools: No, I was just trying to be supportive of the Speaker as he set this process in motion. I would be happy to have the honourable senator adjourn the debate and explain another day because it is quite late. I can take the adjournment for him and he can explain another time.

Senator Keon: Maybe I can explain it now. Fundamentally what these 11 scenarios consist of, is that at the time of prorogation, if a bill was under debate at second reading —

Senator Cools: There is no reading; it is a report. Why does the honourable senator not just take the adjournment?

Senator Keon: It will take considerable time to get through this. I will be happy to adjourn the debate.

On motion of Senator Keon, debate adjourned.

STUDY ON NATIONAL SECURITY POLICY

INTERIM REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Atkins, seconded by the Honourable Senator Murray, P.C., for the adoption of the eleventh report (interim) of the Standing Senate Committee on National Security and Defence, entitled: *Canadian Security Guide Book 2007: An Update of Security Problems in Search of Solutions — Coasts*, tabled in the Senate on March 27, 2007. —(*Honourable Senator Tkachuk*)

Hon. David Tkachuk: Honourable senators, due to other duties I have not prepared the comments I wish to make on this report. Therefore, I would like to move the adjournment of the debate.

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

On motion of Senator Tkachuk, debate adjourned.

INTERIM REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Atkins, seconded by the Honourable Senator Spivak, for the adoption of the ninth report (interim) of the Standing Senate Committee on National Security and Defence, entitled: *Canadian Security Guide Book 2007: An Update of Security Problems in Search of Solutions — Seaports*, tabled in the Senate on March 21, 2007. —(*Honourable Senator Tkachuk*)

Hon. David Tkachuk: For the same reason, honourable senators, I move the adjournment of the debate.

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

On motion of Senator Tkachuk, debate adjourned.

POST-SECONDARY EDUCATION

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Tardif calling the attention of the Senate to questions concerning post-secondary education in Canada.—(*Honourable Senator Dyck*)

Hon. Lillian Eva Dyck: Honourable senators, it is my pleasure to join the debate on the inquiry of Honourable Senator Tardif calling the attention of the Senate to questions concerning post-secondary education in Canada.

As indicated previously, I will focus my remarks on Aboriginal post-secondary education in Canada with a particular focus on Saskatchewan. I will share with honourable senators a large number of statistics. it is important to share these statistics because government policy is based on statistics that have been published. The statistics I will present today are some that I compiled myself from the Statistics Canada results posted on their website.

I will talk about the different demographics between the Aboriginal and the non-Aboriginal nations in Canada and in Saskatchewan. I will talk about barriers and focus on one particular solution that was put forward by the Standing Committee on Aboriginal Affairs and Northern Development in the other House.

To briefly review the statistics in Canada from 2001, 3 per cent of the Canadian population is Aboriginal. In Saskatchewan, 14 per cent of the population is Aboriginal and that is closely matched with our neighbouring province, Manitoba, which is also about 14 per cent. We have the highest Aboriginal population in Canada.

In Saskatoon, the percentage of the population that is Aboriginal is 9 per cent. As I said, this was in 2001. In 2006 those percentages will have grown.

In Canada, the majority of Aboriginals are in the Indian population; 62 per cent were Indian, 30 per cent were Métis, 5 per cent were Inuit and 2 per cent were multiple identifications because of intermarriage issues.

It is important to note that there are vastly different patterns in the numbers, percentages and subtypes of Aboriginal peoples in the different provinces and territories in Canada. What occurs in the Prairies is very different from what occurs in Nunavut.

Compared to the rest of the Canadian population, it is true that the Aboriginal population as a whole is relatively young and growing more rapidly. That is, we have a higher birthrate in the Aboriginal population than we do in the non-Aboriginal population. It is estimated that one-quarter of the Aboriginal population is below the age of 14, which indicates the relative youth of the population. This is important to remember because in my mind this is like a brown baby boom.

Some of us belong to the baby boomers. Mainstream Canadian society is composed mainly of aging baby boomers with very few children. The Aboriginal population is relatively young with a high birthrate. With the strength of those numbers we will see a sea change in Canada; maybe more dramatically in the Prairies because of the percentages. We must address this and must put plans in place to manage the situation so that this group will be able to escape from the cycle of poverty. Education is the way to get out of that cycle of poverty.

It has been predicted that by 2017, 21 per cent of the population in Saskatchewan will be Aboriginal. It has been predicted that by 2045, 50 per cent of the population of Saskatchewan will be Aboriginal. Honourable senators will understand that with rapid growth comes the need to manage the change.

As in the rest of Canada, the majority of Aboriginal people in Saskatchewan are Indian; 64 per cent were Indian in 2001, 34 per cent were Métis and 0.2 per cent were Inuit.

In Canada in 2001, Aboriginals lagged behind non-Aboriginals at all levels of education. I deliberately looked at the age group 25 to 44 because I know it takes Aboriginal people longer to complete high school and post-secondary education at the university level. It is very important to select the right age group to look at.

Looking at that age group of 25 to 44, 35 per cent of the Aboriginal population had less than a high school completion. This sounds terrible, but it is interesting to note that 17 per cent of the non-Aboriginal population also had less than a high school completion. The mainstream non-Aboriginal Canadian society does not have a very high rate of high school completion.

• (2230)

If we look at granting bachelor's degrees in university, 5 per cent of the Canadian Aboriginal population had a bachelor's degree compared to 16 per cent for non-Aboriginals. In other words, Aboriginals were only at one third the rate for completion of a university bachelor's degree. Obviously, that is this is something that needs to be looked at and changed.

If all things were equal in Canada, that is, if Aboriginals had equal access to post-secondary education, if they had equal economic benefits, equal social benefits, 47,676 Aboriginals rather than 14,105 in the age group 25 to 44 would have had a bachelor's degree in 2001. Some 33,000 more Aboriginal people would have had a bachelor's degree, if all things were equal.

Similarly, if all things were equal, 10,547, rather than 1,490 Aboriginals would have had a master's degree. And 1,582 rather than 155 would have had an earned doctorate.

The post-graduate degrees, especially at the earned doctorate level, are important to record, because usually an earned doctorate is the minimum qualification to teach at a university. It is important to have Aboriginals represented in the teaching faculties at the universities and to do that they need a doctorate degree.

This government has taken the Mendelson report from June 2006 into consideration in the response to the Standing Committee on Aboriginal Affairs and Northern Development in the other place saying that because the high school completion rate on reserve is poor, they want to focus on high school completion rather than university education.

However, the Mendelson report looked only at the age group 20 to 24 and did not allow for delayed completion. It took a narrow window. On reserve, high school completion is poor; approximately 58 per cent have not completed their high school in Canada, and in Saskatchewan, 61 per cent have not completed their high school education.

We must put this into the context that these are on-reserve Aboriginals, which represents, in Canada as a whole, only 30-some-odd per cent of the total population, and in Saskatchewan, it represents about half the population. It is a skewed statistic. One should not use that statistic alone to base any government policy on or any decision making.

In Saskatchewan, in 2001, as in Canada, Aboriginals lagged behind non-Aboriginals in their educational level. The statistics in Saskatchewan are similar; 38 per cent of Aboriginals have not completed high school and 21 per cent of non-Aboriginals have not completed their high school.

For bachelor's-degree completion, 6 per cent of Aboriginals have a bachelor's degree and 14 per cent of non-Aboriginals have a bachelor's degree. It is about two-and-a-half times less for Aboriginals than it is for non-Aboriginals.

If all things were equal in Saskatchewan, in 2001, we would have had 4,971 Aboriginals aged 25 to 44, rather than 2,090 with a bachelor's degree; if all things were equal, 614 Aboriginals rather than 70 would have had a master's degree; and 145 rather than zero would have had an earned doctorate in 2001.

Those numbers of actual individuals would be required to close the gap between Aboriginal and non-Aboriginals in terms of higher education.

I will not read out the statistics for the gender differences, but it is important to note that there are interesting gender differences in educational accomplishments between men and women. In the Aboriginal population, whether we look at Canada or at Saskatchewan in particular, if we look at the bachelor's degrees granted; 8 per cent are granted to female Aboriginals and 4 per cent to male Aboriginals. In other words, female Aboriginals receive bachelor's degrees at twice the rate of male Aboriginals. If we look at any university, we see that in the student population and we see that in the classrooms. The women are earning the advanced degrees.

If we look at high school completion, it is the young men who are dropping out. This problem should be addressed because we cannot have that imbalance. Much as I am a feminist and I love to see women get ahead, we must have a balance. We must have the men coming up as well. We cannot have a society where only the women have the education.

If the sexes were equal in the Aboriginal population, 1,266 rather than 625 Aboriginal men aged 25 to 44 would have had a bachelor's degree in Saskatchewan in 2001. About 600 more men would have had a bachelor's degree.

Interestingly, when we look at the higher degrees of master's and doctorate, it is the men who have the doctorate degrees rather than the women; which is the same trend in the non-Aboriginal population. The women are earning the bachelor's degree but not the doctorate.

Probably many of you saw the article in *The Globe and Mail* about a week ago by Michael Valpy about Aboriginal post-secondary education. He used the title "Education is our Buffalo," which he obtained during a conversation with me. There will always be exceptions to the rule — such as me. I am almost 62 — I came through the system despite the obstacles and barriers. However, we need to put in place opportunity so not only the exceptional people get through. We want as many people to go through as possible. In the Aboriginal community, in particular, it is important to do that because there is a huge gap. To turn society around, we need a higher level of education. We know, with greater education, particularly at the university level, we have higher income levels, and we get out of the cycle of poverty, and then the social conditions also improve.

I was lucky that I went to a high school that was exceptionally good, and I want to record that my chemistry teacher, John Dyer, was a person who said to my brother and me, "You two are bright; you should go to university. You may be poor and not white but you need to go." Due to his influence, both my brother and I attended university.

What is one of the biggest barriers to university education? Finances. The Standing Committee on Aboriginal Affairs and Northern Development recommended the funding cap of 2 per cent in the Department of Indian and Northern Affairs be removed on post-secondary education. Apparently that will not happen because of the focus on high school completion; but the cost of an education is a huge impediment. If we look at the income levels in the Aboriginal population on reserve, the average income is $15,000. It is dismal. Off-reserve, they estimate the average income to be $21,000. The non-Aboriginal average income salary for a family is $31,000. There is a huge disparity in economics. To get around that, Aboriginals need the education to overcome those economics.

Removal of that 2 per cent cap would make a big difference because the estimates are that several thousands of Aboriginal students are waiting to get into university education or other technical or post-secondary education institutions, but because they cannot obtain funding from their band, they cannot go on to further education. Because they come from families that do not have the money, they cannot go. Particularly if they live on reserve where they have few resources, funding creates a tremendous barrier.

The other barriers identified from various reports, the Canadian Millennium Scholarship Foundation is putting out reports virtually every month on post-secondary education for Aboriginals. They identify cost as the biggest barrier. They surveyed Aboriginal students and cost was their biggest barrier. Academic preparation was the second barrier, because one must have adequate preparation to succeed. Finally, the atmosphere at the institution was also important. That is, do Aboriginal people feel included? Those are the barriers.

• (2240)

There is another thing to note with respect to post-secondary education.

May I have a few more minutes, Your Honour?

The Hon. the Speaker: Is it agreed?

Hon Senators: Agreed.

Senator Dyck: If honourable senators look at Aboriginals in post-secondary institutions — in universities, in particular — about half of them are over 22 years age. It is usually an older population, usually female, and about one third have children. What they do not say in this report is that most of the people who are there who have children are single mothers. Despite that, we still see more women than men getting bachelor's degrees.

Honourable senators, these women are very determined. They are living under the worst possible circumstances, raising children on their own and coming from poor families, yet they know to get ahead they must get an education. Whatever plan is devised must also take into account the barriers of raising a family. We know that the universities have been set up essentially for a younger population, usually students who are single and students who do not have children. Accommodation needs to be made for that. The biggest thing to overcome is the financial barrier. To do that, removal of the cap on post-secondary programming through Indian and Northern Affairs Canada would make a huge impact.

To conclude, I would like to share something that came from the minutes of the Aboriginal Peoples Committee. We had a witness from Saskatchewan by the name of Mr. Slavik who made the case that education is also necessary in terms of First Nations being able to self-govern themselves. He said:

> That is roughly 320 chiefs-in-council we work with. Less than 5 per cent of those have finished high school. Less than 2 per cent have university education. We are asking people who do not have the same educational or experiential skill set to manage increasingly complex administrative, jurisdictional and fiscal arrangements.

Education is also key for First Nations to be able to take over and manage their own self-government. If we go back to the famous Kelowna accord, in the area of post-secondary education, at the Kelowna summit, the document, "First Ministers and National Aboriginal Leaders: Strengthening Relationships and Closing the Gap," which may also be known as the Kelowna accord, the former Government of Canada committed to closing the gap by 50 per cent in 10 years, meaning an increase of 14,800 post-secondary graduates over the next five years and 37,000 more in the next 10 years. To reach that goal, the previous government committed a $500 million investment over five years, including bursaries, scholarships and apprenticeships. The previous government committed to working with Aboriginal organizations in provinces and territories to determine how best to target the funding over a five- to 10-year period. That is the kind of gap we are looking at: Huge numbers that need to go to post-secondary education.

To conclude, access to education and getting an education is a treaty right. The treaties that our Elders — and that would be people like my great-grandfather — signed were treaties with the British Crown thinking ahead seven generations, not just at the current time. Everything is planned for seven generations. I am only the third generation. We have a long way to go. We still have at least four more generations to consider. I also have to plan ahead for the next seven generations. Education is a treaty right and that treaty right has not yet been realized. We need to continue to remember that and to continue to make change to realize that that particular right.

I will conclude with that same statement that our Elders made and that is quoted by Michael Valpy from *The Globe and Mail*: "Education is our Buffalo." The buffalo have disappeared. The buffalo was so important to our culture, the economic, social and spiritual well-being of our people. Education has now taken over a good part of that role. In French it states: "L'éducation est notre bison" and in Cree, we say: "Paskwâw mostoswa kâkisk in waha mâ kêhk."

Hon. Senators: Hear, hear!

On motion of Senator Hubley, debate adjourned.

KYOTO PROTOCOL

GOVERNMENT POSITION—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Mitchell calling the attention of the Senate to the stated intention of the Canadian government to weaken the Kyoto Protocol, and to dismantle 15 climate change programs, including the One-Tonne Challenge and the EnerGuide program.—(*Honourable Senator Banks*)

Hon. Tommy Banks: Honourable senators, I move the adjournment of the debate for the remainder of my time.

On motion of Senator Banks, debate adjourned.

BUDGET 2007

HEALTH AND SOCIAL TRANSFERS—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Moore calling the attention of the Senate to the matters of the Canada Social Transfer and the Canada Health Transfer contained in the Harper budget tabled on 19 March 2007.—(*Honourable Senator Fraser*)

Hon. Catherine S. Callbeck: Honourable senators, although this inquiry stands in the name of Senator Fraser, she has agreed that I speak tonight.

I want to rise to take part in the debate on the Conservative government's recent change to a per capita allocation of the cash portion of the Canada Social Transfer. I want to thank Senator Moore for beginning this debate and calling attention to this important issue which has largely been overlooked in the post-budget discussions. The Conservative government's Budget 2007 outlined the change in the way the cash portion of the Canada Social Transfer is distributed to the provinces. This new plan, which comes into effect in the 2007-08 fiscal year, will see $289 per person transferred to each of the provinces.

This change to a per capita allocation of the cash portion of the social transfer may sound as if it is fair and equitable, but nothing could be further from the truth. When we analyze all aspects of the social transfer, namely the tax points, the cash allocation and the associated equalization, we see that a change represents a fundamental shift to a system that favours the wealthy provinces and widens the economic gap between Canada's regions.

Senator Moore's recent remarks clearly outlined the history of the federal government's involvement in the funding for health care, social programs and post-secondary education. That being the case, I will simply provide an overview of the makeup of Canada's social transfer.

As honourable senators know, the Canada social transfer was provided to the provinces in order to assist in the delivery of social programs and invest in post-secondary education. The social transfer is made up of three parts: Tax point transfer, associated equalization and a cash transfer.

First, on the subject of the tax point transfer, in 1977, when the health and social transfers were first established, the federal government ceded 13.5 per cent of all personal income tax, 1 per cent of corporate tax from each province, to fund health services, social programs and post-secondary education. These tax points have different values in different provinces because average income differs between regions of the country. For example, using the values from the current fiscal year, the Alberta tax point means $321 per person in the province while the tax point in Prince Edward Island is worth only $137 per Islander.

• (2250)

Because of these differences in tax point values, the federal government has always had a correcting formula for the cash transfer to help level the playing field. To some extent, the poorer provinces are compensated for this difference in tax point values by equalization payments. This is called "associated equalization" because it is equalization associated with the CST; but while it is part of the social transfer, it is paid out through the equalization program.

Despite this associated equalization, there are still significant differences between the tax point values in the wealthiest provinces, like Ontario and Alberta, and the poorest, like those in Atlantic Canada. For this reason, since 1977, the cash component of the CST was distributed in a particular way to compensate for the gaps. It provided for a top-province standard to equalize the tax transfers. In the end, the total social transfer — that is, the tax, the cash, the associated equalization — was equal per capita across the country.

For example, last year, under the old calculated system, the social transfer was broken down like this for every Islander: $129 is the value of our tax points; $282 is the cash transfer; $89 is associated equalization. In Alberta, the social transfer broke down into $313 in tax points and $187 cash transfer. Hence, at the end of the day, each province received $500 per person.

That was last year. This year, the Conservative government changed the way it calculates the cash portion of the CST. Instead of making sure that all provinces reach a top-province standard, the federal government will simply transfer $289 per person to each province.

That means that my home province of Prince Edward Island will receive $7 more for each Islander than it did last year under the new calculations. However, the wealthiest provinces will see much greater increases, such as $40 per person in Ontario and $102 more per person in Alberta.

This change has serious repercussions for smaller and less wealthy provinces like Prince Edward Island. Considerable regional disparities already exist in this country, and this new Conservative government's per capita system for the cash portion of the social transfer will only add to those discrepancies.

While seeming to be fair and equitable, the numbers actually show this not to be true on a total per capita basis. For example, using 2007 and 2008 values, Prince Edward Island's tax point values would be $137 per person, the associated equalization would be $92 and the cash transfer would be $289, for a total of $518 per capita. In Alberta, on the other hand, the tax point values would be $321 and the cash transfer would be $289, giving the province $610 per person.

In effect, Alberta would receive nearly $100 more per person. That is about 18 per cent more than Prince Edward Island under the new system. Under the old system, since 1977, all provinces got the same amount per capita when you consider the cash portion, the equalization and the tax points.

This change to per capita calculation for federal transfers does not stop at the social transfer. The Conservative government has announced that the cash portion of the Canada Health Transfer will be transformed into a per capita transfer in 2014, when the current 10-year plan to strengthen health care is complete.

I cannot stress enough how detrimental these changes will be to the less wealthy provinces. I know only too well the difficulties facing Canada's smallest province in delivering health and social services, as well as investing in post-secondary education. With our tax points valued lowest in the country, and with a relatively small population, it is apparent to me that this new per capita system — that is for the cash portion — will impact Prince Edward Island and, indeed, all four Atlantic provinces the hardest.

When these transfers were first established, the federal government ensured that all provinces ended up with the same amount per person. The calculations and the formulas, while complicated, were fair and equitable. This Conservative government has thrown out 30 years of balance and equity in favour of a system that benefits the two richest provinces in the country. In 2007-08 alone, Alberta will receive $333 million extra while Ontario will receive about $445 million more than under the old system. This change to a per capita cash transfer disproportionately benefits the richer provinces and, over the long term, will only increase the gap between the rich and poor areas in Canada.

The federal government should ensure that all provinces find themselves on an equal fiscal footing at the end of the day. Never should it increase the regional discrepancies in this country, as it is doing in this case. The federal government should rethink the changes it has made to Canada's social and health transfers and revert to an equitable and fair formula of the distribution of our national wealth.

Some Hon. Senators: Hear, hear!

On motion of Senator Robichaud, debate adjourned.

WORLD WAR I

CONTRIBUTIONS OF ARAB PEOPLES TO ALLIED VICTORY—INQUIRY—DEBATE CONCLUDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cools, calling the attention of the Senate to:

(*a*) Remembrance Day, November 11, 2006, the 88th Anniversary of the end of the First World War,

the Day to honour and to remember those noble and brave souls who fought, and those who fell, in the service of the cause of our freedom and in the cause of the British and Allied victory over Germany, Austria-Hungary, and the vast and powerful Ottoman Empire, known as the Ottoman Turks; and

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

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

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

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

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

Hon. Anne C. Cools: Honourable senators, last November 9, in honour of Remembrance Day here, I spoke about the First World War and its Arabian theatre in Syria, Arabia and Egypt. I spoke of the Great Arab Revolt, 1916-1918, led by the Hijaz Hashemite Emir of Mecca, Sharif Hussein bin Ali, and his four sons — the Emirs Ali, Abdullah, Feisal and Zeid — and its pivotal role in the 1918 Allied victory.

The Great Arab Revolt destabilized the Ottoman-German Alliance and acted as the right flank of the British armies under General Edmund Allenby, the Commander-in-Chief of the British forces, with headquarters in Cairo. The official start of the Arab Revolt was June 10, 1916, when Sharif Hussein fired a shot from his palace window —

The Hon. the Speaker: If the honourable senator is addressing the house, I should advise all other honourable senators that this is having the effect of closing the debate.

Hon. Senators: Agreed.

Senator Cools: The official start of the Arab Revolt was June 10, 1916, when Sharif Hussein fired a shot from his palace window, the signal to his forces in Mecca to attack the Ottoman garrisons and government offices, though, in fact, it had actually started a few days before, on June 5 in Medina, where Sharif Hussein's sons Emir Feisal and Emir Ali began fighting with recruits and tribesmen.

Honourable senators, my goal is to remember and to honour the fallen and the Arab role in the Allies victory on Remembrance Day. For this, we must always remember that in this war, as in many, there was epic bravery by the combatants, regulars and irregulars, and civilians on both sides. This is the grand mystery of life, the human condition. My world view as a subject born in the British West Indies has been British and colonial. I bring my training in the British intellectual tradition of criticism and self-criticism, to my reading of the War and the 1919 Paris Peace Conference wherein the peacemakers set out to divide between themselves the vast Arab lands of the Ottoman Empire. This conference was dogged by imperial ambitions, conflicting colonial aspirations and mutual mistrust.

• (2300)

Honourable senators, about the defining role of the Great Arab Revolt in Allied victory, I shall cite George Antonius. He was an Arab, a Palestinian, a Christian, and a Cambridge-educated scholar, who was born in Cairo in 1891 and died in Jerusalem in 1941. His brilliant 1938 book, *The Arab Awakening*, provides much testimony about the Arab Revolt. George Antonius, quoting the French General Brémond, wrote in *The Arab Awakening*, at page 210:

> Then there is the opinion of Général Brémond who headed the French military mission in the Hejaz. He writes that the Turco-German expedition to the Yaman was such as to
>
> '. . . expose the Allies to a great danger: had the enterprise succeeded, it might have blocked up the Red Sea and opened up the Indian Ocean to German operations. . . . Fortunately, the Hejaz Revolt frustrated the expedition; and by so doing, it undoubtedly rendered a very great service to the Allied cause.'

Antonius continued at page 210:

> And lastly, the verdict of the late Dr. D.G. Hogarth, the eminent scholar, who had spent the years of the War in Cairo, on the staff of the Arab Bureau, and who, writing in *The Century* (July 1920), declared that:
>
> > Had the Revolt never done anything else than frustrate that combined march of Turks and Germans to Southern Arabia in 1916, we should owe it more than we have paid to this day.

Honourable senators, I shall record here the words of Britain's Prime Minister David Lloyd George and General Allenby, on the Great Arab Revolt. Ray Stannard Baker, the author of *Wilson and World Settlement*, *Volume III*, published in 1922, recorded the *Minutes of the Secret Conference of the Four Heads of State on March 19, 1919, relative to the partition of Turkey under the secret agreements of 1916 and 1917*. George Antonius quoted Ray Stannard Baker. This secret conference was about the Syrian Question and the British "muddle," which was Britain's conflicting agreements made during the war. These conflicting agreements were the 1917 Balfour Declaration, the 1916 Sykes-Picot Agreement with France, and the 1915 McMahon-Hussein letters, being the British Agreements for Arab Independence, made by diplomatic notes between Sir Henry McMahon and Sharif Hussein. Antonius, quoting Baker, wrote in *The Arab Awakening* at pages 310-11:

> There is a passage in the minutes of the secret conference of the Big Four, held on the 20th of March 1919, in Paris which is of great importance for the light it throws on the contrast between the French and British attitudes:
>
> > . . . Mr. Lloyd George said that the agreement [i.e., between the Sharif Husain and Sir H. McMahon] might have been made by England alone, but it was England who had organized the whole of the Syrian campaign. There would have been no question of Syria but for England. Great Britain had put from 900,000 to 1,000,000 men into the field against Turkey, but Arab help had been essential; that was a point on which General Allenby could speak.
> >
> > General Allenby said it had been invaluable.
> >
> > Mr. Lloyd George, continuing, said that it was on the basis of the above-quoted letter [i.e., Sir H. McMahon's note of October 24, 1915] that King Husain had put all his resources into the field, which had helped us most materially to win the victory. France had for practical purposes accepted our undertaking to King Husain in signing the 1916 [Sykes-Picot] agreement. This had not been M. Pichon, but his predecessors. He was bound to say that if the British Government now agreed that Damascus, Homs, Hama and Aleppo should be included in the sphere of direct French influence, they would be breaking faith with the Arabs, and they could not face this. He was particularly anxious for M. Clemenceau to follow this. The agreement of 1916 had been signed subsequent to the letter to King Husain.

In her book *Paris 1919*, Canadian scholar Margaret MacMillan quoted British administrator and scholar Gertrude Bell worrying from the sidelines, at page 400:

> . . . they are making such a horrible muddle of the Near East. . . It's like a nightmare in which you foresee all the horrible things which are going to happen and can't stretch out your hand to prevent them.

She also quoted Arthur Balfour at page 405 that:

> The unhappy truth . . . is that France, England and America have got themselves into a position over the Syrian problem so inextricably confused that no really neat and satisfactory . . . is now possible for any of them.

Honourable senators, it cannot be truthfully said that Britain made no effort to fulfill her pledges to the Arabs. Britain did, but only to a certain point. As the Paris Peace Conference unfolded, Prime Minister David Lloyd George did break faith with the Arabs. About the Syrian Question, Britain's Lloyd George consented to an act of spoliation which by his own words was a breach of faith with the Arabs. The British assented and looked on. The French did occupy Syria's Damascus, Homs, Hama and Aleppo and brought them into the "sphere of direct French influence."

In July 1920, the French under General Gouraud marched on Syria and ousted Sharif Hussein's son Emir Feisal, then King of Syria. This was the very Feisal, a revolt leader supported by the Arab fighters of the revolt, who had captured and entered Damascus and Syria triumphantly with General Allenby, the Feisal who had represented the Arabs at the Peace Conference in Paris, where he was coolly received. The Arabs call the year 1920 the *Am al-Nakba*, which means the Year of Catastrophe. Arab aspirations were dashed. By the end of 1920, Arabia was seething in rebellion with outbreaks in Syria, Palestine and Mesopotamia. The Peace Conference had already set in motion monumental problems that would continue for decades.

Honourable senators, the Ottoman defeat, and the Paris Peace Conference, had altered the borders, the politics, and the power relationships in the Arabian Rectangle and the Arabian Peninsula, particularly in the Hijaz and the Najd. The matters between the British and Sharif Hussein remained unsettled for too long. British negotiations continued off and on with Sharif Hussein for several years until 1924. During this time of rapid political changes, his influence had enormously declined in the region. Sadly, by 1925, he had become an object of ridicule by the British at Whitehall, whom he had so trusted. This was a most terrible tragedy. His final fall was partly the result of changed circumstances, conditions, and political realities in the region, and partly the result of his own inability to make peace with the Emir Abd-al-Aziz Ibn Saud of Najd, who had supported him in the Arab Revolt, and who had become the dominant Arab leader in the region. The Ibn Saud was a most powerful man, whose generalship and good government had become a byword in Arabia. Hoping to avert final disaster, Sharif Hussein abdicated to his son Emir Ali and departed. The Ibn Saud occupied Mecca on October 13. He especially chose not to break through Emir Ali's defences. For a long time he simply waited for Emir Ali's surrender. It came in December 1925. Abd-al-Aziz Ibn Saud was proclaimed King of the Hijaz on January 8, 1926.

Honourable senators, all judgments on Sharif Hussein or his mistakes must contemplate the fact that the British letdown, the British break of faith, had ravaged his mental and emotional composure. A broken Sharif Hussein lived in Cyprus. In 1930, then 75 years old and afflicted by a terrible stroke, he was permitted to go to Amman in Transjordan, severed from Syria, to be closer to his sons. He died there some months later. Sharif Hussein was a great man, as was his tragedy. Simultaneously, the Ibn Saud was brought into the foreground in Arabia. He dominated politics in the region and transformed it. The current King of Saudi Arabia is his son. I must add that Emir Faisal was brought out of exile in 1921 to become King of Iraq, formed out of the old Ottoman provinces at Baghdad and Basra. Mosul was added in 1925. His other son, Emir Abdullah, had become the King of Transjordan in 1921. I honour these Hashemite leaders, descendants of the Prophet Mohammed, the children of Ishmael, and those who fell, supporting them and the Allied cause. I honour those Arabs, those desert warriors, those tribesmen and tribal chiefs of the Arab Revolt, many of whom have no known graves.

• (2310)

Honourable senators, Margaret MacMillan, a great grand-daughter of David Lloyd George, has rendered a great service by her book, *Paris 1919*. She writes of the Big Three, U.S. President Woodrow Wilson, British Prime Minister Lloyd George and French Premier Georges Clemenceau, as they redrew the world's borders, dividing the conquered lands between them. Her book reveals how many of today's difficult and intractable problems originate in the Paris settlements. It clearly shows the conflicting imperial aspirations of France and Britain and their consequences for the Near East and for Europe. In her Part 7, entitled *Setting the Middle East Alight*, she devoted five chapters to the Middle East — in reality, it is the Near East. The term "Middle East" is a relatively new term — about a preliminary to Paris conversation between Lloyd George and Clemenceau she raised a spiritual question. She wrote at page 382:

> Were the French wrong or the British being perfidious (again)? Unfortunately there was no official record of the conversation. It was an ill-omened start for an issue that was to poison French-British relations during the Peace Conference and for many years after. What came to be called the Syrian Question (although it really related to all the Ottoman Arab territories) need not have done so much damage.

Continuing, she described David Lloyd George, at page 382:

> Lloyd George, a Liberal turned land-grabber, made it worse. Like Napoleon, he was intoxicated by the possibilities of the Middle East . . .

The festering Syrian Question had destroyed many, including Sharif Hussein, who would not accept the partition of Syria, Palestine's severance from Syria and the Arabs, and the plight of Palestine and its Arabs under the British Mandate. The Syrian Question broke Sharif Hussein's heart and psyche. Time would show that the Syrian Question, along with his other catastrophic and disastrous Near Eastern policies, were to break Prime Minister David Lloyd George. Margaret MacMillan told us at page 373 that:

> . . . Lloyd George had inherited his hostility to the Turks from the great Gladstone.

Honourable senators, I move now to the Turkish-speaking parts of the defeated Ottoman Empire, mainly Anatolia and Constantinople, and Prime Minister Lloyd George's catastrophic decision to partition them, and to Mustafa Kemal, known as Ataturk, the Great Turk, one of the most remarkable men of the 20th century. As an Ottoman army officer, later general, he had distinguished himself at Gallipoli. Interestingly, he had strongly urged the Ottomans, particularly the powerful War Minister Enver Pasha, not to enter the War.

The Hon. the Speaker: I regret to advise the honourable senator that her 15 minutes has expired.

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

Senator Cools: Mustafa Kemal led the Turkish people to oppose Lloyd George's disastrous policies to partition and to have the Allied forces occupy certain Turkish-speaking areas. That is a history that should be read, the bloodshed and carnage. At some point in time I want to talk about Canada's Prime Minister Mackenzie King's role, but that is for another day.

Mustafa Kemal mobilized the Turkish people, and the Turkish military to resist the partition. He negated the ill-fated 1920 Treaty of Sèvres between the Allies and the Ottomans, and compelled the Allies to abandon it and to negotiate a new peace treaty with a new Turkey of which he was to become president. Britain's Foreign Secretary Lord Curzon negotiated the 1923 Treaty of Lausanne with a new, independent Turkey. This was the very same Lord Curzon who in 1922 helped to force Lloyd George's resignation as Prime Minister and to end his political career. Lausanne was unique among the peace treaties because it was negotiated. Margaret MacMillan, quoting Lord Curzon, in *Paris 1919* wrote at page 453:

> "Hitherto we have dictated our peace treaties," Curzon reflected. . .

That was a novel thing, I suppose, for him to do.

Honourable senators, war, one of the Four Horsemen of the Apocalypse, is a scourge. It is a grim rider. Such is the mystery of life and the human condition. I honour all the fallen, on all sides.

I thank honourable senators and I hope that this year on Remembrance Day, when we remember all of the fallen, we will remember those desert tribesmen and those desert warriors who fought on the side of the British in World War I.

[*Translation*]

UNITED KINGDOM SLAVE TRADE ACT

INQUIRY—ORDER STANDS

On Inquiry No. 29 by Senator Cools:

> That she will call the attention of the Senate to:
>
> (*a*) March 25th, 2007, being the two hundredth anniversary of the abolition of the slave trade in the British Empire by *An Act for the Abolition of the Slave Trade*, an act of the U.K. Parliament, assented to by King George III on March 25, 1807; and

(*b*) to slavery and the slave trade in African peoples by Europeans from the 1500s to the 1800s, and to the law of estate in human life, to property and ownership in human beings, and to the trade and commerce in human beings as commodities, slaves, bought and sold in the marketplace; and

(*c*) to the transportation across the Atlantic Ocean of about 12 million Africans, packed as cargo in slaving ships, in that terrible journey named the Middle Passage, from Africa to the shores of the Americas and the West Indies, for the deployment of these slaves on the plantations of the New World, generating previously unknown wealth and prosperity; and

(*d*) to William Wilberforce and to his unceasing labours as a Member of Parliament in the British House of Commons from 1780 to 1825, and to his leadership of the campaign in the Houses of Parliament for the abolition of the slave trade and slavery, and to his belief as a devout Christian and evangelical Anglican that his life's labours for the amelioration of the lives of the African slaves was his pilgrimage, his own journey; and

(*e*) to Thomas Clarkson, the father of abolition, who inspired Wilberforce, and to John Wesley, the founder of the Methodist Church, and to all those other Christians — Anglicans, Quakers and Methodists, and to the black African abolitionists, who led and sustained a national and international movement carrying public opinion for the abolition of the slave trade and slavery, and to their testament to the human spirit to overcome man's inhumanity to man; and

(*f*) to William Wilberforce's influence on my life personally as a child in Barbados, in the British West Indies in the British Empire, that island where the concept called the plantation was created, as also was its ancient House of Assembly, the second oldest legislature outside of the U.K., and all this when sugar was king; and

(*g*) to the indebtedness and the gratitude of the whole world, particularly the black world, to these abolitionists who by dint of their personal courage, fortitude and perseverance were able to end a terrible centuries-old villainy and change the course of human history.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I move adjournment of this inquiry in my own name.

Order stands.

ABOLITION OF SLAVERY IN BRITISH EMPIRE

INQUIRY—ORDER STANDS

On Inquiry No. 30 by Senator Cools:

That she will call the attention of the Senate to:

(*a*) March 25th, 2007, the two hundredth anniversary of the abolition of the slave trade in the British Empire, and in the British North American Provinces, particularly the two Canadas; and

(*b*) to John Graves Simcoe, the first Lieutenant-Governor of Upper Canada, who had served briefly as a member in the British House of Commons with William Wilberforce, and who by 1790, even before arriving in Upper Canada, had expressed his opposition to slavery; and

(*c*) to Lieutenant-Governor John Graves Simcoe's efforts, and his Bill in 1793 for the gradual abolition of slavery in Upper Canada by barring the further introduction of slaves, a Bill which represented the first legislative initiative against slavery in the British Empire; and

(*d*) to John White, the Attorney-General of Upper Canada under Lieutenant-Governor Simcoe, who had practiced law in Jamaica, the British West Indies, and who having known slavery and the law of slavery, introduced this Bill in the House of Assembly; and

(*e*) to the abolitionist movement in Upper Canada.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I move that debate be adjourned in my name.

Order stands.

[*English*]

TEMPORARY FOREIGN WORKER PROGRAM

INQUIRY—DEBATE ADJOURNED

Hon. Grant Mitchell rose pursuant to notice of May 2, 2007:

That he will call the attention of the Senate to the need to review the Temporary Foreign Workers program in order to ensure that it alleviates the difficulties businesses have in circumstances of legitimate labour shortage, without exploiting foreign workers or undermining Canadian labour.

He said: I would like to begin by thanking my colleagues this evening in the Senate. I know it is late. I have waited a long time to have a chance to speak to this item. I thank honourable senators for their patience this evening. This is an important topic.

There is a strong need to review the temporary foreign workers program in order to ensure that it alleviates the difficulties that businesses have in circumstances of legitimate labour shortage without exploiting foreign workers or undermining Canadian labour.

[*Translation*]

The purpose of the temporary foreign workers program is to address the short-term labour shortages currently facing Canadian businesses and industries, and to offer them the opportunity to recruit qualified workers from outside Canada when not enough workers can be found within our borders.

[*English*]

There are numerous problems with the program. The application process is cumbersome for small businesses. Employees are sent back to their home countries just as they

are integrating into their communities and workplaces. These workers are vulnerable to exploitation by unscrupulous employers. Rules to ensure that the foreign workers meet the same standards regarding wage rates and technical qualifications as Canadian workers are not transparent and hard to enforce, and there are few accountability mechanisms to ensure compliance once the workers have arrived in Canada.

[*Translation*]

There are over 150,000 temporary foreign workers living in Canada, and that number is on the rise. In fact, in the first quarter of 2006, the number of temporary foreign workers increased by 14 per cent compared to the same period in 2005. In my home province of Alberta, that figure rose by 41 per cent for the same period.

• (2320)

[*English*]

Under any circumstances, this kind of increase without a similar enhancement of oversight and accountability mechanisms will have consequences.

Recently, someone contacted my office with a story that I fear is becoming increasingly common. The individual came to Canada along with 13 other candidates to work as pipefitters and welders for an Alberta company. Under the Human Resources and Skills Development Canada Labour Market Opinion, the company was required to provide medical insurance, travel to and from Canada, and accommodation.

Instead, the company indicated that it would pay for the airfare to Canada and deduct the cost back through weekly payroll deductions, and the workers would be responsible for the cost of their own accommodation, board and transportation to and from the work site.

On payroll slips, there are deductions for administration fees, permit fees, an $800 advance recovery fee and a $360 travel fee. On one paycheque, the gross earnings were $1,314 and the net pay was $243.41. How can that be right?

To make matters worse, within less than three months of their arrival in Canada the company terminated all the temporary foreign workers. The company says that it is for cause. They notified the employees that they would be transported back to the airport for return to their home country at their own expense.

[*Translation*]

At the same time, I have worked with reputable business owners who want to expand and contribute to our economic prosperity, but are unable to because they cannot find skilled workers. They are therefore waiting indefinitely for applications by temporary foreign workers to be approved.

[*English*]

I have spoken to the owner of a northern Alberta trucking company, who told me that his Labour Market Opinion was approved two years ago but he cannot bring the workers in because immigration will not issue a work permit to the potential foreign workers, citing the fact that they are not qualified because they do not have an Alberta driver's licence. How do they get one if they cannot come here?

I have spoken to a small restaurant owner who has brought qualified chefs from his home country, only to have them sent home after a year and have his business suffer as a result as he struggles to find and train new chefs in a difficult market.

We have all heard the stories about the fast food restaurant that closes the drive-through in the middle of the day because there are not any staff, and the coffee shop that offers a $3,000 signing bonus. Businesses are shutting their doors and not expanding because they cannot find workers.

[*Translation*]

Clearly, there is a problem here. First, should this problem be solved by means of a temporary foreign worker program, or is this just a stopgap measure? Canada's future international competitiveness and productivity depend on our efforts to build our human capital.

We need to act more intelligently, focus on research and development and build an educated, skilled labour force. Insofar as temporary workers invited into Canada can pass on their know-how to Canadian workers or temporarily remedy a labour shortage in areas where the demand for workers outstrips the supply, the temporary foreign worker program is ideal.

In some areas, the seasonal agricultural workers program has worked extremely well for a very long time. But the type of jobs that bring foreign workers to Canada is changing. In 1996, 62 per cent of temporary foreign workers came to Canada to fill jobs requiring university, college or practical training. In 2005, that figure had dropped to 50 per cent.

[*English*]

Is it in the interest of Canadian long-term productivity and of our social fabric to use the temporary foreign workers program as a substitute for a better thought out, long-term immigration and labour force plan? The labour shortage in Alberta and other parts of the country is not likely to abate in the near future, yet there is severe underemployment of Aboriginal young people on the Prairies. We are consistently recruiting skilled new Canadians as permanent immigrants who cannot find jobs in their fields. In the future, more and more jobs will require a university education, yet our post-secondary school enrolment figures are not keeping up with our international competitors. The Conservative government has cut programs for literacy and daycare, both of which result in lower labour force participation rates.

[*Translation*]

This program should not serve as a substitute for a long-term solution to stimulate productivity in Canada and to enhance human potential in the future. We must never allow the creation of a subclass of workers who are not citizens and who are exploited in Canada. We must never allow a temporary program to become a permanent solution.

[*English*]

What is the solution? Recent efforts to find solutions to the problems identified with the temporary foreign workers program have focused largely on the cumbersome nature of the program for businesses. For example, a memorandum of understanding

with the Province of Alberta exempts the oil sands from the need for a Labour Market Opinion as long as one company has determined that there is a need for workers in the industry.

Similar agreements have been reached with other provinces — for instance, the Toronto construction industry, which has faced serious problems with illegal migrant workers in the past. Recently, the government allowed businesses to extend the terms of certain categories of workers to two years instead of one.

While these changes are welcome for legitimate businesses, the difficulty is that there are few accountability mechanisms being put in place to ensure that there is compliance. For example, with the lifting of the requirement of a Labour Market Opinion in certain circumstances, after a single company has been approved, there is a danger of a lowest common denominator effect. A recent survey of half the building trades unions in Alberta indicates — and this is surprising but true — that there are currently at least 8,900 unemployed domestic skilled journeyman building trades workers in Alberta, despite the intensity of the economy.

Combined with evidence that some companies are not complying with the requirements of their agreements, and the possibility that the calculation of prevailing wage rates is being done in a way that could be less than the predominant wage rates of the major unions in the industry, it is possible that unscrupulous companies could bring in temporary foreign workers, and maybe are doing so to avoid paying the higher market-driven salaries.

A potential remedy to this situation would be to have more transparency in the way in which the prevailing wage rate is determined and to require that the predominant union in that industry sign off on that rate, as opposed to a single union in a single company. This is also an example of the need for more accountability by the companies that employ foreign workers.

[*Translation*]

Furthermore, certain inequalities are due to the very nature of the system. For example, individuals who come to Canada under the live-in caregiver immigration program can apply for permanent residency at the end of their contract, whereas temporary workers cannot. Why the difference between these two categories of workers?

[*English*]

Similarly, a 2005 case was before the Ontario Superior Court of Justice, which has since been withdrawn, regarding mandatory payroll deductions for employment insurance. Is it fair that temporary foreign workers should be required to pay into employment insurance when there is no possibility they could ever benefit from the program?

[*Translation*]

I think that the most pressing change we need to see is better accountability measures, especially following the approval of temporary work permits and the arrival of the workers in Canada.

Once Human Resources Canada's approval has been obtained, and once immigration services have let foreign workers in and given them their permits, the Department of Human Resources does very little follow-up. Applying labour standards is left up to provincial authorities. The standards vary from place to place, and in some cases, the criteria that apply to foreign workers differ from those that apply to Canadian workers.

• (2330)

Despite its ruling that condemned discrimination against non-citizens, the Supreme Court also found that a person's job is not protected under anti-discrimination laws. As such, laws that authorize poorer working conditions for foreign workers than for their Canadian counterparts are unlikely to be found unconstitutional in Canada, even with respect to access to benefits. For example, Alberta's Employment Standards Code does not guarantee that most of the minimum working conditions or the Occupational Health and Safety Act provisions will apply to foreign agricultural workers. Temporary foreign workers are often ineligible for workmen's compensation, and the guaranteed return to work applies only to those who had been in the job for 12 months at the time of the accident. To be eligible for Canada or Quebec Pension Plan benefits, a foreign worker must have held a job in Canada for at least four of the previous six years. Once again, a foreign worker injured on the job is not eligible for benefits.

[*English*]

In almost all provinces, mechanisms for ensuring compliance with the terms and conditions of the temporary foreign works program tend to be complaints-based rather than random audits. Due to the nature of the employer-employee relationship, it is unlikely that a temporary foreign worker will lodge a complaint. First, the worker's status in Canada is dependent upon maintaining their employment with that employer. Lack of language skills, fear of being returned to the country of origin and uncertain status in Canada tend to prevent workers from speaking out. As a result, the program can be used by some unscrupulous employers to obtain cheap foreign labour and avoid paying fair wages and benefits for skilled Canadian labour. The story I began my speech with illustrates how difficult it is for workers to come forward. This demonstrates the need for a proactive audit process.

There needs to be a process of audits of companies that employ temporary foreign workers, perhaps random audits, to ensure compliance with the terms and conditions of the HRSDC Labour Market Opinions and also with provincial employment standards. We need to implement some form of whistle-blower protection, not just for the foreign workers but also for the colleagues and the companies in which they work so that there is no fear of reprisal for those who come forward to report abuse. Finally, there must be penalties for companies that fail to comply, including both financial penalties and a ban on the use of more temporary foreign workers for a specified period of time.

Only with this kind of accountability mechanism in place can we ensure the protection of the rights of the workers who come to Canada with full expectation that their contracts will be honoured and protection of the honest businesses that rely on temporary foreign workers.

[*Translation*]

Furthermore, we have to study the long-term effects of the current trends on labour needs in Canada, in order to valorize Canada's human potential in the future. The temporary foreign workers program should complement, not replace, Canada's immigration and skills development programs. This type of program has to be firmly anchored in the Canadian values of economic prosperity and social justice.

On motion of Senator Oliver, debate adjourned.

[*English*]

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES DEALING WITH INTERPROVINCIAL BARRIERS TO TRADE ADOPTED

Hon. Jerahmiel S. Grafstein, pursuant to notice of April 26, 2007, moved:

> That, notwithstanding the Order of the Senate adopted on Tuesday, October 24 2006, the Standing Senate Committee on Banking, Trade and Commerce, which was authorized to examine and report on issues dealing with interprovincial barriers to trade, be empowered to extend the date of presenting its final report from June 29, 2007 to December 31, 2007; and
>
> That the Committee retain until February 15, 2008 all powers necessary to publicize its findings.

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF BENEFITS AND RESULTS ACHIEVED THROUGH COURT CHALLENGES PROGRAM

Hon. Donald H. Oliver, pursuant to notice of June 5, 2007, moved:

> That, notwithstanding the Order of the Senate adopted on Thursday, December 7, 2006, the Standing Senate Committee on Legal and Constitutional Affairs, which was authorized to examine and report on the benefits and results that have been achieved through the Court Challenges Program, be empowered to extend the date of presenting its final report from June 30, 2007 to December 31, 2007.

Motion agreed to.

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF INCLUDING IN LEGISLATION NON-DEROGATION CLAUSES RELATING TO ABORIGINAL TREATY RIGHTS

Hon. Donald H. Oliver, pursuant to notice of June 5, 2007, moved:

> That, notwithstanding the Order of the Senate adopted on Thursday, June 1st, 2006, the Standing Senate Committee on Legal and Constitutional Affairs, which was authorized to examine and report on the implications of including, in legislation, non-derogation clauses relating to existing Aboriginal and treaty rights of the Aboriginal peoples of Canada under s.35 of the *Constitution Act, 1982*; be empowered to extend the date of presenting its final report from June 30, 2007 to December 31, 2007.

Motion agreed to.

STUDY ON INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS

MOTION TO REQUEST GOVERNMENT RESPONSE ON REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

Hon. A. Raynell Andreychuk, pursuant to notice of June 7, 2007, moved:

> That the Senate request a complete and detailed response from the Government to the tenth report of the Standing Senate Committee on Human Rights, entitled: *Children: The Silenced Citizens*, with the Minister of Justice, the Minister of Labour, the Minister of Human Resources and Social Development, the Minister of Foreign Affairs, the Minister of Public Safety, the Minister of Citizenship and Immigration, the Minister of National Defense, the Minister of Canadian Heritage and Status of Women, the Minister of Indian Affairs and Northern Development and the Minister of Health being identified as the Ministers responsible for responding to the report.

Motion agreed to.

The Senate adjourned until Tuesday, June 19, 2007, at 2 p.m.

CONTENTS

Monday, June 18, 2007

PAGE

ROUTINE PROCEEDINGS

ORDERS OF THE DAY

PAGE

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