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Tuesday, February 20, 2007

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Tuesday, February 20, 2007

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

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw your attention to the presence in the gallery of members of the Parliament of Georgia. On behalf of all honourable senators, I welcome our distinguished friends to the Senate of Canada.

SENATORS' STATEMENTS

CONDEMNATION OF EXECUTION OF SADDAM HUSSEIN

Hon. Mobina S. B. Jaffer: Honourable senators, are only some Canadian values for export? Saddam Hussein's execution for crimes against humanity by Iraqi authorities has been met with a mixture of elation and outrage the world over. As a Shia Muslim, I am well aware of the atrocities he committed while he held power. He was a thuggish, even monstrous, dictator who cemented his reign with terror and oppression. Though Canada was not involved in his trial or capture, there can be no doubt that the international community, including Canada, had a tremendous investment in seeing him brought to justice.

His execution raises important issues about the types of values we hope to export to the rest of the world and whether countries like Canada wish to export all of their values or whether we will keep some of our values to ourselves. Are some of our values only to be exercised in Canada?

Like many Muslims, both Sunni and Shia throughout the world, my family and I were beginning the celebration of Eid ul-Adha when Saddam was hanged. Eid ul-Adha commemorates an event many Canadians, both Muslim and non-Muslim, are familiar with, when God called upon his Prophet Ibrahim — peace be upon him — to sacrifice his son as a test of his faith. It is a time when Muslims reflect on the sacrifice. The significance of executing as controversial a figure as Saddam Hussein during a time of sectarian conflict in Iraq, at the start of one of the holiest times on the Islamic calendar, cannot be overlooked.

• (1405)

Death by hanging is a practice that would revolt most Canadians today, even for the most terrible of criminals, if it took place within our own borders. Why, then, do we remain silent when it happens elsewhere? Why do we allow it to pass without comment when the whole world is watching?

This ignores the values we hold dear. It is our own values against which Canadians should be comparing the process, not those of Saddam's brutal regime. While the process may have succeeded in improving on the one that existed during Saddam's dictatorship, it has failed utterly to achieve the standards that we would expect in the type of democracy we ourselves enjoy and want Iraq to have.

The Vatican and many countries have strongly condemned the death penalty. It requires courage to stand up like this and I commend them for doing so. It shows that no single man can be so terrible that we have to abandon our principles to defeat him. I am disappointed that our government has remained silent on the hanging of Saddam Hussein.

When Canada refuses to stand for all its values, we risk sending the message that some of our values do not matter. The execution of Saddam Hussein cannot be changed, but it falls to all of us to speak out with one voice and condemn any departure from the values we seek to promote elsewhere, regardless of where they occur. If we fail to do so, we will undermine them everywhere.

GERMANY

PROSECUTION OF ERNST ZUNDEL

Hon. David Tkachuk: Honourable senators may remember the case of Ernst Zundel, a man who gained notoriety in Canada and elsewhere as a writer and publisher of anti-Semitic propaganda and as a Holocaust denier. Mr. Zundel was deported from the U.S. to Canada in February 2003 and spent just over two years detained here as a national security threat while fighting his extradition to his native Germany to stand trial for hate crime charges. After lengthy and costly court proceedings, Mr. Zundel was finally deported from Canada to Germany in March 2005, where he was immediately arrested.

I am pleased to inform honourable senators that this sad tale is in sight at last. On Thursday, February 15, a German court convicted Mr. Zundel on 14 counts of incitement of racial hatred. He was sentenced to five years in jail, the maximum punishment under German law for Holocaust denial. While the court has rendered its verdict, Mr. Zundel will doubtlessly try to appeal, as he has done many times in the past. This ruling stands as a judgment against one man. The sad thing is that his lies drew hundreds to a conference in Iran. This judgment is a victory against him but not his views.

At the time of his deportation to Germany, I said in this chamber that I believe Mr. Zundel is to be pitied because he has wasted his life spreading lies and hate. I still believe this to be true. In addition to wasting his own life, he has encouraged others to do so as well by spreading vicious lies about the Holocaust and the Jewish people, and by giving aid to neo-Nazi groups that incite hatred and potential political violence against governments and multicultural societies such as our own.

Honourable senators, Mr. Zundel serves as an example to remind all Canadians that anti-Semitism is not something that has been relegated to the history books. Sadly, it still has a voice and still finds an audience. Mr. Zundel was a teacher and views such

as his can be nurtured in those who are not taught well. That is how we can produce people who can be easily influenced by such hate mongering. We must never stop guarding against it. It is a victory that will never be completely won.

Although it has taken a long time for Mr. Zundel to be brought to justice, I am pleased with the decision of the German courts and the message it sends not just in that country, but in our own and throughout the world.

[*Translation*]

NATIONAL INSTITUTE FOR NANOTECHNOLOGY

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, on February 7, representatives of the University of Alberta and the Government of Alberta were at the National Institute for Nanotechnology to announce the recruitment of a leading chemist, Dr. Richard McCreery.

• (1410)

[*English*]

Dr. McCreery will hold a cross-appointment as a Principal Researcher for the National Research Council in the National Institute for Nanotechnology, as an Alberta Ingenuity Scholar in Molecular Electronics and as a Professor in Chemistry in the Faculty of Science at the University of Alberta. He will be instrumental in integrating research into the learning environment to enhance the experience of both undergraduate and graduate students.

Mr. Doug Horner, Minister of Advanced Education and Technology for Alberta, noted that the unique partnership between the National Research Council, the Government of Alberta and the University of Alberta that makes up the Institute for Nanotechnology is an example of partnerships that result in synergies that are critical to finding innovative solutions to big problems. He further stated that the commercialization of technology is the key to the global economy.

[*Translation*]

These kinds of partnerships are vital if we want to continue to attract prominent, experienced experts from around the world who will help develop and stimulate research in the fields of nanotechnology and biotechnology.

Honourable senators, this is a concrete example of how important it is to invest in research and innovation in our universities. Canada must continue to invest, as it has done over the past few years, in post-secondary education as well as research and innovation. Our country's prosperity depends on it.

[*English*]

ROUTINE PROCEEDINGS

STUDY ON ISSUES RELATING TO NEW AND EVOLVING POLICY FRAMEWORK

INTERIM REPORT OF FISHERIES AND OCEANS COMMITTEE TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the sixth report (interim) of the Standing Senate Committee on Fisheries and Oceans on issues relating to the federal government's new and evolving policy framework for managing Canada's fisheries and oceans, entitled: *The Management of Atlantic Fish Stocks: Beyond the 200-Mile Limit*.

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

STUDY ON CASES OF ALLEGED DISCRIMINATION IN HIRING AND PROMOTION PRACTICES AND EMPLOYMENT EQUITY FOR MINORITY GROUPS IN FEDERAL PUBLIC SERVICE

REPORT OF HUMAN RIGHTS COMMITTEE TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the seventh report of the Standing Senate Committee on Human Rights, dealing with the examination of cases of alleged discrimination in the hiring and promotion practices of the federal public service, entitled: *Employment Equity in the Federal Public Service — Not There Yet*.

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

• (1415)

[*Translation*]

THE HONOURABLE GRANT MITCHELL

DECLARATION OF PRIVATE INTEREST

The Hon. the Speaker: Honourable senators, before beginning Question Period, I have a declaration of private interest to announce to the Senate:

> Honourable senators, Senator Mitchell has made a declaration of private interest concerning questions he asked in the Senate on November 22, 2006 and January 30, 2007. Pursuant to rule 32.1, the declaration will be recorded in the *Journals of the Senate*.

QUESTION PERIOD

NATIONAL DEFENCE

AFGHANISTAN—BALANCING EXPENDITURES ON MILITARY EQUIPMENT AND HUMANITARIAN AID

Hon. Céline Hervieux-Payette (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate.

Following the excellent Senate report on Afghanistan, which was unanimously acclaimed, my question has to do with finding the right balance between developing the country and protecting its citizens. Can the Leader of the Government assure me that an amount equal to that spent to buy and send the F-18 fighter planes, which are set to leave Canada soon, will be spent on protecting and fostering peace in Afghanistan?

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question.

I do not have a specific answer for the speculation about sending these aircraft. However, I did note that, in the other place yesterday, there was some question about the validity of that claim. Nevertheless, I shall take the question as notice.

[*Translation*]

Senator Hervieux-Payette: I would like to remind honourable senators that every time an F-18 takes off, it costs anywhere from $50,000 to $150,000, which is a considerable expenditure.

Plans to purchase new Leopard tanks were also recently announced, along with other spending that will serve to protect and ensure the safety of the Afghan people. If we send F-18s and another fleet of tanks, can the Leader of the Government assure the Senate that an equal amount will be spent on humanitarian aid?

[*English*]

Senator LeBreton: I cannot answer a question on speculation about the purchase of equipment. However, I wish to assure all honourable senators that our commitment in Afghanistan is a well-balanced commitment to reconstruction, securing the peace and also working with the Afghan government to further strengthen their democracy.

I believe our Armed Forces are doing an outstanding job. The reports coming back from Afghanistan support that. Certainly, if you believe public opinion, Canadians also believe that the efforts we are undertaking as a country, with our NATO partners on this UN-led mission in Afghanistan, are worthwhile. No reasonable country could possibly consider not proceeding with our efforts in Afghanistan; the alternative is just unfathomable.

LABOUR

CANADIAN NATIONAL STRIKE

Hon. Larry W. Campbell: Honourable senators, Canadians in remote areas are without food, fuel and vital supplies, and all the Conservative government can come up with is a mediator in the ongoing dispute with Canadian National. Labour Minister Blackburn's statement about how he wants the dispute ended in hours and not days lacks the required action, as usual, to resolve this issue.

• (1420)

It is just like this government to make commitments without a clue about how to follow through on them. How many hours will this take? Thousands? Hundreds of thousands? When will we see an end? I am reminded of health care wait time guarantees and promises of increased child care spaces.

My question to the government leader is as follows: What will the government do to alleviate the economic repercussions associated with the ongoing CN strike?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. There is no question that the government is seized with the issue of the CN strike and its impact on the Canadian economy. Last evening, Minister Blackburn called upon CN and the United Transportation Union to get back to dealing with this issue. All courses of action will be considered, the minister said; we cannot allow this strike to do great harm.

The honourable senator is correct in saying that the strike is having a great impact in Western Canada vis-à-vis the forestry industry and grain producers. The strike is also negatively affecting northern communities that need the CN to assure their supply of diesel and heating fuel. As Minister Blackburn and the government have indicated, we will take every action necessary, including tabling back-to-work legislation.

Senator Campbell: I thank the leader for her comments. I am not suggesting that we should be looking at ordering the CN workers back to work, but I would ask two questions. First, is a 90-day cooling-off period being considered? Second, what is the time frame for mediation? As we know, mediation can go on forever and ever. In the meantime, the trains are backing up, the Port of Vancouver is full of ships waiting to take on cargo and the northern communities are experiencing difficulty getting fuel and supplies. The railway is a lifeline for these communities. Is there a timeline, and is a 90-day cooling-off period being considered?

Senator LeBreton: As Minister Blackburn said, both parties have hours, not days, to resolve this. I could not agree more with the honourable senator. The CN strike has a detrimental impact on our economy. The country and the government cannot allow this situation to continue. As I said, the parties have hours, not days, failing which the government will be prepared to legislate the CN workers back to work.

Senator Campbell: I certainly would not want to put words into the leader's mouth, but if we are talking about a time frame in days, could we expect perhaps a 90-day cooling-off period — which the leader did not answer — by the end of this week, so that

the parties can sit down with a time frame in mind and in a situation that will not lead them to fight with each other but to try to come to a resolution? I am not much in favour of ordering them back to work.

Senator LeBreton: The 90-day cooling-off period was not an option that I was aware of. I know the government is concerned about this and is prepared to take immediate action. If there were such a matter under consideration, I am personally not aware of it. I shall take that portion of the honourable senator's question as notice.

[*Translation*]

NATIONAL DEFENCE

OFFICIAL LANGUAGES STRATEGIC PLAN— REDUCTION OF TARGETS

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I was disappointed to learn that, in its new strategic plan, the Department of National Defence has reduced its official languages requirements. The plan indicates that the Canadian Forces will divide units along linguistic lines, with 277 English-speaking units, 55 French-speaking units, and 222 bilingual units.

This is a definite step backward for linguistic duality in this country. Creating unilingual units and forcing people to work in their second official language in certain situations violates the principle of linguistic duality and the spirit of the Official Languages Act, as it ought to apply in our federal institutions.

Can the minister tell us why the Department of National Defence has been unable to meet its obligations?

• (1425)

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for her question and appreciate her concerns with regard to this matter. The honourable senator has expressed some concerns, which have been expressed by others.

I will simply take the question as notice in order to provide her with the proper response of the Department of National Defence. The department will need time to tell us how it will address this very important issue.

[*Translation*]

Senator Tardif: I thank the Leader of the Government for her answer. I would like to ask a supplementary question. Will a francophone soldier from Edmonton be able to work in French in his province, or will he have to move to Quebec to be able to work in French?

[*English*]

Senator LeBreton: Honourable senators, my answer to this question is the same as my previous answer. I am not aware of a situation where someone who speaks either one or the other official language would be prevented from working in their own language, no matter where they reside in this country.

I will make the honourable senator's views known to the minister and ask the Department of National Defence if it can provide an answer to address her concerns.

[*Translation*]

Hon. Maria Chaput: My supplementary question is for the Leader of the Government. When she meets with defence department officials on this issue, will she also talk with the new Commissioner of Official Languages? The Department of National Defence mentioned in a press release that it had consulted the commissioner, but that is not true.

The commissioner says that a report was issued last year in response to recommendations from the Department of National Defence, suggesting a new approach to bilingualism. Could the minister look at this new approach to see whether it is applicable, whether it changes the rules, or whether it reduces services? Otherwise, this approach could be simplistic and divisive, if it is not subject to the Official Languages Act and organizational imperatives. Creating little islands based on language would weaken national unity.

Can the Leader of the Government guarantee that she will keep all this in mind when she meets with departmental officials? Does she also plan to discuss this with the Commissioner of Official Languages?

[*English*]

Senator LeBreton: I thank the honourable senator for that question. I would hope that no such trend exists to divide people along linguistic lines. In her question to me, the honourable senator indicated that the Department of National Defence had given an answer that seems to contradict the Commissioner of Official Languages. One group said they had consulted; the other group said they had not consulted.

As the honourable senator would understand, I want to give the department and the minister a chance to respond to her concerns. I was not aware that there was a conflict between what the department believed and what the Commissioner of Official Languages said.

As with Senator Tardif's questions, I will take the question as notice and return with an answer for the honourable senator as soon as possible.

THE ENVIRONMENT

CANADA-ONTARIO AGREEMENT RESPECTING GREAT LAKES ECOSYSTEM—RENEWAL

Hon. Lorna Milne: Honourable senators, last week in the Standing Senate Committee on Energy, the Environment and Natural Resources, we were informed that due "to the tremendous confusion" that currently exists in Environment Canada, no federal progress has been made at all towards either renewing or extending the current Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem.

This agreement was originally signed in 1971, between eight federal departments and three provincial ministries. Since then, six more Canada-Ontario agreements have been signed, the most recent in 2002. The current agreement is due to expire in March. Since there is such abysmal lack of direction and leadership at Environment Canada, it is impossible to imagine that this government will be prepared or even able to renegotiate this agreement before the end of March.

• (1430)

Can the Leader of the Government in the Senate assure this chamber that Minister Baird will do the right thing and use his authority to extend the life and funding of the present Canada-Ontario agreement until his department is organized enough to renegotiate this agreement on behalf of so many Canadians who live in the Great Lakes Basin?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors): I thank the honourable senator for her question. I do not want to quarrel over her interpretation of what is going on within Environment Canada. Environment Minister Baird is working extremely hard with his officials on all environmental fronts. There will be many announcements made on the environment over the next few weeks. I will simply ascertain for Senator Milne from the Minister of the Environment whether he can answer her question on the Great Lakes. Certainly, the Great Lakes are a valuable resource to all people living around them. I am quite confident that Minister Baird is sufficiently seized of the environment portfolio. He has already made some incredible announcements and he will be working with other members of the government, as well as his provincial and territorial counterparts, in advancing the environment file on all fronts.

Senator Milne: Honourable senators, I have a supplementary question. I thank the Leader of the Government in the Senate for her response, but I would like to point out that this was not my interpretation, this was an actual quotation from one of the expert witnesses before the committee. I would like to remind her of the importance of this issue. The confusion that I mentioned may have something to do with this government appointing two new ministers and a new deputy minister during the past year.

This is an issue of tremendous importance. It is a sensitive ecological region that is home to eight million Canadians. The land area directly affected by the Canada-Ontario agreement contains two thirds of Canada's manufacturing output, and its well-being should be a major concern for this government and for the majority of Canadians.

Can the Leader of the Government in the Senate advise the Minister of the Environment that honourable senators are greatly concerned about the proper renegotiation of this agreement, and we want to see the minister act with dispatch so that he can achieve the greatest benefit for all Canadians?

Senator LeBreton: Honourable senators, I do not believe there is anyone who would not encourage and support any actions to clean up our water and air. Certainly, the Great Lakes system is of vital importance to the Canadian population. It is important to the population south of the border.

I again disagree with Senator Milne's use of a quote from one witness. We all can quote what people may think or say about the Minister of the Environment, but I will simply quote back the Deputy Leader of the Liberal Party when he very succinctly told the present leader, "You did not get it done."

Senator Milne: The agreement expires in March.

• (1435)

NATIONAL DEFENCE

AFGHANISTAN—EFFORTS TO PROMOTE SECURITY AND EQUALITY FOR WOMEN AND GIRLS

Hon. Mobina S. B. Jaffer: Honourable senators, my question is directed to the Leader of the Government in the Senate. Recently, I sent to all senators a report entitled "Too Little Has Changed," a report of follow-up meetings with Afghan Canadian women conducted by the Canadian Committee on Women, Peace and Security, which I had the honour to chair for two years, carrying on the work of our former colleague Senator Wilson.

The women consulted, all of whom are Afghani Canadians and many of whom have spent a great deal of time working in Afghanistan to promote security and equality for women and girls, are unanimous on one thing — that is, as the title of the report says, that too little has changed. As the report says, security remains the most critical concern for women and girls living in Afghanistan, despite the hopes that were created by the international community.

Can the government leader please give us details of specific programs Canadian troops in Afghanistan are undertaking to promote security and equality for women and girls?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors): I thank Senator Jaffer for that question. I believe the situation in Afghanistan for women and girls, while nowhere near where we would like to see it, has improved markedly in the past year. All evidence supports that, including from members of the Karzai government.

I had the opportunity to meet with the minister responsible for women's affairs when she accompanied President Karzai on his visit last year. There is much work to do. However, there is no doubt that, with girls again being able to go to school and with women receiving micro-credit to open small businesses, great strides have taken place in the past year. However, that is not to say that much more cannot be done. There is much work to do, and Minister Verner and Minister MacKay are working diligently in that regard with their officials and their counterparts in Afghanistan.

As the Prime Minister indicated when he spoke to the Canadian Club on February 6, it is the intention of the government to report very soon on the status of the situation in Afghanistan.

Senator Jaffer: Honourable senators, will the minister inquire what specific programs our Canadian troops in Afghanistan are undertaking to promote security and equality for Afghan women?

Senator LeBreton: I shall certainly get more explicit details for Senator Jaffer. The reports coming back from Afghanistan indicate that our military people, diplomats and reconstruction

workers are working hard at building roads and moving people back into their communities, which helps all Afghan citizens, including women and children.

I shall get specific details of the programs that are directly related to women and children.

MANUFACTURE AND USE OF CLUSTER MUNITIONS

Hon. Elizabeth Hubley: Honourable senators, the cluster bomb is an especially brutal weapon, with its hundreds of smaller bombs that are dispersed over a wide radius, many of them lying on the ground unexploded for weeks or months waiting to be discovered tragically by children and other innocent civilians.

The United Nations has condemned the use of cluster munitions, and Norway has taken the lead internationally in having them banned, just as Canada took the lead some years ago in having land mines banned.

Are cluster bombs or any of their component parts currently being manufactured in Canada, and are these munitions part of the Canadian arsenal of weaponry?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors): Honourable senators, I believe a conference is taking place right now at the United Nations on this very matter. In terms of the Canadian arsenal, I have seen no reports of these munitions being used by the Canadian Forces, but I shall take the honourable senator's question as notice.

• (1440)

FOREIGN AFFAIRS

CLUSTER MUNITIONS—USE BY NATO FORCES—
OSLO CONFERENCE

Hon. Elizabeth Hubley: My question is for the government leader. Have cluster bombs been used by NATO military forces in Afghanistan?

The Oslo Conference on Cluster Munitions is being held from February 21 to February 23. Perhaps the leader can share with us the role Canada will play in the growing international effort to have these weapons banned.

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, I cannot, in my position as Leader of the Government in the Senate, answer for other NATO countries. I will simply take the question as notice. Of course, the honourable senator is quite right; the meetings are taking place in Oslo from February 21 to 23.

Senator Hubley: Will the minister explain Canada's role in that conference when she brings the answers back?

Senator LeBreton: Yes.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour of presenting a delayed answer to a question raised by Senator Cordy on December 5, 2006, concerning bed nets and malaria control.

INTERNATIONAL COOPERATION

AFRICA—CUTS TO RED CROSS PROGRAM
TO DISTRIBUTE BED NETS

(*Response to question raised by Hon. Jane Cordy on December 5, 2006*)

The Government of Canada maintains a firm commitment to support initiatives for malaria control, especially those directed towards children and pregnant women.

Canada has been the leading donor country to an international partnership to broaden the free large-scale delivery of bed nets, in combination with other lifesaving interventions. The Canadian International Development Agency (CIDA) is responsible for 16 per cent of the 25 million insecticide treated bed nets that are being distributed through this partnership free of charge.

The Canadian Red Cross (CRC) continues to be a valued CIDA partner in this effort, most recently completing a bed net distribution of nearly 900,000 nets in Sierra Leone. CRC has received over $26 million in CIDA funds since 2002. The Canadian Red Cross still has funds remaining from its last CIDA grant of $20 million that will be used to support bed net distribution activities in 2007. This program has in no way been abandoned. Discussions with the CRC on the next phase of the program are proceeding well.

UNICEF is also a valued CIDA partner. Contrary to what has been claimed by some, UNICEF has informed us that they do not sell nets in Ethiopia. CIDA has provided UNICEF with $12.5 million for malaria activities. Through this funding, 1.5 million free bed nets will be delivered.

We can all take pride in the fact that Canada's support for these malaria prevention programs in Africa are expected to save as many as 75,000 lives, as well as helping an even larger number maintain their health so they can work or go to school.

It is important to note that Canada's support to malaria programs is not limited to these activities. For example, Canada has recently increased funding to the Global Fund to Fight AIDS, TB and Malaria with a current annual commitment that stands at $125 million per year, up from an average of $60 million per year since 2002. The Global Fund commits approximately one quarter of its funding to malaria activities.

[*English*]

ORDERS OF THE DAY

CONSTITUTION ACT, 1867

BILL TO AMEND—SECOND READING

On the Order:

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

Hon. Anne C. Cools: Honourable senators, I rise to speak to second reading of Bill S-4, which claims legal authority of the Constitution Act, 1982, section 44.

Bill S-4 proposes to alter the tenure for senators from life tenure to an eight-year term. Neither the 1867 nor the 1982 Constitution Acts contain any legal authority whatsoever for Parliament to adopt Bill S-4. In fact, both acts prohibit it.

Honourable senators, I support genuine change and real reform, but I feel that I must assert that change must be executed within the law and within the Constitution. Bill S-4 is a corrupt use of section 44. Consequently, honourable senators, it is an outlaw. I would even go on to describe it as "constitutional vandalism."

Honourable senators, Canada's Constitution, the British North America Act, 1867, began as the 72 resolutions agreed by the delegates, our Fathers of Confederation, at the Quebec Conference on October 10, 1864. This act represented the evolutionary planting of the British Constitution in the new Confederation, Canada.

In 1864, the United States federation difficulties and its resulting civil war were top-of-mind for the Canadian fathers. John A. Macdonald, a seasoned constitutionalist, like many of the fathers, had studied the American constitutional framers, particularly Alexander Hamilton, who of all the American revolutionaries was the most attached to British constitutional principles. Post-revolution, he was a defender of besieged loyalists.

Macdonald had studied James Madison's *Debates in the Federal Convention of 1787*, which included Hamilton's *Draft of a Constitution for the United States*. Separated by time, history and geography, Macdonald and Hamilton had a unity of thought.

Macdonald's copy of Madison's volume, with Macdonald's own personal notations, came into the hands of Canada's scholar, William B. Munro, who used it for his 1929 book *American Influences on Canadian Government*. Munro writes about the four provisions of Hamilton's *Draft*, which entered Canada's Constitution. He wrote:

> All these provisions, rejected by the Philadelphia Convention in spite of Hamilton's urging, went into the Quebec Resolutions at Macdonald's insistence. If Macdonald is entitled to be called the "Father of the Canadian Constitution", it would appear that Alexander Hamilton has some claim to be designated as its grandfather.

Another Canadian scholar, Arthur Lower, mentioned this in his essay, *Theories of Canadian Federalism*, in the 1958 book, *Evolving Canadian Federalism*.

• (1445)

Lower wrote:

> The effect of the combination of Macdonald's own cast of mind with Hamiltonian views is written all over the B.N.A. Act. Several of the distinctive features of Hamilton's rejected constitutional scheme were taken over by the Quebec Convention, almost certainly under Macdonald's influence, and later embodied in the B.N.A. Act.

Honourable senators, Alexander Hamilton, in his *Draft of a Constitution for the United States*, had proposed four ideas adopted in Canada's constitution. The one most relevant to this debate was life tenure for senators, though elected. Senators elected, but serving for life. It was a very interesting proposition.

Hamilton's Article III, section 6, of his draft states:

> The Senators shall hold their places during good behaviour, removable only by conviction on impeachment for some crime or misdemeanor.

Significantly, Macdonald's Quebec Resolution number 11 stated, in part:

> The Members of the Legislative Council shall be appointed by the Crown under the Great Seal . . . and shall hold Office during Life; . . . .

Honourable senators, I note the unity of law between Hamilton's words "hold their places during good behaviour" and Macdonald's words "shall hold office during life." Both employed the feudal law of estate for life in office qualified by good conduct. Interestingly enough, as enacted in 1867, the BNA Act, section 29, which Bill S-4 purports to amend, read:

> A Senator shall, subject to the Provisions of this Act, hold his Place in the Senate for Life.

Honourable senators, hold on to the word "hold."

On February 6, 1865, Attorney-General West John A. Macdonald began the Confederation debates in the Legislative Assembly of the United Province of Canada. He moved the resolution:

> That an humble Address be presented to Her Majesty, praying that She may be graciously pleased to cause a measure to be submitted to the Imperial Parliament, for the purposes of uniting the Colonies of Canada, Nova Scotia, New Brunswick, Newfoundland, and Prince Edward Island, in one Government, with provisions based on certain Resolutions, which were adopted at a Conference of Delegates from the said Colonies, held at the city of Quebec, on the 10th October, 1864.

Honourable senators, John A. Macdonald gave an instructive account of the 72 Quebec resolutions, of the fathers' agreement to them and of the law founding them. Honourable senators, Macdonald, who had personally authored 50 of these 72 resolutions, told of the delegates' design for the Parliament of the new confederation. Recorded in the *Parliamentary Debates on the Subject of the Confederation of the British North American Provinces*, he said:

> The legislature of British North America will be composed of King, Lords, and Commons. The Legislative Council will stand in the same relation to the Lower House, as the House of Lords to the House of Commons in England . . .

He told the assembly that the Quebec delegates had rejected an elected upper house and had chosen one nominated by the Queen. He said:

> And nomination by the Crown is of course the system which is most in accordance with the British Constitution. We resolved then, that the constitution of the Upper House should be in accordance with the British system as nearly as circumstances would allow. An hereditary Upper House is impracticable in this young country. . . . The only mode of adapting the English system to the Upper House, is by conferring the power of appointment on the Crown (as the English peers are appointed), but that the appointments should be for life.

Honourable senators, let us understand clearly that Macdonald said that Canada's upper house, adapted from the British constitution and the House of Lords, would be achieved — and I would ask honourable senators to hold on to this — by the ancient law of estate for life in office, created by Her Majesty's royal grant by letters patent, called tenure for life. The fathers chose the law of tenure for life and appointment by Her Majesty as the cornerstone of the new confederation and its new constitution, the BNA Act, particularly its Part IV, entitled "Legislative Power," being sections 17 to 57 of the Act. About the law of tenure, the law of estate for life and their legal effect, *Jowitt's Dictionary of English Law*, 1977, states:

> Tenure in a general sense is a mode of holding or occupying: thus we speak of the tenure of an office, meaning the manner in which it is held, especially with regard to time (tenure for life, tenure during good behaviour), and of tenure of land in the sense of occupation or tenancy . . .
>
> In its more technical sense, tenure signifies the mode in which all land in England is theoretically owned and occupied. The rule is that only the Crown can be the absolute owner of land in England . . . that is, every person who is possessed of land is theoretically merely a tenant and owes obligations in respect of it either to the Crown or to an intermediate lord. The manner of his possession is called tenure, and the extent of his interest is called an estate.

That is, an estate for life in the Senate.

• (1450)

By the law of property, life tenure in this Senate is based on the ancient feudal tenurial relationship; that obtained between king and subject vassals as tenants "holding of the king," which was characterized by fidelity, duties and proper demeanour. Forfeiture of the holding was a necessary consequence that attended a serious breach of the relationship. Such a breach was a "felony." As we look at section 31.(4) and "felon," we understand that the Constitution works like a unity.

Honourable senators, this law of the Royal grant of an estate for life in an office to a person treated the office as though it were a parcel of land, a piece of real property, real estate, a freehold in the office. The grantee, the office holder, could not easily be dispossessed of the office because he held a life estate and a freehold in it. Consequently, the grantee held the office for life so long as he observed its conditions and performed its functions and duties. In his 1820 book, *A Treatise on the Law of the Prerogatives of the Crown; and Relative Duties and Rights of the Subject*, Joseph Chitty says, at pages 84-85:

> The grant of an office should regularly be under the great seal. No investiture, or ceremony, is in general necessary to perfect the grantee's title to the office, which becomes vested in him merely by the grant; though such grant may be rendered ineffectual by neglect of the party to take the various oaths before alluded to.

Chitty continued:

> . . . that as they are constituted for the public weal it is expedient that they should be properly executed. On this principle a condition is tacitly and peremptorily engrafted by law on the grant of all offices, that they be executed by the grantee faithfully, properly, and diligently: on breach of which condition the office is forfeited or liable to be seized. This principle has ever been admitted: the difficulty has arisen in the application of it.

Honourable senators, the ancient law of estate in office is no mere antiquarian or vestigial curiosity. It is a fundamental characteristic of our two Constitution Acts, 1867 and 1982, and of the Parliament of Canada. To expel this from our Constitution is to expel the British Constitution from Canada. Macdonald said early on that this would be the way to allow the British system to be adapted here.

Honourable senators, for reasons unrelated to feudal needs and conditions, life estate in office was adapted in Britain in the 18th century for superior court judges to secure a particular constitutional position for them that included judicial independence. This did not apply in Canada, a constitutional deficiency that caused much unrest in Upper Canada. Lord Durham dealt with this in his report. This British constitutional position was fully clarified and adopted by the BNA Act, 1867 for superior court judges and for senators. The conditions for judges were during good behaviour, removable on address; and for senators, the conditions were loyal service subject to disqualification by senators per section 31, BNA Act, 1867. The estate for life placed senators in a similar, yet superior, constitutional position to the judges. This sound constitutional footing was independence. Its other purpose was to foster constitutional comity. The judiciary, Parliament and cabinet are coordinate constitutional institutions whose jealous relationships are governed by comity. Blackstone calls this the balance of the Constitution, which is what Bill S-4 proposes to do away with. In

Canada, life tenure was key to institutional independence and to the proper balance of the Constitution and the sovereignty of Parliament.

Honourable senators, another reason for life tenure and the similar constitutional position of senators and judges was section 18 of the BNA Act. Section 18 and section 17 had contemplated that Canada, like the UK, would constitute a Canadian appellate jurisdiction in the Senate similar in principle to, but not the same as, the British appellate jurisdiction in the House of Lords. Mindful of protecting the position of the Lords' Judicial Committee of the Privy Council as a final court of appeal for all the Empire's colonies, the imperial Parliament in section 18 insured that any Senate of appellate jurisdiction would be subordinate to the Judicial Committee of the Privy Council. It limited the powers, privileges and immunities of the Senate to the British Commons House and not to the House of Lords, even though the Senate was patterned after the Lords.

Honourable senators, section 18 of the BNA Act, 1867 receives the ancient powers, privileges and immunities of the British Parliament. The law of Parliament, the *lex et consuetudo parlamenti* of the High Court of Parliament, governs all the business of Parliament, which includes the law of estate for life. That is why Parliament could create the Supreme Court of Canada in 1875.

Honourable senators, the powers of Parliament acting alone to amend the Constitution are limited. Bill S-4 applies section 44 of the Constitution Act, 1982, to amend section 29 and no other section of the Constitution Act, 1867. Section 44 states:

> Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

Honourable senators, the words of section 44, in their natural and proper extent, apply to constitutional amendments that touch the Senate alone or that touch the House of Commons alone, but not to amendments that touch the Senate and the House of Commons in their combined estates with Her Majesty as the one Parliament of Canada.

The Hon. the Speaker: I advise that the honourable senator's 15 minutes have elapsed.

Senator Cools: Honourable senators, may I have leave to continue?

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

Senator Cools: Honourable senators, I ask for time to complete my remarks. The purpose of this place is to have debate. I do not know why we cannot have a few minutes of debate.

The Hon. the Speaker: Has the house unanimously agreed that Senator Cools has another five minutes?

Hon. Senators: Agreed.

Senator Cools: Yet, furtively Bill S-4 would amend the Constitution of the Parliament of Canada, being Part IV of the BNA Act, titled the Legislative Power, by redefining the words "Senate" and "senator" to be a constitutional creature unknown to the BNA Act.

Honourable senators, sections 17 and 18 under Part IV — 10 sections before section 29 — introduce and define the constitutional meaning of the words "Senate" and "senator." Section 17 says:

> There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

By these sections, a senator is a person individually constituted by Her Majesty's grant to hold an estate for life in the Parliament of Canada. The Senate is an aggregate of 105 such individual constitutions, vesting proprietary and possessory life estates in Parliament. Every section of the BNA Act that mentions the words "Senate," "senator" or "Parliament" means such a constituted individual and cannot mean a person appointed for a term of years, which is inconsistent with the monarchical structure of the BNA Act. Bill S-4 is a furtive amendment to the BNA Act, Part IV, Legislative Power, and to the Constitution of the Parliament of Canada. It would be a major and profound change to our constitutional regime.

• (1500)

The Queen, too, is a senator and a member of Parliament with a life estate. She is the *caput, principium, et finis*, meaning the head, beginning and the end. This is the power, not the BNA Act, that constitutes senators.

Bill S-4 would also amend the Governor General's letters patent to constitute senators. Canada is a monarchy similar in principle to Britain. Bill S-4's proposals require the general amending formula of section 38 because it proposes to amend the fundamental features of the Queen in her Parliament of Canada.

Honourable senators, the fundamental and immutable characteristic of the British Constitution, received into Canada by the BNA Act, is the ancient pedigree of our liberties, closely linked with a hereditary monarchy, with its permanence and its stability.

The great parliamentarian Edmund Burke articulates the fundamental characteristics of the British Constitution in his 1790 work *Reflections on the Revolution in France*, contained in *The Works of the Right Honourable Edmund Burke*. He said:

> You will observe, that, from Magna Carta to the Declaration of Right, it has been the uniform policy of our Constitution to claim and assert our liberties as an *entailed inheritance* derived to us from our forefathers, and to be transmitted to our posterity, as an estate specially belonging to the people of this kingdom, without any reference whatever to any other more general or prior right. By this means our Constitution preserves a unity in so great a diversity of its parts. We have an inheritable crown, an inheritable peerage, and a House of Commons and a people inheriting privileges, franchises, and liberties from a long line of ancestors.

Honourable senators, the evolution of our Constitution and our country — which are outgrowths of the British Constitution in the U.K. — follows a very clear and coherent path marked by precedents, principles and precepts. In claiming that Parliament alone can change so fundamental and so characteristic a part of our heritage and estate, as does Bill S-4, is to misread, misunderstand and misrepresent 1,000 years of constitutional evolution.

Honourable senators, there is a tendency in today's community — among governments, particularly — to conceal important constitutional notions from the public mind simply by never mentioning or raising them. I searched the proceedings of the Special Senate Committee on Senate Reform looking for references to the notion of estate for life in an office. I found not a single one. However, in this monarchical system, the monarch herself is constituted on such a basis, in a hereditary position.

Honourable senators, the constitution of the Senate is not like the constitution of the House of Commons, where there are places for members from different ridings. The membership and composition of the Senate is decided by personal constitution by Her Majesty. That is what the Senate is. The Senate is a collection of 105 individual constitutions of estate for life in the Parliament of Canada.

I thank honourable senators for last Thursday. I really wanted to speak in this debate and wished to complete my research. I ask senators to understand that much of this material has become arcane and cryptic; it has disappeared especially from the minds of lawyers. We are living in an era where lawyers have been leading in dismantling the principles and the law that has held the country together. This is a very interesting thing.

I went through all of the special committee's proceedings, one after the other, and I could find no reference to the fact that estate for life was the building block of the constitution of this Parliament. Sir John A. Macdonald said it himself; this was the only way that the British constitution could be transplanted into the new Confederation called Canada.

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?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

Motion agreed to and bill read second time, on division.

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 Legal and Constitutional Affairs.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. David Tkachuk moved second reading of Bill C-9, to amend the Criminal Code (conditional sentence of imprisonment).

He said: Honourable senators, it seems that Bill C-9 will be a unique experience. It is one of the most anticipated bills for the side opposite in this session. They spent Question Periods begging for this legislation, accusing me and this side of foot-dragging.

Call it a little experiment. Bill S-4 has been initiated on this side and spoken to since May of 2006. The other side has been diligently contemplating an eight-year Senate term, has called witnesses, talked on the bill and on the committee report, willed all the intellect of 64 Liberal senators for nine months and has yet to decide on the principle of term limits let alone the subject matter of eight years. We thought perhaps you were overtaxed.

I was inspired by the Liberals on the debate of Bill S-4, appealing to the bipartisanship of this place, surveying a Senate that worked without rancour and with independence. My friends the Liberals said that is why an appointed Senate is such a great thing; all that corporate memory, accumulated wisdom because of our long tenure and, of course, independence, because we do not have to face the nuisance of voters.

Senator Banks, in his speech on February 8, was, as they say, the icing on the cake. Full-blown rhetoric, challenging us to work together for our regions — regional caucuses — Liberals and Conservatives, sitting side by side, united in regional unity. I was moved. I wept.

Amongst all this harmony, I was charged with Bill C-9, a justice bill on conditional sentencing. The Liberal critic on the other side is Senator Jaffer, who is a lawyer and for whom I have a lot of respect. I am hopeful she will be a full participant in improving this bill.

I do not particularly like this bill. It falls short of its promise and is a bill my honourable friends should not like either. There is no question that most of us here agree with the principle of conditional sentencing. It was the substance that eluded the members in the other place, who decided to deal with this bill with some rancour, rather than addressing the issues that were involved in Bill C-9.

The concept of conditional sentencing was introduced by Minister Allan Rock to clarify the government's position on who should be introduced to the wonderful facilities of jail and who might be given a reprieve with conditions attached to it.

• (1510)

I believe Minister Rock thought that judges should be given some direction on this issue because parole was the only alternative outside of jail. His Bill C-41, introduced September 20, 1994, sought to do just that. Bill C-41 sought to provide judges with the necessary means to issue a conditional sentence. The bill sought to allow for community service,

restitution, or some other creative sentence that would keep an offender out of jail. It would keep an offender out of jail who might not benefit from incarceration and that the judge believed had a good chance of not reoffending.

I want to take you back to September 20,1994 and to the words of Allan Rock, who introduced conditional sentencing into the Criminal Code. During Mr. Rock's speech at the time of second reading of September 20, he said:

> Parliament stresses the need to punish certain types of behaviour by clearly stating that the purpose of sentencing must be to denounce unlawful conduct, to deter offenders and other persons from committing crimes and to separate offenders from society were necessary.

Mr. Rock went on to say:

> Incarceration must remain an option for offenders who need this form of punishment and must be separated from society to ensure the safety of the population. . . . jails should be reserved for those who should be there.

The point of Bill C-41 was to create an alternative for those who pose no danger to society and for whom the Criminal Code provided little or no options short of jail.

If you will bear with me, let me relate to you what the Justice Minister at the time had to say about those alternatives as they applied to conditional sentencing. Mr. Rock explained that under Bill C-41:

> Where a court imposes a sentence of imprisonment of less than two years and where the court is satisfied that serving the sentence in the community would not endanger the safety of society as a whole, the court may order that the offender serve the sentence in the community rather than in an institution.

That was his intent and that was the intent of the government at the time. I have no argument with this, although I am growing weary of quoting a Liberal at such length.

As I stated at the outset of my remarks, the difference between our sides over conditional sentencing is not one of intention. The problems that have arisen over conditional sentencing are how the courts have interpreted when, how and upon whom those sentences should be visited. The problem with Bill C-41 was that it left the courts the wiggle room to do this.

Section 742.1 of the Criminal Code identifies the following prerequisites necessary for consideration of a conditional sentence: the sentence must be less than two years; the court must be satisfied that allowing the offender to serve the sentence of imprisonment in the community will not endanger the safety of the community; the offence must not be punishable by a mandatory minimum term of imprisonment; and the court is satisfied that sentencing the offender to serve a conditional sentence of imprisonment is consistent with the fundamental purpose and principles of sentencing set out in the Criminal Code.

Bill C-41 also established the fundamental principle of sentencing: A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender." This has been called the principle of proportionality. As we have seen over the years since Bill C-41 came into force, this principle has become, in some instances, completely out of whack.

Many, including some of the provinces and territories, have become increasingly concerned with the wide array of offences that resulted in conditional sentences of imprisonment. It was felt that this was contributing to a loss of public confidence in the sanction and in the administration of justice.

Let me give you a few examples of conditional sentencing run amuck; a few of which my colleagues in the House have referred to.

A few years ago in Langley, British Columbia, a man sexually assaulted two young girls. Rather than being sent to jail, he was sentenced to house arrest. He received a conditional sentence for a violent and vicious crime. His victims, far from being protected or separated by this man from the courts, lived on either side of him.

A few years before that, a Manitoba Court of Appeal overturned a two-year sentence for a man convicted of dangerous driving, which resulted in the deaths of two women. The hope would be that he would be given a longer sentence. No, instead the court ordered house arrest.

In 2002, a man in Nova Scotia beat his common-law wife in a drunken rage using a clothes iron and wine bottle as weapons. Why? Because, according to her, she had not shown enough appreciation for his painting job on the house. What sentence did the judge give him? The man received a conditional sentence consisting of house arrest, reporting, abstinence from alcohol and counselling. This was in spite of the fact that in 1997 the same man had been convicted of beating the same woman in the face with an axe handle. The sentence that man received was a conditional sentence followed by probation. I guess the thinking here is that if the conditional sentence does not work in the first place, maybe we should try it again.

Where did things go awry? It did not help that in 2000, in the case of *Regina vs. Proulx*, the Supreme Court of Canada held the conditional sentencing regime does not exclude any category of offences other than those with a minimum period of incarceration. Nor is there a presumption for or against the use of conditional sentencing for any category of offence. However, the court said that it was open to Parliament to introduce such limitations.

Honourable senators, Bill C-9 was tabled on 4 May 2006 in order to meet what some might call this invitation by the Supreme Court, but what I consider an obligation of parliamentarians. It is no different from what Allan Rock intended through Bill C-41 and, in fact, when passed it will bring us full circle. As amended, Bill C-9 is strikingly similar to Bill C-70 tabled by the Liberal government in October 2005 as Bill C-70. Like Bill C-70, Bill C-9 includes an amendment to the Criminal Code to create a prohibition that courts shall not make conditional sentence orders when sentencing offenders convicted of serious personal injury, offences, terrorism offences or criminal organization offences.

Now, this is a departure from what the new Conservative government originally proposed. Bill C-9 as tabled in the House in May last year proposed a new criteria that would have eliminated the availability of a conditional sentence for offences punishable by a maximum sentence of 10 years or more and prosecuted by indictment. This would have caught offences in the Criminal Code as well as offences in the Controlled Drugs and Substance Act.

The Standing Committee on Justice and Legal Affairs amended the bill and the one that we have before us is of narrower scope. It only captures terrorism offences, organized crime offences and serious personal injury offences defined in section 752 of the Criminal Code. These crimes are punishable by a maximum sentence of 10 years or more and prosecuted by indictment.

These new limitations would be added to the four existing prerequisites that I mentioned earlier. As it stands, the bill will significantly restrict the availability of conditional sentences, though not to the same extent as it did when originally tabled in the House of Commons. Still, it is an improvement over the old regime. For instance, sexual assault, sexual assault with a weapon, and aggravated sexual assault are all eligible for conditional sentencing under existing law. With the inclusion of serious personal injury offences in Bill C-9, that will no longer be the case. It is these sexual offences that often attract the public's and the media's attention when they are punished only by house arrest.

• (1520)

The government actually committed to end the use of house arrest or conditional sentences for serious crimes, including designated violent and serious offences, weapons offences, major drug offences, crimes committed against children, and impaired driving causing death or bodily injury.

Bill C-9 introduced the criterion: indictable offences that were punishable by a maximum penalty of imprisonment for 10 years or more would not be eligible for conditional sentencing.

The opposition in the other place believed the addition was too broad in scope and caught offenders whom they believed should qualify for conditional sentences. They amended the fifth criterion to make the following crimes ineligible for conditional sentencing. Honourable senators, I shall repeat them: serious personal injury offences, terrorism offences, criminal organization offences prosecuted by indictment where the maximum sentence is at least 10 years' imprisonment.

The 752 definition, for example, of personal injury offences does not provide the same degree of certainty as to which other offences it would prohibit from receiving a conditional sentence. Section 752 and the concept of whether an offender has committed a serious personal injury offence is the first of a two-step process that can result in an offender being declared either a dangerous offender and jailed indefinitely or a long-term offender and subject to supervision following release. In both cases, the second prong of the test is the determination of whether there is substantial risk that the offender will reoffend.

The use of this section without some clarity will open up the question of whether the offence is one that qualifies for a conditional sentence or not. As something that can not be answered with certainty, it is something that one can expect will be litigated, much like the current jurisprudence on section 752. In these circumstances, one might anticipate that the evidence of the victim would be required to establish the severity of the injuries sustained, to determine if the offence did in fact constitute a serious personal injury offence. Honourable senators, this could mean that there is a real risk victims would be revictimized through having to testify for sentencing hearings where the defence was seeking a conditional sentence.

While the opposition believes that Bill C-9 as introduced — that is, the opposition in the other place — was too wide in scope, I believe their amendments are still too narrow in scope and need clarity.

Honourable senators, this is where we come in — and why I made the comments I did in my opening remarks. Members opposite either believe that the Senate is a place where we can, from time to time, put aside our differences and work for the common good or that we are actually just kidding. Honourable senators, I am in your hands today. We can provide some certainty within the bill before us today by adding a very simple amendment. The amendment, if my colleagues are so inclined, would be to simply list 10 or 15 offences. There are many more, but these offences can be studied in committee. The committee can decide where it wants to clarify the last part of that section, to ensure that certain offences are not be eligible for conditional sentences — and I am going to list a couple that are in doubt now.

The list could include, but is not limited to: incest, procuring, impaired driving constituting bodily harm, death, assault causing bodily harm, trafficking in persons, and kidnapping or abduction of persons under 14. As Bill C-9 is currently before us, there will be some question as to whether these offences are eligible for a conditional sentence. I believe they are.

Again, at the very least, let us contemplate providing a degree of certainty that these types of offences will not get a conditional sentence. That is our challenge, honourable senators. If we can agree on some common matters to clarify, we should. If members opposite believe the bill as presently stated serves the intended purposes, then we have little to talk about and we can adopt the bill and move on.

I shall anxiously await the speech of the responder on how she would like to see us proceed. Considering the impatience on the other side to see this bill brought forward, I assume we will hear from her either today or tomorrow as to what she would like to see in this bill.

Hon. Senators: Hear, hear!

Hon. Lowell Murray: Will the honourable senator permit a question?

Senator Tkachuk: Yes, I would.

Senator Murray: I followed with interest the honourable senator's recitation of cases in which conditional sentences and, in particular, house arrest had been imposed. I also have followed in the last few days the media comments by the former Chief Justice of Canada, the Right Honourable Antonio Lamer, indicating his dismay about the length of sentences that had been imposed in certain cases.

In regard to the particular cases cited by the honourable senator, on the face of it, of course, the imposition of a conditional sentence, given the facts that he has placed before us, seems inexplicable. However, does he not agree that, to complete the record, we would be better off to have before us the reasons the various judges gave for imposing conditional sentences in those cases? My impression is that judges do not simply impose a sentence, whether conditional or otherwise, without giving fairly detailed reasons as to why they are imposing a sentence of a certain length or a conditional sentence or whatever.

Does Senator Tkachuk know the reasons given by judges in the cases he cited? Can the honourable senator enlighten us on this? In order to judge the matter, in order to make a better assessment of the matter, should we not obtain the reasons for these particular sentences in those particular cases?

Senator Tkachuk: I cannot give the honourable senator the judges' reasons. I can only give him the results of what they did. Certainly, in committee, members can ask all the questions they want and study the specifics of why the people in question in the cases cited were given conditional sentences.

My point here, and the objective of my speech, is that I think we all agree on the principle of the bill. I do not think anyone here is opposed to the concept of conditional sentencing as proposed by Allan Rock in 1994.

The problem has been that the judges have misinterpreted — and I think the Liberal government thought they misinterpreted, which is why they brought in Bill C-70; certainly we thought the judges misinterpreted it — the intent of the people, which is us, members of Parliament. Hence, we have an obligation to determine the validity of the arguments taking place now in justice and in the legal community about whether these crimes are left out by the amendments put forward in the House — and there is a discussion and dispute as to whether conditional sentences would apply. If there is doubt, senators have an obligation to nail it down and give specific direction to judges and not complain afterwards about what the judges have done.

Senator Murray: Would the honourable senator agree with me that progressively removing discretion from the judges in matters of sentencing will mean that Canada's new government will not have to worry about appointing like-minded judges to the bench?

• (1530)

Senator Tkachuk: I will not answer that question.

On motion of Senator Jaffer, debate adjourned.

INCOME TAX ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Carstairs, P.C., for the second reading of Bill S-215, to amend the Income Tax Act in order to provide tax relief. —(*Honourable Senator Tardif*)

The Hon. the Speaker: Honourable senators, I advise the house that if Senator Austin speaks now, it will have the effect of closing debate.

Hon. Jack Austin: Honourable senators, to begin, I want to thank Senator Angus, Senator Tkachuk and Senator Oliver for their contributions to the debate that Bill S-215 initiated. Their duty is to defend the Conservative government in any way they can, even if they are not supplied with a substantive case.

I also want to thank Senator Eggleton for his comments in support of this proposed legislation. He addressed us on the substantive issues here on June 13 last.

The first Conservative budget of the Harper government was brought down by the Minister of Finance, Jim Flaherty, on May 2, 2006. According to *The Globe and Mail* on May 3 2006:

> Business groups said Finance Minister Jim Flaherty's first budget was the most important for economic growth since 2000, when then Finance Minister Paul Martin used a burgeoning surplus to unveil a schedule for $100 billion in tax cuts over five years.

Economists since have credited Martin's tax cuts in 2000 with saving Canada from a recessionary drop which the United States, with difficulty, struggled through at that time.

For the important business community, that budget was, to quote the economic bulletin put out by the Bank of Montreal, "mildly simulative." Overall cuts to corporate taxes were called by business leaders a "step in the right direction."

Honourable senators, I have no quarrel with affordable tax relief for the corporate sector, which I believe must be encouraged to enhance Canada's economic productivity and prosperity through research, innovation and entrepreneurial success. To attract investment in economic renewal, we must be tax competitive with our competitors, taking all factors, including employment insurance and health care services, into account.

During the last election campaign, the Harper Conservatives pledged to spend $30 billion over five years. They also promised $44 billion in tax cuts over the same period. Even during that campaign, any observer of Canadian fiscal affairs would recognize that such cuts would require substantial reductions to virtually the entire spectrum of social, cultural and economic programs. In addition, since Canada's new government has taken office, many thousands of Canadians, mainly in the two lower quartiles of society, have seen their personal security and quality of life undermined. Need I mention what impact the cuts have had to Canada's literary programs, to court challenge programs, to the Law Reform Commission and to women's advocacy?

Let me note, especially, the extensive cuts by Canada's new government of $5 billion in Liberal environmental programs put in place to control and reduce greenhouse gas emissions. I note also the cancellation of the Kelowna agreement, $5 billion set aside to help Aboriginal people; and most Canadians are already aware of the termination of the $5 billion put in place by the Martin government to build a national daycare system.

Honourable senators, with every budget we ask: Who are the winners and losers? Individual Canadians trying to pay a mortgage, educate their children and save for their retirement years are the losers in Minister Flaherty's budget. To carry out their tax reduction plans and the provincial transfers of benefits to higher income Canadians, who have never been more prosperous than under previous Liberal fiscal management, the Conservative budget promised that they would reduce spending by the federal government by $22.5 billion over five years. Guess who pays? As I have said, social programs, cultural programs, environmental programs — in other words, ordinary Canadians.

Honourable senators, Bill S-215 is designed to protect Canada's lower personal income tax commitment made in Finance Minister Ralph Goodale's budget of November 2005. In that budget, he lowered the basic personal amount to 15 per cent as set out in the Ways and Means motion introduced into the House of Commons at that time. By long-standing convention, tax proposals so introduced stand as valid from the moment of the Ways and Means motion. Therefore, at the time of the May 2, 2006 budget, the effective basic personal amount applied by Revenue Canada for the 2006 tax year was 15 percent.

What Finance Minister Flaherty introduced in his budget was a reduction in the Goods and Services Tax to 6 per cent from 7 per cent, but to pay for it, a raise in the basic personal tax bracket to 15.5 per cent from 15 per cent. Whichever way one tries to look at it, it rolled back on half of Ralph Goodale's tax cut. Andrew Jackson of the Canadian Labour Congress said at the time that Flaherty reduced the average worker's weekly take-home pay by about $4.

Of course, Finance Minister Flaherty, for reasons of political presentation, argues that he had in fact cut the basic personal tax by 0.5 per cent, from 16 per cent to 15.5 percent, because the Goodale budget had never been formally legislated into law. Honourable senators know that parliamentary convention, long established in Westminster and equally a part of our conventions, is given the force of law.

Andrew Coyne, in the *National Post* of May 3, 2006, a paper usually embedded in the Conservative party line, is quoted on page 6 as saying:

> But it takes quite remarkable liberties with the language to pretend that a rise in the bottom rate of income tax, from 15 per cent on June 30 to 15.5 per cent on July 1, is actually a tax cut.

He goes on:

> Why can't they afford to cut your income taxes? Because the money's already been committed — to the provinces, to the lucky beneficiaries of the "targeted tax measures," and of course, to cutting the GST. This is the single worst wrong turn in the budget . . . .

Where Andrew Coyne hurts my sensitivities in that article is where he says:

> This is a budget any Liberal finance minister could have brought down.

Honourable senators, that is a low blow indeed.

Let me turn again to the *National Post* on Thursday, May 4, 2006, a column by a well-known Conservative economist Terence Corcoran. He wrote:

> The image of Finance Minister Jim Flaherty as master tax cutter turns out to be the easiest to dispel, especially in view of the evidence yesterday that the government and/or Mr. Flaherty, actually quashed real tax cuts in favour of the rash of fake tax cuts and new spending he actually announced.

As well:

> The second option would have had Mr. Flaherty read a sentence that said the government was" permanently reducing the bottom three personal income tax rates" and "increasing the amount you can earn at these lower rates." Now that's real tax cutting that delivers the kind of tax policy so-called conservatives allegedly endorse.

• (1540)

That is real tax cutting that delivers the kind of tax policy so-called Conservatives allegedly endorsed.

To conclude my brief remarks, which I make in addition to the detailed comments in my speech of May 30, 2006, to open second reading debate, the issues regarding personal income tax strategy in the Flaherty budget, the impact of the 1 per cent GST reduction instead of an across-the-board personal tax reduction for which Mr. Corcoran argues, and the impact of the government's fiscal and spending cut decisions and resulting tax policy decisions deserve to be given close examination in committee.

The principle of this bill is that the Martin government's tax reduction to a basic personal rate of 15 per cent should be maintained and implemented. Those who might think to vote against second reading approval of this bill will in fact be voting in principle for an increase in the personal tax rate.

I call the question, Your Honour.

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?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

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

On motion of Senator Austin, bill referred to the Standing Senate Committee on National Finance.

MEDICAL DEVICES REGISTRY BILL

SECOND READING—SPEAKER'S RULING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harb, seconded by the Honourable Senator Keon, for the second reading of Bill S-221, to establish and maintain a national registry of medical devices. —(*Speaker's ruling*)

The Hon. the Speaker: Honourable senators, I have a ruling on this matter. On January 30, when the Senate resumed consideration of second reading of Bill S-221, to establish and maintain a national registry of medical devices, Senator Comeau raised a point of order. He questioned whether it was appropriate that the bill originate in the Senate.

Bill S-221 provides that the Minister of Health shall designate a registrar of medical devices and that this person shall maintain a registry. Senator Comeau contended that the bill would require that additional expenses be incurred and that it must, therefore, involve an appropriation of public funds. What follows from such a finding, he argued, is that Bill S-221 then requires a Royal Recommendation and must originate in the other place.

[*Translation*]

Senator Comeau pointed out that, under clause 4 of the bill, the registry would be distinct from the department's regular activities and require a separate operating budget. He then drew the senators' attention to the 23rd edition of Erskine May, at page 886, which reads:

[*English*]

> When a bill contains a provision extending the purposes of expenditure already authorized by statute (for example, by adding to the functions of an existing government agency or publicly funded body, extending the classes of persons entitled to a statutory grant or allowance, or extending the range of circumstances in which such grants or allowances are payable), that provision will normally require authorization by Money resolution.

[*Translation*]

On the basis of the reasoning found in Erskine May, Senator Comeau concluded that receiving Bill S-221 in the Senate would offend sections 53 and 54 of the Constitution Act, 1867 and rule 81 of the Senate.

Sections 53 and 54 of the Constitution Act, 1867, provide:

> 53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.
>
> 54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

Senate rule 81 stipulates:

> The Senate shall not proceed upon a bill appropriating public money that has not within the knowledge of the Senate been recommended by the Queen's representative.

[*English*]

Three other senators offered their contributions to this debate. Senator Carstairs expressed the view that, "It is not the purpose of this bill to spend money, therefore, it is not, by definition, a money bill." Support for Senator Carstairs' opinion came from Senator Fraser. She noted that almost all legislation may have monetary implications, without its main purpose being to spend money. In her comments, Senator Fraser suggested that a bill that does not set out to change the budgetary situation or budgetary policy of the government and that does not affect taxes is not a money bill, even if its ancillary effect is the spending of some money.

The sponsor of the bill, Senator Harb, began by expressing his agreement with the comments of Senators Carstairs and Fraser, and went on to deal specifically with the notion of Bill S-221 as a money bill. He pointed out that regulations under the bill could conceivably impose a fee on those who use the registry, and this could result in the initiative being revenue neutral or even generating revenues for the Crown. Significantly, Senator Harb also pointed out that the Auditor General's report acknowledged the existence of an inspection strategy at Health Canada, although it recommended the elaboration of this strategy.

[*Translation*]

I would like to express my appreciation to those honourable Senators who offered their contributions to the discussion on this point of order. I have had an opportunity to consult the authorities and am prepared to make my ruling.

The issue with respect to the introduction of Bill S-221 in the Senate is whether the provisions of this bill appropriate "any part of the public revenue or impose any tax or impost", as set out in section 53 of the Constitution Act, 1867. It is very difficult to ascertain, without extensive evidence and based purely on the provisions of a bill, what the financial implications of its enactment might be. Moreover, as Speaker, I am obliged to avoid ruling on questions of law. As Speaker Molgat noted in his ruling of April 2, 1998, in the case of Bill S-13, the Tobacco Industry Responsibility Act:

[*English*]

> The . . . question . . . has to do with whether or not the levy scheme established through this bill constitutes a tax. In answering this question, I am constrained by the rule that the Speaker does not rule on questions of law. Citation 168(5) of *Beauchesne* states that "The Speaker will not give a decision upon a constitutional question nor decide a question of law, though the same may be raised on a point of order or a question of privilege."

What is in my authority, however, is the examination of the bill in order to assess what it declares itself to be.

I was persuaded by the logic of Speaker Molgat's remarks and examined Bill S-221 to see what, on the face of it, the bill "declares itself to be."

• (1550)

In considering this question, I was guided by Speaker Molgat's decision on Bill S-12, the First Nations Government Act, rendered on February 4, 1997, and directly on the point with the current case:

> I have carefully reviewed Bill S-12 . . . and I have been unable to find any provision that clearly appropriates money from the Consolidated Revenue Fund. Moreover, while Senator Stanbury indicated that clauses 16 to 27 might possibly involve an expenditure by the government, it is not certain whether these anticipated operations would be funded by a new appropriation which would require a royal recommendation or by existing allocations established through previous legislation. Nor is there any language in the bill that effectively imposes any perceived appropriation. Yet these are the conditions to be satisfied when considering whether a royal recommendation should be attached to the bill . . . . Without sufficient evidence that Bill S-12 as drafted provides for an appropriation or creates a new charge, I have no authority to prevent debate on it.

[*Translation*]

With respect to the present situation, no part of Bill S-221 discusses an appropriation of the public revenue, or the levying of any tax or impost. What it does do is create a new registry, staffed by a registrar who is to be a person already employed by the department. Are there expenditures involved with this process? Almost certainly. Whether these expenditures are new, however, is less certain. Under the Department of Health Act, the "powers, duties, and functions of the Minister," already include "the establishment and control of safety standards and safety information requirements for consumer products"; this function appears to cover the same type of activity contemplated by Bill S-221. In addition, as I mentioned earlier, the Auditor General's report confirmed the existence of an inspection strategy, which obviously has had funds granted to it. This current initiative may well be construed as an elaboration of the existing system.

[*English*]

Certainly it can be argued that the fact that this is an originating bill — as opposed to an amending bill — might increase the possibility of new spending, but I do not believe that such is necessarily the case. Rather, it is equally plausible that the bill will require that an existing function be carried out in a new way. Consequently, it is not certain that this bill adds to the functions of an existing government agency as set out in the Erskine May test.

[*Translation*]

Senator Harb offered the possibility that this bill, through its authorization of regulations, might impose fees that could effectively raise enough funds to pay for the registry it creates. Admittedly, this talk of potential fees put forward by Senator Harb is speculative. Suggestions to the contrary on my part, however, would be equally speculative. It is not my place as Speaker to conjecture, but, rather, to do my utmost to maintain the role of the Senate, so long as it involves no trespass on the privileges of the other place or on the financial initiative of the Crown. Once again, I find compelling the comments of Speaker Molgat when ruling on Bill S-13:

[*English*]

> Let me begin with this general proposition. It is my view that matters are presumed to be in order, except where the contrary is clearly established to be the case. This presumption suggests to me that the best policy for a Speaker is to interpret the rules in favour of debate by Senators, except where a matter to be debated is clearly out of order.

I am similarly persuaded by the common sense argument that it could certainly not be intended that every bill that has any monetary implications whatsoever must be introduced first in the other place. Such an interpretation would greatly impede the power of the Senate to initiate legislation. For this reason, and those that I have previously stated, I find that Bill S-221 is properly before the Senate and that debate on second reading may proceed.

On motion of Senator Keon, debate adjourned.

KYOTO PROTOCOL IMPLEMENTATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Grant Mitchell moved second reading of Bill C-288, to ensure Canada meets its global climate change obligations under the Kyoto Protocol.—(*Honourable Senator Mitchell*)

He said: Honourable senators, it is a great privilege for me to be able to initiate debate in the Senate on this bill and to move its second reading. I take this responsibility to be the sponsor of the bill in the Senate with a great deal of humility, and I sense that it is a great responsibility.

I think and I hope that we are in this Parliament and in this country beyond the point where there is some question about whether or not climate change is occurring, and I hope as well that we are beyond the point where some believe, given any credibility whatsoever, that climate change is not driven by man-made or person-made greenhouse gas emissions.

The debate must simply progress past that. I do not want to spend a lot of time, therefore, listing the consequences of a policy or a lack of policy that would see us fall short of what we need to do on climate change, specifically to fall short of what we need to do as responsible signatories to the Kyoto Protocol.

The fact is that our country, as are countries across the world, is in a great deal of jeopardy over what might occur or what will occur if we do not take concerted national and international action to stop this climate change evolution.

I note that even the Prime Minister — who as recently as several months ago, just before Christmas, was still using the dismissive term "so-called" when he referred to climate change or

greenhouse gases — has been quoted, as recently as last week, in fact February 16, as saying ". . . the science is clear that these changes are occurring, they're serious and we must act."

That statement might indicate two things — and one is less certain than the other. The statement may indicate that the Prime Minister actually believes that climate change is occurring, that he actually believes the science and is prepared to act. However, we have seen no evidence that he is prepared to act — quite the contrary, in fact. His predisposition from the moment he took over government was — if I could coin the word — to "disact." Prime Minister Harper actually dismissed Kyoto, dismissed the work completed by the previous government and cancelled program after program established by his own Treasury Board to be extremely cost-effective and extremely efficient and generally effective.

The second thing we know for sure that his statement underlines — this is a certainty — is that climate change has become a political issue in this country. If for no other reason, the Prime Minister has jumped on this issue of climate change and Kyoto because it has become a political issue. It is clear now, over the last number of months, that the environment, and climate change in particular, has risen to the number one issue in Canadians' minds.

• (1600)

Polls can be questionable at times, but I believe the polls are clear on this issue. Canadians are concerned about climate change, and are concerned about Kyoto and Canada's role, in a way that they have not often, if ever, been concerned about an issue facing this country and the globe. I know that is the case because many Canadians have told me that; and I know doubly for sure because the Prime Minister is now saying that he thinks climate change is a problem and that he will act.

The Harper government was so wrong on this important political and substantive issue. In fact, climate change may be one of the most important issues, if not the most important issue, to face this country in the last 50 years, and the Harper government missed it. Having to come so far from behind, the government begins to create a political debate — and I will address this, to some extent, to dispel some of the many myths levelled by this government and spun in various ways through various media.

First is the idea that the Liberals had 13 years to do something but did nothing. Quite the contrary, honourable senators. As usual, the Harper government has its facts wrong. Liberals had about eight years. Kyoto was not approved until 1997 and was not finally ratified until 2005.

Stéphane Dion, the leader of the Liberal Party, was the Minister of the Environment for only the last year and a half of our government being in place. Two things are interesting. First of all, Mr. Dion brought out Project Green not eight months after he became Minister of the Environment. That plan was built upon a great deal of work by his predecessor, who consulted with businesses and the provinces, so that when the plan materialized, it would have some fundamental credibility. Stéphane Dion broadly consulted Canadians for a number of years to get to the point where the green plan could be put in place and be effective.

Those actions are in contrast to recent events by this government, where not only did the Prime Minister not consult Canadians, but he did not even consult his own caucus in a number of cases.

It was not as though those first six years, just about seven, — 1997 to 2004 — prior to Stéphane Dion becoming the Minister of the Environment were wasted years; they were not. The Liberal green plan was a huge public policy initiative and it took great effort and concentration to ensure that it was structured properly. Stéphane Dion, in eight months, brought in Project Green. Was that green plan nothing, as this government would say? No.

What would lead this government to saying that the plan was nothing? The Harper government cancelled the Project Green initiatives, which were determined to be very efficient, far more efficient than the famous transit bus pass initiative. The new government had no basis upon which to make its assessment of these plans and to conclude that nothing was done. I had the opportunity to question in committee the former Minister of the Environment in the Harper government, Ms. Ambrose. She stated that the green plan was cancelled because it was inefficient. Any reasonable person would assume that there would be supporting data if a program were assessed as being inefficient. One would expect to have a study for that, but the only information received was gained under the Access to Privacy and Information Act and it was exactly the opposite — in other words, the programs were very efficient.

Ms. Ambrose's answer to me in a public forum was revealing. She began her answer in the standard Conservative way, that is, to attack, and one of her conclusions was that the Liberals had done nothing. She then finished her statements, and this probably contributed to the finishing of her career in that portfolio, by saying that "I have to tell you that there has not been a single review, not a single study, of any environmental program in this government ever." There was a huge thud.

How, then, would one conclude that those programs were inefficient? It is absolutely true that Ms. Ambrose said that. My response was as follows: "Thank you, my question is answered. You did not study it. You ideologically assumed you did not like these programs and cancelled them. Please tell me that do not run the rest of your public policy initiatives in this way, although there is plenty of evidence that in fact you do."

Let me give you the other side of the argument.

Project Green was put into place with a strong understanding and analysis that it would meet the 270 megatons of reductions of greenhouse gases that were required of Canada under the Kyoto Protocol by 2012. That plan has been subject to a great deal of discussion, debate and scrutiny, unlike the Conservative environmental policy, and what was the conclusion? Even one of the toughest-nosed analysts in this area, Mark Jaccard — who is well known for believing that we are not going to solve greenhouse gases by doing away with fossil fuels — who has a huge degree of credibility and who has probably been an adviser to the Conservative government because he is so good, concluded that Project Green, brought out in April 2005, would result in about 175 megatons in reductions of greenhouse gases. That goes a long way towards 270 megatons. Jaccard is a harsh critic of these

programs and he discounts, almost entirely, subsidies for conservation because he believes they somehow do not work. He took subsidies out of the equation.

The Pembina Institute, based originally in my province of Alberta and which has huge credibility in both the business and environmental communities, said that it is likely that this program, as structured, would have achieved between 175 and 270 megatons in greenhouse gas reductions that were required.

Remember, this was just 2005. We still had three years to implement further programs, to make sure we got to 270 megatons, by the time the actual period of time started, 2008-12. I do not want to hear ideologically based assessments by a government stating that these programs did not work, because it is absolutely misleading. Rona Ambrose, when she was Minister of the Environment, made that very clear in a very public environment.

Because this was such an important political issue and because the Liberals, under Stéphane Dion, were way out in front, the Harper government had to do something about discrediting it.

The new government also argues that, somehow, Bill C-288 is strategically a mistake for the Liberals. The press likes to spin this, too, and somehow tries to put us into some kind of corner. This issue was going to be an issue in the next election whether or not Bill C-288 was promoted and passed. The fact is that the Conservatives are on this very sharp fence. On the one hand, they do not believe that climate change is taking place, but they do not see a way they could possibly address climate change without their policy hurting an economy; on the other hand, there is a strong body of evidence that we have to do something about it and that it does not have to be an economic drain.

Climate change will be an issue. The new government will have to fight this idea that it is all economy. In fact, the environment and the economy can converge in this particular place.

Let me put this bill into context. It was presented in March 2006 by Pablo Rodriquez in the other place. The new Harper government had cancelled the Liberal greenhouse gas programs. The Harper government had been very clear that they were not convinced that Kyoto was even a necessary initiative, let alone an achievable one. In fact, as recently as three months ago, the Prime Minister was still referring to "so-called greenhouse gases."

• (1610)

They had proposed absolutely nothing of relevance to replace our climate change programs. Nothing was happening. Worse than nothing, they had dismissed these initiatives. Somehow, the people of Canada, the Liberals, all three opposition parties, had to get the government's attention. They had to elevate this to a level where the Prime Minister and his cohorts would finally accept that this was an issue, not only substantively but an issue that Canadians understood deeply had to be dealt with.

We developed that bill within that context. It has culminated in a clear statement. This government has to do something about Kyoto. They have to establish a plan, and they better get started because the Parliament of Canada is directing them to do so.

An important and interesting debate emerges out of this political issue, one that has percolated for a long time in the environmental policy area, and that is the relationship between the environment and the economy. One of the great frustrations I feel is that we have a government that is simply and utterly without imagination. They are stuck firmly in the past. They do not want to be pushed out of their comfort zone. They see the economy through 19th century and 20th century eyes, and we are now in the 21st century. We have to find a way to do the economy and the environment at the same time — to walk and chew gum at the same time.

In spite of the fact that the Prime Minister has made the statement that we need to act, the refrain from his own Minister of the Environment, Minister Baird, is that if we act in accordance with Kyoto, if we do what needs to be done to address climate change, our economy will collapse like Russia's economy. Again, are there any studies that would support that statement? Is there any evidence that Russia's economy collapsed because of environmental issues? It might, actually, because they have a poor environmental record, but why are they driven to this conclusion, the right wing in particular, that somehow the environment, if done properly, needs to be a drain on the economy? I simply do not accept it.

Going back to World War II, in 1939, if the people could have imagined what it would take to win that war in Canada, Canadians probably would not have imagined they could have done it, but they did it. It did not damage the economy. For the wrong reasons, unfortunately, it actually stimulated the economy and established a strong economy for decades to come.

Why can we not view environmental policy as a way of creating an economy of the future and stimulating an economy of the future? Yes, perhaps inappropriate environmental policy could damage an economy, but so can inappropriate economic policy. The trick is to figure out how to do it properly and to ensure that it not only does what needs to be done to meet environmental objectives and our role in the world and our responsibilities but also to what needs to be done to stimulate the economy. There is plenty of evidence that there is not an inconsistency between strong environmental policy and strong economies.

Look at California, which has some of the strongest, toughest environmental standards in the North America and in the Western world. Is their economy damaged? Not particularly, I would say. In fact, California's Republican, right-wing governor is actually embracing even stronger environmental goals.

Look at Great Britain. Great Britain is a case in point of how a country does not have to hurt its economy and do more in achieving Kyoto than anyone imagined. Britain's objective under Kyoto is 12.5 per cent reduction of 1990 levels by 2010. As of last year about this time, they were already at 12.5 per cent. Today, they are at 15 per cent, and they are on for 23 per cent to 25 per cent below 1990 standards. Britain has passed its environmental Kyoto goals. There are those who will immediately say yes, but they have a different economy than Canada. In the Canadian economy, of the greenhouse gases that are produced now, about 17 per cent are from coal-fired, electrical generation, and about 18 per cent are from upstream oil and gas. That is about 35 per cent. Do you know what portion of the British total greenhouse gas emissions are from the same

areas of the economy? The answer to that question is 30 per cent. It is not as though Britain has a fundamentally different economy to the Canadian economy. In fact, Britain has some of the same challenges we do, but Britain did not cancel programs a year ago. Britain kept upping its own standards and objectives and has gone past Kyoto and will continue to go past Kyoto. Its economy has not been damaged. Its economy, in 2006, had a 2.6 per cent growth rate, which is not bad under any circumstances.

Senator Stratton: What happened here in Canada?

Senator Mitchell: We have a Conservative government. That will really hurt. I am reminded that Tory times are hard times. I was about to say that the fact that bad economic policy leads to bad economics and bad economies is captured in that truism: Tory times are tough times. I tried to rise above it for a moment.

Business is also way ahead. I was in Calgary with other Liberal senators and Stéphane Dion, our leader, meeting several weeks ago with the Young Presidents' Organization's members. It was compelling to be in that room of 40 or 50 Calgary CEOs and senior executives. They are so far past Stephen Harper on Kyoto and climate change that it makes Stephen Harper not even near to the 19th century. He looks like he is in the 18th century.

Sir Nicholas Stern, who was here yesterday, makes a powerful statement:

> It is very clear to me now that you can be green and grow. I do not think it is a horse race between growth and being responsible on climate change-good policy can give us both.

There is a reason he has been knighted, and that is because he is very good and well recognized.

In Canada, in our own backyard, we have senior business person after senior business person saying that we can achieve this goal. Let us get on with it.

William Andrew, CEO of Penn West Energy Trust, a major actor in the energy industry based in Calgary, says, "The reality is the more modern business models will tell you any operation that is good for the environment is good for the pocket book in the long run." He goes on to give an example of what we can do, and I will speak about Alberta because I am an Albertan.

We are sensitive in Alberta and we need to be because we have a government that is starting to take Albertans for credit because they own all 28 seats. I want to emphasize what Mr. Andrew said. For $1.5 billion dollars, a pipeline could be built around the Edmonton area and ultimately up to Fort McMurray that could capture the carbon dioxide that is now being produced in the various refineries and processing plants around Edmonton. One and one half billion dollars is not an insignificant amount of money, but it is not overwhelmingly difficult to do either. That carbon dioxide could be taken to the Pembina field southwest of Edmonton and pumped back into the ground to enhance recovery. It would be much less expensive than actually having to find new oil and to drill new wells. His estimation is that it could result in 35,000 barrels a day of enhanced recovered oil. At today's prices, I think that comes to about $700 million a year. Tell me how that costs money. You recover the capital cost of that in a little over two years. You will actually be able to sell the carbon dioxide for enhanced recovery because those oil companies will see the economics of it. They already are; they are looking for that carbon dioxide. It is very much like acid rain. It was going to be impossible to achieve that, but we did, and now some of the products that have come out of that achievement are exceptionally marketable.

Bill Andrew is a classic case of a Calgary, Alberta, oil-based business person who understands that this is not an insurmountable problem but that it is manageable and achievable and that we have to get ahead of the curve or we will be left behind.

• (1620)

The President of Shell said that they want to be part of tradable credits. What will the government do to ensure that will happen, to give us the infrastructure?

BIOCAP is a network of researchers, university institutions and businesses across the country that is looking for ways to develop tradable credits. One of the major focuses of Biomass, as the name would suggest, is how to use the agriculture and forest industries to develop tradable credits and add to the economics of agriculture and forestry, both of which are in duress in our economy today.

What companies are behind BIOCAP? Shell is behind BIOCAP, as well as TransAlta, Suncor, Lafarge, Dofasco, Ontario Power Generation, and the list goes on. It is not as though there has to be a tradeoff between the economy, business and the environment.

What are the costs? There is much discussion about costs. Whatever the cost, it is also an investment and the companies will be investing, whether there or somewhere else. What is remarkable about environmental investment is that it is productive investment. It increases productivity in an economy that needs increased productivity. It lowers costs, enhances efficiency and makes businesses better because they are better.

The estimates to achieve our 270-mega-tonne reduction target by 2012 range between $10 billion and $20 billion. I have explored those figures and they seemed light to me. In fact, there is a great deal of evidence to support them. As an aside, those figures would translate to as little as 75 cents per barrel of oil or as much as $1.16 per barrel. When oil costs $60 per barrel, one questions whether that should be the tipping point for not taking action.

Compare that to the $5 billion per year over the next five years that we will lose in GST revenue because the government cut that rate by 1 per cent, which translates as $25 billion in GST revenue. Is anyone in this chamber truly aware personally of the cut in the GST? Has it made a big difference in anyone's wallet? Does anyone go to the store and think about how much money they are saving? Not one bit, but the cut has reduced GST revenue by $25 billion. When one walks through Stanley Park today and sees the trees that have fallen down, one realizes that this $25 billion might have been used to do something for climate change. When we look at farmers having droughts that they never should have had, we begin to think about climate change. When we look at water flows, which are 50 per cent over what they were decades

ago, we begin to think that this $25 billion could be worth something and that it could change our lives in a far more significant way.

In the debate on costs, it is interesting to note that when businesses and Conservatives argue against something, they always elevate the costs; they go to the top costs. When they have to get serious about doing something, they do it in the least expensive way that they possibly can do it. There are all kinds of examples and much evidence of when initiatives such as the reduction of acid rain were confronted, the costs end up being much less than originally anticipated.

That brings me to the spin argument being used, and the Conservatives are good at spinning when they do not have facts. They hardly ever have facts, so we get a lot of spin. Rona Ambrose was good at that, for a while. We hear the Russian hot air argument, and Minister Baird used it as recently as yesterday. First, we have never bought a credit from Russia; no Canadian company, that I am aware of, has ever bought a credit from Russia. Second, it is illegal to do so because Russia does not qualify under the clean development mechanism to be a creditable credit, if I can put it that way. Third, Russia is off the screen. However, a process is in place to assess and evaluate credits that can be purchased abroad under the clean development mechanism. It is highly regulated, strict and has tremendous credibility. At this time, there are about 350 projects with 12 Canadian companies involved.

The Conservatives would be happy, one would think, to promote international foreign investment. Canadian companies are strong enough, big enough and competitive enough to compete anywhere in the world and win. I am not saying that we have to buy credits abroad necessarily, but if they can be turned into economic investment opportunities abroad, why encourage foreign investment of our companies elsewhere on every other economic front but not on the home front?

The President of the Toronto Stock Exchange said yesterday that the government will hamper us if they do not allow us to get involved in international and Canadian tradable credits to create a market. I believe that one of the tremendous economic opportunities to arise out of this issue is for us to have tradable credit markets, and I believe that such a market should be based in Alberta, probably in Calgary. I would be looking for support one day from this house to do just that. BIOCAP is serious about finding ways to develop tradable credits to help the agricultural and forestry economies.

I will conclude this section of my remarks about costs and the environment versus the economy by saying that this is, perhaps, one of the most significant economic opportunities that this country has ever faced. The Honourable Stéphane Dion uses the phrase "the next industrial revolution," and he is exactly right. If we miss the next industrial revolution, it might be absolutely impossible for us to catch up. The economy of the 21st century will be based upon knowledge, technology, science and intellectual property.

This environmental feature of that economy will be central to the economy of the future. This government does not have the imagination to grasp that concept and to do something about it; in fact, they are absolutely fighting it. My profound concern is not if we do something about Kyoto but, rather, if we do not do something about Kyoto, because we will have missed a huge economic opportunity. Our competitors around the world will have jumped past us, and one day our products will be in danger because their markets will not be amenable to our products that will not be up to environmental standards.

I would like to discuss Alberta and Kyoto because I am an Albertan. Greenhouse gas is a sensitive issue for Albertans. Senator Banks, Senator Tardif, Senator Hays and Senator Fairbairn certainly share that concern and are sensitive to the issue. It does not have to be contrary to the Canadian economy in general or to the Alberta economy in particular. Only 3.5 per cent of our greenhouse gas emissions come from the oil sands. We will not solve the problem by picking on the oil sands. Only 17 per cent of our greenhouse gas emissions come from upstream oil and gas, all of which together is not only in Alberta. Therefore, we will not solve the problem by picking only on that. As an Albertan, I am concerned about what this government is prepared to do for politics and for political imperative because they hold 28 seats in Alberta and there is evidence that they are beginning to take Alberta for granted. Having said that, it simply does not have to be and, if this is done properly, it will be done as a national exercise and a national challenge, as Canada has done historically in the past. I would go so far as to say that not only would it be great for the economy; it could also become a great unifying force. We could work together in our place in the world on this issue and contribute as Canadians have done so often in the past.

• (1630)

I also want to point out that it is not oil sands plants that are necessarily the largest of the large emitters. In fact, Syncrude emits about 10.6 megatons a year and the Nanticoke electrical power plant in Ontario emits approximately 17 megatons a year. When we address this issue, we have to address it fairly across the board, across the country, and we cannot pick on a given area. Albertans can have some consolation in knowing that if this is done properly, it does not have to damage our economy and, for that matter, damage the rest of the country's economy, because Alberta's economy has been the engine of Canada's economy for quite some time.

Those are my points. I want to emphasize that I believe that this is an historic piece of legislation; that Canada has not acquitted itself very well in the last year on this issue; and that the prospects are exceptionally good for us to do well, to meet our targets, to uphold our responsibility to an international law and to seize the moment.

What is required is something that we are not getting — and that is leadership. Yes, they talk of leadership; again, they spin it and we get leadership on mandatory minimums to solve a problem that does not exist. We get leadership on "fairness in taxation" that gives more tax money to the rich and cuts the poor; but we do not get leadership on something that is a huge, important and significant challenge to this country, to our children and grandchildren. We need that leadership. In closing, honourable senators, I will say that Bill C-288 is exactly what we do need. It is leadership and it needs to be supported by this house.

Hon. Senators: Hear, hear!

On motion of Senator Tkachuk, debate adjourned.

[*Translation*]

STUDY ON MATTERS RELATING TO AFRICA

MOTION TO ADOPT REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE— REQUEST FOR GOVERNMENT RESPONSE— DEBATE ADJOURNED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *Overcoming 40 Years of Failure: A New Road Map for Sub-Saharan Africa*, tabled in the Senate on February 15, 2007.—(*Honourable Senator Segal*)

Hon. Hugh Segal: Honourable senators, I move:

> That the seventh report of the Standing Senate Committee on Foreign Affairs and International Trade entitled *Overcoming 40 Years Of Failure: A New Road Map For Sub-Saharan Africa*, tabled in the Senate on February 15, 2007, be adopted and that, pursuant to Rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Foreign Affairs, the Minister of International Trade, the Minister of International Cooperation and the Minister of National Defence being identified as Ministers responsible for responding to the report.

[*English*]

He said: Honourable senators, I want to briefly speak to the substance of our report and commend it to your consideration.

First, I want to say that the 16 recommendations, which colleagues on the committee largely agreed to and which became the substance of our report, represent a very broad reflection of the committee's analysis of the foreign aid circumstances within Africa, the economic and developmental challenges in Africa, and the best way that we can advance Canada's role as part of the solution, as opposed to part of the problem.

It is in the nature of the news media to focus on what strikes them as most newsworthy. One of our recommendations dealt with CIDA, and there were 14 other recommendations that dealt with other matters.

For the record, I want to indicate, as we did when we tabled the report and had a press conference, and I was accompanied in that respect by my colleague Senator Dawson and by the distinguished Deputy Chair, Senator Stollery, that our comments with respect to the structure of CIDA do not reflect upon the outstanding people who work in CIDA. The people who work in CIDA are devoted to the international goals and foreign aid commitments of that organization. I have a very high regard for the reasonably new President of CIDA, Robert Greenhill, who came from the private sector to be part of the CIDA effort.

The point we made was that the structure of CIDA and how it operates is not the fault of the people who work there. It is not the people at CIDA who decided, for example, that 80 per cent of their employees would be in Canada and only 20 per cent abroad. Various governments have made that decision because of the cost of keeping people abroad in the target countries. It is not the people who work at CIDA who decided that in the last 12 years, we would have 11 ministers responsible for CIDA. That is not their fault.

The case the committee is making for the consideration of colleagues in the Senate and, hopefully, the government and all the political parties who care about foreign aid in Africa, is that we have a duty to ensure we are doing it right. We have a duty to deliver financial support and encouragement to Africa in a fashion most likely to achieve a significant measure of success.

The committee met in over 80 sessions with close to 400 witnesses in Canada, various countries in Africa and amongst our allies in Europe and elsewhere, so we could benefit from the work they did on aid. Witnesses said that CIDA has become, for structural reasons, one of the slowest, most inefficient, most ponderous bureaucratic aid agencies.

It is very much to the credit of the committee that it tried to address a way to maximize our impact through the foreign aid advanced from Canada. It is not about more aid; it is about better aid and transparency surrounding that aid.

In that context, with respect to CIDA specifically, the proposal is, first, that it should be reviewed with regard specifically to the challenges that we now face. Second, we should consider CIDA having its own act of Parliament. CIDA does not have its own act of Parliament; it is, in fact, a paragraph in the Foreign Affairs Act. A proper act of Parliament, when one looks at the amount of money being spent, would be a significant way to increase accountability, to increase the supervisory role of parliamentarians and probably give CIDA a fresh lease on life so it can do the job I am sure the people who work there very much want to do.

The other option that was put on the table, and about which the committee feels very strongly, is that we must consolidate, in one place, all our activities with respect to Africa. The Africans the committee met with said that they do not want aid; they want to be able to trade. They said they want to be able to expand their economy through their own hard work, which is why our committee, in another one of its recommendations, called on Canada to take a strong leadership role with respect to Doha so that the barriers that keep African agriculture out of Europe can be addressed. It must be addressed in a way that allows Africans to earn their way, which is what African themselves told us they very much want to do.

It is remarkable the diligence, the determination, the hard work and the commitment of Africans to better their own circumstance when you think of what they face in terms of disease and trade barriers. Quite frankly, we must think in terms of what they face in their own governments. One expert at American University in Washington suggested governments were taking close to $148 billion a year out of Africa and using it for purposes unrelated to the public interest.

Honourable senators, if we look at 1963 and 1964 as a point of reference, Zambia, Kenya and South Korea had about the same per capita GDP. We know what has happened since. South Korea and Asia have taken off. Worldwide growth has been remarkable, and our African friends have fallen in position since that time. The concern of the committee, expressed in the

16 recommendations, is that we have to begin to deal with the barriers to economic growth that are afflicting the efforts of our African colleagues to move ahead. If they pursue those efforts with diligence; if mothers and grandparents are dealing with children they are now responsible for because of what AIDS has done; if small entrepreneurs are continuing to work despite a lack of security in many parts of the Great Lakes region of Africa, surely we can have the courage to ask whether our policies can be better structured to achieve the desired effect on the ground.

• (1640)

I will make specific reference to a few of the more compelling recommendations.

The new Africa office that the committee calls for would be a vehicle with a senior minister of international development that would address aid, trade and security. I want to pay particular attention to the advice given to the committee by our colleague Senator Dallaire, who was kind enough to be present for some of our hearings. The case that he made, which we have all heard before, really comes down to this: We have committed blood and treasury as a country to deal with problems in Central Europe. We have done so to deal with problems in the Middle East. Those have been at great cost in contemporary times. However, there is a tendency to look the other way when it relates to the African subcontinent. I think I speak for all members of our committee when we make the case, as respectfully as we can, that in the development of our foreign policy priorities for the future, the security of Africa, working with the African Union and other African organizations to assist and strengthen that security is fundamental to facilitating economic growth and expansion on the part of Africans themselves. The advice I give our fellow Canadians outside this chamber is that we must never confuse the geographic remoteness of Africa as a continent with the strategic importance of that continent to our own interests here in Canada. If we allow more failed states to occur; if we do not stand in support with our aid of the NEPAD terms established by Prime Minister Chrétien at Kananaskis, with the G8 and with the African partners who were there; if we do not reward the countries who are working for greater democratization, working to diminish corruption and to facilitate economic growth; then we are essentially saying there is no cost to be paid for continued corruption, continued violation by some in government in Africa, of the rights of African men and women to their own economic and social progress.

Failed states such as Zimbabwe, or individuals of standing in that society — professionals, doctors, lawyers, teachers — have left because there is not sufficient stability for them to serve in their own society. When those things happen, when those failed states begin to appear, the price will be paid by us when there are more circumstances for terrorists, gangster regimes, drugs and other seriously offensive implications to root themselves in an Africa that has so much potential.

I was touched by Senator Mahovlich, who was on the first trip of the committee to Africa and experienced one of those fleeting periods of unwellness that travel in certain parts of the world can generate; but he soldiered on. In the Congo, he was as touched as everyone on the trip that, despite the mineral wealth — the cobalt, the gold, the copper and the zinc — there were no roads to move those resources to market in order to generate economic growth. When he returned to Canada, he was consistent in our committee about the importance of roads. He asked the question to CIDA and others: "We know how to build roads. Why are Canadians not building roads, a simple, small piece of the puzzle." To be fair to CIDA, they will say that they do not fund specific projects but work with partners on the ground. That is a legitimate policy position for them to take. Ambassadors and high commissioners said to this committee in situ, in Africa, that other countries make aid decisions by using the advice of their ambassadors, high commissioners and staff on the ground. However, our ambassadors and high commissioners are not part of that discussion. Those decisions are made back in Gatineau, without the advice and counsel of the people on the ground, serving Canada, and rooted as best they can in the local societies.

The committee report talks about the International Monetary Fund. This study is a relatively new arrival to the committee. The Africa project was long launched by Senator Stollery and other members before I arrived. The committee made the point that we should never again, as a funder of the IMF, as a supporter of the World Bank, impose conditions upon African countries that we would never accept being imposed upon ourselves. It is now the general wisdom that some of the conditions that were imposed led to a retraction within that sub-Saharan economy, and many Africans paid a very serious price.

We believe extensively that the role Canada must play in Doha, aside from advancing and protecting our own interests, need not exclude leadership on our part in support of breaking down the barriers to African agricultural exports. They export largely tropical products. There is no competition between the farmers of Saskatchewan and the farmers of Africa with respect to tropical products. It is important that we make the case because agriculture is, in the proximate term, the best opportunity for the vast majority of Africans that they be allowed to ship their goods abroad and be paid fairly for that process.

Honourable senators, I want to make reference to the Africa office and why the committee felt it to be so important. We understand the salience of our relationship in this hemisphere with the United States and the other countries of the Americas. We have a long and historic tradition with respect to our relationships in Europe and with the United Kingdom. We believe that the Africa office constitutes a way for us to say that Africa is a priority for our country. Lifting people out of poverty by giving them the tools to do it themselves should really characterize Canadian investment and aid in that part of the world.

Hon. Wilbert J. Keon: Would the Honourable Senator Segal take a question?

• (1650)

The Hon. the Speaker: We will have to extend the allotted time if Senator Segal wishes to answer a question. Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Keon: The honourable senator's remarks were terribly moving and important, but I noticed that health was absent in them. Perhaps that is because he feels that this is the responsibility of the World Health Organization and similar organizations. I have mentioned before in this chamber that I think the greatest threat to Canada is not our environment, but a terrible pandemic

that will rise out of Africa when a micro-organism undergoes a mutation and there is loss of containment. Such an outbreak could virtually wipe out our entire population unless we make a modest investment to get rid of diseases like malaria and tuberculosis. These can easily be eliminated at a modest cost. AIDS is not possible to eliminate at this point in time, but there are exciting things on the horizon. Will his office be addressing this issue?

Senator Segal: I want to thank Senator Keon for the question. I was remiss in not devoting a portion of my time to recommendations 12 and 13 of the report, which deal specifically with the health crisis. In those recommendations, committee members called for new initiatives to reduce the threat of malaria, provide medication for those afflicted with the disease, and achieve a single, harmonized, fully resourced global plan to address the HIV/AIDS crisis. Greater focus should be placed on preventing the spread of disease, working extensively with African non-governmental organizations, local community organizations, traditional chiefs and healers to stem the incidence of AIDS in the rural regions of Africa, and addressing the serious issue of female genital mutilation.

As well, the Canadian contribution to health in the sub-Saharan region should call for Canada to amend the present Access to Medicines Regime, including its underlying legislation, to make it more effective in prompting shipments of medications for HIV/AIDS sufferers to Africa. The federal government should consider the direct purchase by Canada of the appropriate antiretroviral and associated pharmaceuticals for distribution through reputable non-governmental organizations throughout the sub-Saharan region. Finally, the government should ensure that its official development assistance includes significant investment in inexpensive insecticide-treated mosquito nets and in the spraying of DDT on interior walls of African homes in low-lying tropical areas where malaria is typically present.

I am very much aware of the commitment made by the Right Honourable Paul Martin when he was Prime Minister to massively increase the level of medication being shipped to Africa. However, for reasons beyond his control related to patent legislation, the WTO, and all the rest, pills are not yet moving. Based on that commitment, it is fair to say that our committee was strongly resolved that we must break through the bureaucratic process to get pills and medications on the ground as soon as possible.

Hon. Daniel Hays: I was very interested in the committee's recommendations around the fact that trade, not aid, is the solution to the problems in Africa. It is largely an agricultural-based economy. The committee had discussions with international financial institutions, or IFIs. One way of resolving the problem is through the Doha Round and liberalizing trade so that they have access to the markets of developed countries. The other, as mentioned by a witness from L'Union des producteurs agricoles of Quebec, is to give them some exemptions that they lost as a result of IFI requirements. Is that something the honourable senator could comment on as a possibility?

Senator Segal: The committee did consider that evidence carefully and would not exclude that option going forward. We did not have detailed discussion in regard to the IFI implications or, for example, the specifics of Canadian marketing boards. We do not think there would be any real costs to Canada in dealing with those exemptions in a constructive way — quite the contrary.

We also made reference to the fact that many farmers and small businesses related to the agricultural economy are being aided by micro finance and the very great and distinguished co-op, Caisses Desjardins in the province of Quebec, is very much implicated in helping that micro finance thematic throughout the continent of Africa, and we hope more of that transpires.

[*Translation*]

Hon. Rose-Marie Losier-Cool: Honourable senators, I would first like to congratulate the Standing Senate Committee on Foreign Affairs and International Trade for this excellent, very thorough work.

Concerning your recommendation to establish an Africa office, did the ambassadors and other witnesses heard in Africa support this idea, or is this recommendation going to be imposed by Canada, as part of our assistance to Africa?

Senator Segal: Foreign service members in Africa indicated to us that, if decisions concerning economic support were made locally; and if team members from this new Africa office were posted in our embassies on the African continent, this would facilitate such decisions considerably and improve the effectiveness of these individuals as representatives of Canada.

Senator Losier-Cool: Many among us have already had the opportunity to visit Africa and to work with African parliamentarians. We are familiar with the strength, vitality, courage and spirit of African women. Can you comment on the support given by African women to these recommendations made by the committee?

Senator Segal: I believe that the high percentage of women elected in several African Parliaments did not escape the notice of our committee's members.

Second, with regard to agriculture and microfinance, it seems that financial instruments in support of initiatives and investment benefit businesswomen in Africa.

Hon. Fernand Robichaud: Honourable senators, Senator Segal mentioned that one of the problems for African agriculture is access to world markets. But for these farmers, is there not a problem with getting their products to their own markets? Is there not also a problem with goods from industrialized countries that arrive on their markets at a lower cost than the local cost of production?

Senator Segal: The honourable senator is absolutely right. American and European subsidies represent one of the problems. From time to time, products arrive in Africa, valuable products at cheap prices, and that can be detrimental to the effort to create a local economy.

Another problem for our African friends is facilitating the transportation of agricultural goods across African borders. When we discussed NEPAD and Mr. Chrétien, some witnesses added that we must be responsible in establishing our criteria for

financial aid. If their borders were more open, all Africans would have access to a larger market and not be limited to the markets in their own countries.

On motion of Senator Corbin, debate adjourned.

• (1700)

[*English*]

STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY

INTERIM REPORT OF AGRICULTURE AND FORESTRY COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the third report (interim) of the Standing Senate Committee on Agriculture and Forestry, entitled: *Agriculture and Agri-Food Policy in Canada: Putting Farmers First!*, tabled in the Senate on June 21, 2006.—(*Honourable Senator Fraser*)

Hon. Joan Fraser: Honourable senators, when I took the adjournment of this debate, I did so as a courtesy to the Agriculture and Forestry Committee, because, as you all know, this is not exactly my field of expertise. Since then, however, I have become rather more aware of the issue that was addressed in this report. I am seized with the importance of it, but still do not consider myself even a competent observer. I am simply struck with the great importance of the situation for our farmers.

As we speak, the Agriculture Committee is working on its study of rural poverty, which is another facet of this question. I understand that many on that committee wish to address this issue. Therefore, with the indulgence of senators, I ask that the debate continue to be adjourned for the balance of my time.

On motion of Senator Fraser, 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 Callbeck*)

Hon. Marilyn Trenholme Counsell: Honourable senators, I rise in place of Senator Callbeck, who is travelling with the Standing Senate Committee on Agriculture and Forestry, which is conducting hearings on rural poverty.

It is a great pleasure to speak to this inquiry introduced by Senator Tardif. I applaud her for her passion — born of a distinguished career in education — and her tireless commitment to this subject. In her exhortation to fellow senators on June 13, 2006, Senator Tardif said:

> It is my belief that, despite the acknowledged importance of post-secondary education to the economic and social success of Canadians, we as governors and policy-makers have failed in providing it with the focus, direction and support it deserves.
>
> We must move now, honourable senators — swiftly, efficiently and intelligently — and end the stagnation and stalemate looming around this important public policy issue.

Senator Tardif reminded us that Canada's post-secondary attainment rate of 44 per cent is not good enough. We must aim much higher to compete in the 21st century with countries such as the United States, India and China, and we must do much more to increase the ratio of graduate-to-undergraduate students in our universities, to align us with other local competitors.

Senator Tardif left no doubt about the urgency of her inquiry, saying:

> The race is on . . . . waiting for one year or more might be the difference between Canada being a global player and a global pretender.

I come from Atlantic Canada, where we realize that for far too long we have been exporting brains. We are determined to do better when it comes to keeping our brightest and our best at home, or at the very least to bring them home after valuable adventure and experience in other parts of Canada and around the world.

The skills, the academic and professional achievements, the pride of our young women and men from our four Maritime provinces are not a coincidence. Certainly, this story is not only a reflection of the strong women and men who have braved the elements of the Atlantic and the comparative isolation of our region from the power of central Canada, and now of Alberta. It is all of this, but equally the remarkable tradition of education in Atlantic Canada, beginning with those who came first.

So much of this tradition was born around the kitchen tables in the homes of families of French, British, German and Scandinavian families, to mention only a few. From these homes came the men and women who founded our universities and colleges, which today merge seamlessly with the fabric of our communities.

Visit St. John's, Newfoundland, where you will see, on the cliffs of that great city, the astonishing development of Memorial University. Come to Moncton, New Brunswick, and you will be amazed by the pride the Université de Moncton has in our bilingual society and throughout the Francophonie. The University of Prince Edward Island and Holland College have experienced remarkable growth into fields recognized internationally. All of this began in New Brunswick and in Nova Scotia, where we probably have not only the largest number of Tim Hortons per capita, but also the highest number of university and college spaces.

Mount Allison was the first university in the British Commonwealth to give a bachelor's degree to a woman, in 1875. The University of New Brunswick is one of the oldest universities in North American, dating to 1829.

The cooperative movement began at St. Francis Xavier University in Antigonish, Nova Scotia, and this province is in an ongoing competition with New Brunswick for excellence in undergraduate education, with Acadia and St. Francis Xavier vying in turn with Mount Allison for first place nationally, with these universities always being in the top tier.

The long traditions of the University of King's College and those of Dalhousie stand beside the Acadian University of St. Anne's in Nova Scotia, while in New Brunswick, liberal arts flourish at St. Thomas in Fredericton.

Our community colleges, our colleges of craft and design, and our faith institutions such as the Atlantic Baptist University, all add to this richness of educational opportunity in Atlantic Canada.

Yet, many of our young people are left behind for reasons that I will discuss later, reasons that exhort you and me, my fellow senators, to speak out and to act.

First, however, I want to offer you a taste of the nobility and the strength of vision that flows from our leading educators in my home province.

Dr. John McLaughlin, President of the University of New Brunswick, said on January 9, 2007:

> Choosing excellence and pursuing quality will take imagination and courage . . .

At the time of his installation as UNB's seventeenth president, this visionary leader spoke of his university as "a primary source of knowledge creation and talent, the critical foundation of competitiveness and prosperity."

From poetry to advances in magnetic resonance imaging, to early childhood development, to an ever-stronger relationship with China in business education, UNB "represents knowledge and enlightenment . . . a repository for cultural values . . . an instrument for reform . . . providing an example of the best aspects of human interaction and endeavour."

Dr. McLaughlin stated unequivocally that "the future well-being of Canada and Canadians . . . will ultimately be . . . dramatically affected . . . by the quality and effectiveness of education." He said:

> If the role of government is to help create the climate for change . . . it is the role of education to be the instrument of change . . . the role of business to be the engine of change.

There, quite simply, is the diagram: Government, educational institutions and business in partnership to advance Canada in the 21st century.

[Senator Trenholme Counsell]

• (1710)

The president of UNB continued:

> Governments must not only show strong leadership and investment on climate change per se, but also in the nation's education, creating a climate for research, for learning and for opportunity and competitiveness.

Dr. Robert Campbell, President of Mount Allison University, provided this commentary on February 18, 2007:

> For a civilized and prosperous country like Canada, the post-secondary sector is one of the highest and most important public goods. Universities have. . . . played a double historical mission in Canada's development.
>
> On the one hand, they have played a key role in extending knowledge and understanding to an ever-widening proportion of Canadian society, thereby increasing our citizens' capacity to contribute to and sustain our democratic system in an increasingly complex world. We need an educated, sophisticated, insightful and understanding citizenry to address issues like environmentalism, multiculturalism and international political uncertainties, as well as to sustain family life, personal health and social well-being in a challenging world.
>
> On the other hand, they have played a determining role in educating the researchers and thinkers that developed the ideas, techniques, innovation and knowledge that have increased our society's capacity to create wealth and increase and extend prosperity. We need to train and educate a greater proportion of future generations to ever higher levels, if Canada is to maintain and extend its competitive capacity.
>
> These two elements are intimately intertwined. Democracy thrives where there is extended economic prosperity, and economic prosperity requires an educated and involved citizenry and political system.

He concluded:

> All Canadians benefit from the health of our democratic institutions and practices. Thus, all Canadians through their governments should encourage public investment in this wonderful and consequential public good.
>
> The genius of the expansion of the post-secondary system in the post-war period was that it was done as a partnership amongst governments at all levels, private citizens and families and the supporters of the university through philanthropy.

Honourable senators, I believe that Senator Tardif was calling for nothing less than a renewal of this genius when she called for "national leadership and genuine inter-governmental collaboration . . . ." The senator called for "more funding and support" with "tangible goals and deadlines." She called for the "same courage, fortitude and entrepreneurial spirit that emboldened the founders of this grand experiment called Canada . . . ."

[*Translation*]

Honourable senators, when I think about the courage and vision of the founders of Canada, I think of the example of the Acadians in my province. In 2007, the Université de Moncton is a testament to the aspirations and dreams of the men and women who found, in their history, the determination to build a strong, modern society in which to achieve their full potential as francophones, as New Brunswickers and as Canadians.

Each year, thanks to this university, an increasing number of young Acadians gain the confidence to build a life full of hope and opportunity, regardless of where they choose to pursue their careers. Furthermore, the Université de Moncton welcomes students from other provinces and, of course, from other countries, from la Francophonie in particular.

On the occasion of the Université de Moncton's fortieth anniversary in 2003, President Yvon Fontaine said:

> The Université de Moncton has had a profound effect in shaping the socio-economic and cultural development of our province. At the same time, the university is achieving national and international recognition.

Honourable senators, I know that this wonderful success would not have been possible without the contribution from all the governments that shared the Acadian dream and provided the necessary financial support, in collaboration with the private sector, during these four decades to build this bastion of education and culture.

This should serve as an example for current governments, an example of public investment that is essential to Canada's national and international progress.

[*English*]

When I think of St. Thomas University, I am reminded of the great merit in a democratic society of embracing the very finest principles of equality and of reaching out to youth from all backgrounds to offer them the education they deserve. This small university walks the talk when it comes to Aboriginal studies and educational opportunities for Aboriginals. It does this and so much more with dedication and generosity.

If we need an example of what small "l" liberalism is all about, we need look no further than St. Thomas. As we study the post-secondary challenges in Canada, I suggest that we have in my province a shining example.

As one who believes profoundly in education, lifelong education beginning at birth, I could not be more certain of the importance of Senator Tardif's inquiry. She has called for "national leadership and genuine inter-governmental collaboration," with "a transparent and collaborative consultation process" that includes "a first ministers' meeting on post-secondary education and skills training." She called for urgency in this regard.

In all of this, honourable senators, let us always use a wide lens and a long view in our deliberations. Too many Canadian youth are missing their chance to have post-secondary education with all its possibilities for the future because for too long we have undervalued our community colleges and our specialized colleges.

In the arts, in high technology, in trades, in early child development and child care, in home care and services to our seniors and our veterans, and in so many other courses, our colleges offer a place for young women and men to begin to reach their full potential. At the same time, the programs and the vision of our colleges provide the fountain of people needed to ensure a caring society for Canada.

Not only must governments do more, but our communities must do more to create an environment where each young Canadian can contribute to the very best of his or her potential. No one can be left out.

To make this happen, we must be vigilant and have continual reassessment of our system of scholarships, bursaries and loans. The repayment of these loans, where applicable, must be a priority of parliamentarians. I believe in fairness between what the state provides and what the individual student and his or her family pays.

As a nation, we can do better when it comes to setting the stage financially and philosophically for all of our institutes of post-secondary education, be it a small college, a trade school or one of our internationally recognized pre-eminent universities.

In each case, the goal should be nothing less than excellence and equal opportunity. Canada wants more Rhodes Scholars and more Nobel Prize winners. We want a chance for each of Canada's children to feel proud and to succeed.

Let us be very honest as we study post-secondary education, remembering that we are neglecting too often the most vulnerable in our society, our Aboriginal youth, our challenged youth, our rural youth and many in our cities who drop out of our educational systems for reasons we can and must address and overcome. There can be no greater challenge in a democracy, and I know Canada can meet that challenge.

In closing, I would like to use words spoken by Dr. David Naylor, President of the University of Toronto, where I was so fortunate to receive my Doctor of Medicine degree. He said:

> I believe we have an obligation to pass along a stronger, more sustainable and more rational system of education. In such a system, I hope that great universities will be even better positioned to shape the great minds of the future. And if we are successful, the students of today and tomorrow will make their children's world a kinder, gentler, healthier, greener and altogether better place.

[*Translation*]

I would like to thank Senator Claudette Tardif for her leadership in the Senate of Canada as a champion of primary, secondary and post-secondary education.

On motion of Senator Banks, for Senator Callbeck, debate adjourned.

• (1720)

IMMIGRATION POLICY

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Callbeck calling the attention of the Senate to the importance of Canadian immigration policy to the economic, social and cultural development of Canada's regions.—(*Honourable Senator Fraser*)

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, Senator Jaffer would like to speak on this issue tomorrow. I move that the debate be adjourned in her name.

The Hon. the Speaker: Honourable senators, according to the *Rules of the Senate*, we must continue the debate with some substantive remarks; otherwise, the *Rules of the Senate* are meaningless.

Senator Tardif: Given the importance of Canadian immigration policy to Canada's economic, social and cultural development, I move adjournment of the debate.

On motion of Senator Tardif, debate adjourned.

[*English*]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

MOTION TO REFER SUBJECT MATTER—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Tkachuk:
>
> That the Senate refer to the Standing Committee on Rules, Procedures and the Rights of Parliament the issue of developing a systematic process for the application of the *Charter of Rights and Freedoms* as it applies to the Senate of Canada.—(*Honourable Senator Andreychuk*)

Hon. A. Raynell Andreychuk: Honourable senators, I note that the motion standing in my name is at day 15 on the Order Paper. I rise today to indicate that I wish to speak to this matter later this week.

On motion of Senator Andreychuk, debate adjourned.

[*Translation*]

STUDY ON CURRENT STATE OF MEDIA INDUSTRIES

GOVERNMENT RESPONSE TO TRANSPORT
AND COMMUNICATIONS COMMITTEE REPORT—
INQUIRY—DEBATE ADJOURNED

Hon. Joan Fraser rose pursuant to notice of November 29, 2006:

> That she will call the attention of the Senate to the Government response to the second report of the Standing Senate Committee on Transport and Communications entitled: *Final Report on the Canadian News Media.*

She said: Honourable senators, you will recall that, last year, the Committee on Transport and Communications released its final report on the news media. After some time, in fact on the last possible day, the government sent its response to that report. I was planning to talk primarily about the response, but to set my comments in context, I should say a few words about the substance of our report.

Senator Bacon was chairing the committee when the report was presented. Honourable senators will recall that I participated in its studies. This was an absolutely extraordinary experience. We worked for three years, but the issue was very complex and it was not easy to find solutions to the problems we encountered. That is why we needed so much time to complete it.

I think that the other members of the committee would agree that this was one of the most remarkable studies, with an almost personal impact, that any of us have ever participated in here.

[*English*]

The first thing to consider when Parliament and politicians start talking about the news is whether they are intruding in areas where they ought not to go. I would assure honourable senators that our committee never forgot that the state has no business in the newsrooms of the nation. It is not for the state to determine how news shall be covered or who shall say what about the news of the day.

However, we also understood that there is a public interest in the news and that there is a role for public policy in connection with the news, which is where we focused our interest. The public interest in the news is simple. It goes to the heart of functioning in a democracy. Citizens need information and diverse sources of information. To have only one source of information is death to a democracy. It just does not work. A democracy cannot function without diverse sources of information so that ideas may compete against each other and citizens may make up their minds as to what they believe is the appropriate course for their society to follow.

We heard compelling arguments that in the 21st century the diversity of sources of information is no longer a problem because of the technological explosion that has created so many different ways for us to receive information, everything from cable TV, which is old hat now; to the telephone, upon which we can now

receive and send almost anything. It is no longer the case that one gets their newspaper in the morning or the evening, depending on one's choice, and that it is the main vehicle by which one receives information.

However, the fundamental thing to bear in mind is that the means by which information is delivered is only part of the equation. Who provides the information that is delivered is the other part of the equation.

If, for example, Consolidated Newspapers Inc. sends me the same story in its newspaper, on a blog, on my telephone or on my cable, it may look diverse because of all those different vehicles for receiving it, but there is no diversity because it is the same fundamental source. We were concerned with a way to ensure diversity of original sources of information in an age of technological change.

We discovered that in this area, Canada's public policy is, as it has been for a long time, woefully inadequate. There is simply no mechanism to discuss the public interest in news, and yet federal public policy has a very strong impact on the way the news business evolves, with everything from the Income Tax Act, to competition law, to regulation by the CRTC, to broader things like the laws of libel.

The various authorities that have a role in this field have shown almost no interest in news. In some cases, they have shown a rooted resistance to even contemplating the effect of what they do on the provision of news and information for the Canadian public.

The CRTC, which has jurisdiction over broadcasting, focuses essentially on Canadian content. By "Canadian content," I mean drama and the arts, everything from soap operas to the ballet. These are wonderful causes and it is important that the CRTC pay attention to them, but, it pays little attention to the news. It seems to think news can take care of itself.

When a flamboyant merger occurs, the CRTC may, as a condition of licence, impose conditions to supposedly guarantee that the newsrooms remain separate, but it does no checking to ensure those conditions of licence are actually obeyed. We found evidence that in too many cases those conditions are not obeyed by the licensee.

The competition authorities, for their part, absolutely do not pay any attention to the news. They have jurisdiction over newspapers, print as well as over broadcasting, but they do not focus on news. They only focus on the impact of a merger on local advertising markets. One could own every single newspaper and television station in Canada, but, as long as the rates for local advertisements had not changed, the competition people would probably say, "No problem."

• (1730)

The result is that Canada does less to regulate concentration of cross-media ownership than any of the countries that we examined to use as potential yardsticks. We do less than the United Kingdom, France, Germany, Australia, and less even than the United States, that citadel of free enterprise. The result of that is that we have ever- greater concentration of ownership and cross-ownership, both nationally and regionally.

I do not need to tell honourable senators about the importance of the CanWest empire and the CTVglobemedia — formerly Bell Globemedia — empire, which includes both CTV and *The Globe and Mail*. Some honourable senators might be less aware that the Irving interests in New Brunswick own every single English-language newspaper, a growing number of French-language newspapers, plus radio stations, and that Transcontinental owns every single paper in Newfoundland and Labrador, in addition to basically all but the Halifax *Chronicle-Herald* in Nova Scotia, and a growing number of newspapers elsewhere. I see it has acquired quite a few newspapers in Saskatchewan, for example.

We have a problem. We have problems in Vancouver and in Montreal, where our news media are intensely concentrated, and no one seems to care. It is getting worse. This last summer, for example, the former Bell Globemedia, which already owned CTV and *The Globe and Mail*, bought the CHUM network, and CanWest bought Alliance Atlantis. The total value of those two deals was in the neighbourhood of $4 billion. Bell Globemedia's purchase of CHUM was accompanied by the immediate layoff of nearly 300 people, within hours of the announcement. Most of those people worked in the news department. High-flown protestations about how important news is are not actually borne out in reality.

What did the government do? How did the government respond to our 40 recommendations? We thought our recommendations were models of a reasonable approach. In particular, on the matter of cross-ownership and concentration of ownership, we suggested a public review mechanism, with emphasis on "public." Once certain thresholds were reached, probably quite high in comparison to some other countries, there would need to be a public review to determine how the public interest could be served in this commercial transaction. The government of the day would have the final authority to make a decision, but it would have to do so publicly after a public inquiry and justify its decision publicly.

Compare that with the present situation, where the government of the day can overrule decisions of the CRTC with no explanation whatever, no public hearings or debate, simply saying, "We do not like what the CRTC decided, and we will change it." They do that quite often.

We thought transparency would be a wonderful way to ensure that public reviews would serve the public interest without having that terrible side effect of political interference in news management. Sunshine is the disinfectant that can be used to good effect here. Our system was modelled in part on the system in Britain, which works well, but the system we propose would have been much less intrusive than the one that the British press, which is free and vigorous, live with.

We had some other suggestions. We suggested that the CBC, as you may recall, be turned back into a genuinely publicly oriented public broadcaster and that it get out of ads and broadcasting professional sports. Those are areas in which we believe the CBC does not need to compete with the private sector and is, in its performance, distorted by its competition with the private sector. In order for the CBC to continue functioning, this would require decent budgets and long-term commitments to those budgets.

These were well-considered, reasonable recommendations. What did the government say? No. Zip, zero, nada. Of our 40 recommendations, the government accepted two little ones. They said, "Yup, we agree that the CBC's performance reports should be more informative." There are no big policy implications there. As well, the government said, "Yup, we agree that civil servants should be made aware of the provisions of the whistle-blower legislation." There is not much public policy difficulty there. Every other recommendation was rejected.

What is worse is that, in rejecting them, the government frequently simply restated the status quo as if it were wonderful. They restated, for example, that the CRTC has jurisdiction over broadcasting and that the Competition Act has jurisdiction over everything but does not pay attention to news. The government paid no attention to the problems we had outlined.

I cannot say that I was surprised by this. Governments are always very nervous, not to say terrified, of appearing to interfere in any way with the press. Some of that reluctance is for good reasons, the reasons I was talking about, having to do with not having political interference in the news. Some of it is for self-interested reasons because they do not want the press to attack them.

However, good governments do face up to serious problems. The government that I served did not do it for a generation, and now I am sad to say that the government the people on the other side serve apparently is taking the same approach of doing nothing.

Honourable senators, I see that my time is up. If I might have just a few more minutes, I would be grateful.

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

Hon. Senators: Agreed.

Senator Fraser: When I said earlier that things were getting worse, I meant it. Things are getting possibly dangerously worse. It is not just that we have large and powerful media companies; it is that we are operating in a global context. Let me give you one small example.

The CanWest purchase of Alliance Atlantis relies very heavily on a financial arrangement with Goldman Sachs in the United States, which might, if things did not go as CanWest hopes and if the financial results were not as good as CanWest hoped, end up taking control of some or all of those companies. Now, we have laws about foreign ownership of the news media in this country — television and print. We have laws about those things, but we discovered that no one seems to pay much attention to the enforcement of those laws. I have heard from newspaper publishers at far distant reaches of this country, from coast to coast, who have tried to get the Canada Revenue Agency to at least enquire whether their competitor was owned or not by a Canadian, as the law says, and the Canada Revenue Agency would not do it.

Now it appears that an arrangement very similar to the one CanWest has with Goldman Sachs, but affecting a smaller enterprise, I believe, in Nova Scotia, has already been approved by the CRTC. Question: Does that create a precedent for us under NAFTA? Are we now bound to let deals like that go through, even if they do result in foreign takeovers of enterprises that by the law of the land are supposed to be controlled in Canada? No one seems to know or care. The government's bland response to our report was simply, "Oh, the Heritage Department does look at the content of publications." The government did not even address the issues of ownership. That is one small example.

• (1740)

[*Translation*]

Here is another small but irritating example. This country's laws say that wherever there is a minority official language community, government advertising, especially for job offers, must be published in both official languages. In Nova Scotia for example, it has to be published in the local Acadian paper. However, every week, these ads are almost always systematically published in one single language, despite the provisions of the law. Obviously, they are published in the local majority language. In Nova Scotia, that language is English. That means every time this happens, the francophone paper has to complain to the Commissioner of Official Languages, who then goes to the department in question. We have therefore recommended that the government direct the departments to comply with the law. No need to bring in a new law, just comply with the old one.

Honourable senators, the government did not even want to do that much. It is extremely disappointing that, in a country like ours, where communication is so important, the government is ready to tolerate such situations without intervening.

[*English*]

We need better. Canadians are entitled to better. The last words of our report are as follows:

> The public interest in healthy and vibrant news media is as important as the public interest in the rights and freedoms of individual citizens. It is time to recognize this interest and develop, in Canada, mechanisms similar to those in other developed democracies.

Despite my disappointment about the current response to our report, I remain hopeful that over some longer period of time this government and its successors will realize that it is time for Canada to do what every other serious industrialized country does.

On motion of Senator Banks, debate adjourned.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE COURT CHALLENGES PROGRAM

Hon. Donald H. Oliver, pursuant to notice of February 15, 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 February 28, 2007 to June 30, 2007.

Motion agreed to.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

MOTION TO AUTHORIZE COMMITTEE TO STUDY STATE OF EARLY LEARNING AND CHILD CARE— DEBATE ADJOURNED

Hon. Marilyn Trenholme Counsell, pursuant to notice of February 15, 2007, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine the state of early learning and child care in Canada in view of the OECD report *Starting Strong II*, released on September 21-22, 2006 and rating Canada last among 14 countries on spending on early learning and child care programs, which stated ". . . national and provincial policy for the early education and care of young children in Canada is still in its initial stages. . . and coverage is low compared to other OECD countries;" and

That the Committee study and report on the OECD challenge that ". . . significant energies and funding will need to be invested in the field to create a universal system in tune with the needs of a full employment economy, with gender equity and with new understandings of how young children develop and learn."

She said: Honourable senators, this motion is a sincere attempt to take politics out of the issue of early learning and child care in Canada. Senators are aware that the questions I have been asking are political in nature on what the Liberal government had set in place and what the Conservative government is doing now. However, it is time to take politics out of the issue of child care and early childhood development and to look seriously at where we are and where we might go.

As honourable senators can see by reading the motion, I have used the OECD report *Starting Strong II* as the basis. This has nothing to do with advocacy groups in Canada or with one political opinion or another. Rather, it is an international report that rates Canada relative to other countries. I had planned to read some of the details of this report, but the hour is late so I will not do that. I sincerely hope that honourable senators can refer this matter to the Social Affairs Committee, on behalf of Canada's children, where we will call upon witnesses with varied philosophies and diverse experience to discuss the OECD report, to understand why Canada is in such a dismal position.

This does not reflect what has happened over the last year but, rather, what has happened over a long period of time. We need to understand why Canada has been rated so badly internationally on a subject that is of great importance to all of us: Canada's children.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have a question for Senator Trenholme Counsell. Has this motion been discussed at the Standing Senate Committee on Social Affairs, Science and Technology? It is the usual practice of this place to discuss orders of reference at committee prior to moving the motion in the Senate.

Senator Trenholme Counsell: I wish to advise the Deputy Leader of the Government in the Senate that this was discussed as long ago as six months and as recently as several meetings ago. It was agreed by those committee members present that this motion could proceed.

Senator Comeau: Therefore, one could presume that the members of the committee have voted on the matter and, therefore, that a new reference is being requested by the committee.

Senator Trenholme Counsell: I do not recall that there was a vote. It was discussed around the table at committee, and there was no disagreement expressed by those members present. The discussion was led by the chair of the Social Affairs Committee, who is not now present in the chamber, and it was agreed by those present that this motion could proceed. It was agreed by consensus, and I recall neither a vote nor a disagreement.

Senator Comeau: Therefore, I am led to presume that, because this was discussed by a certain number of members present at committee, the honourable senator felt that she had the go ahead from the members of the committee present to move the motion. Is that why the chair of the Social Affairs Committee is not requesting the order of reference? Would it be that the committee chair might not be completely in agreement with the senator's take on it? Perhaps that is why the honourable senator is moving the motion on the order of reference rather than the chairman doing it.

Senator Trenholme Counsell: I can assure honourable senators that the chair of the committee is in total agreement with this motion. He expressed his apology for having to leave the chamber a few minutes ago, after being here most of the afternoon. I have the full support of the committee chair in doing this.

The order of reference would mandate the committee to study the report *Starting Strong II* in much the same way the study on autism was done, which entailed a total of five sessions. In that way, members of the Social Affairs Committee could reach a consensus on what could be done with regard to this report and what it means for Canada's children.

Senator Comeau: I should like to consult with members on this side, because it is irregular to deal with an order of reference by consensus rather than by vote and when the chair is not present to request the order of reference. For that reason, I would move adjournment of the debate.

On motion of Senator Comeau, debate adjourned.

The Senate adjourned until Wednesday, February 21, 2007, at 1:30 p.m.

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