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THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Tuesday, March 27, 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 to your attention the presence in our gallery of His Excellency, Eduardo Frei Ruiz-Tagle, President of the Senate of the Republic of Chile, and also His Excellency, Patricio Walker Prieto, President of the Chamber of Deputies of the Republic of Chile, together with a delegation of senators and deputies from the Republic of Chile who honour us by their presence in the Senate of Canada today.

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

men, women and children in too many parts of the world. In Her Excellency's words, "the new leopard did not show all of its spots," and "democracy has not flourished equally for all." How correct she is!

As the world watches, 1,000 human beings are still being butchered every day in the Democratic Republic of Congo. Darfur continues to be a killing field and, as our colleague Senator Segal reminded us with his motion last week, the situation in Zimbabwe worsens, with horrific and heinous crimes being committed every day.

Honourable senators, this is not an African problem. Democracy is not alive and well in our world. The tragedies of human trafficking, child and forced labour and the enslavement of women are occurring all around us. Anti-Semitism and racism are on the rise worldwide, right under the watchful eyes of governments. Human dignity is trampled on with impunity while the world watches. We are still talking in the hope that our words will shine a light on these issues and that things will improve.

SENATORS' STATEMENTS

ABOLITION OF SLAVERY

TWO HUNDREDTH ANNIVERSARY

Hon. Consiglio Di Nino: Honourable senators, on Sunday, March 25, 2007, I attended two events at York University in Toronto. The first was a convocation at Osgoode Hall Law School, which awarded an honorary doctorate to Her Excellency the Right Honourable Michaëlle Jean, Governor General of Canada. The second was the inauguration of the Harriett Tubman Institute for Research on the Global Migrations of African Peoples. These events were also held to commemorate the two hundredth anniversary of the British Parliament's abolition of the Slave Trade Act of March 25, 1807.

My remarks are inspired by Her Excellency's address at the latter event. The institute was created to honour Harriett Tubman, an exceptionally courageous woman who escaped slavery in Maryland around 1850 and fled to freedom in Canada. In 1851, she began to rescue and relocate family members to St. Catharines, Ontario where she worked to save money to finance her role as a conductor on the Underground Railroad. She is believed to have brought hundreds of slaves to freedom.

Her Excellency's inspirational remarks included describing slavery as "one of the most barbaric crimes" ever committed, and described freedom as "the most precious gift of our ancestors."

As I listened and watched, a sense of frustration and anger began to envelop me. From the words spoken and the images forming in my mind, it did not take long to realize that freedom is still only a distant dream for millions and millions of our fellow

CAVENDISH UNIVERSITY CUP

CONGRATULATIONS TO UNIVERSITY
OF NEW BRUNSWICK VARSITY REDS,
UNIVERSITY OF MONCTON AND CITY OF MONCTON

Hon. John G. Bryden: Honourable senators, I want to draw your attention to an event that occurred in my province during the last week. The University Cup, the national cup of university hockey called the Cavendish University Cup, was hosted by Moncton and the University of Moncton last week. The various regions represented were: the University of New Brunswick Varsity Reds; the University of Moncton Blue Eagles, ranked number one throughout the season; Wilfrid Laurier Golden Hawks, representing the area of Ontario; University of Quebec at Trois-Rivières Patriots, who were representing Quebec; the University of Saskatchewan Huskies, who were ranked number two during the season; and St. Francis Xavier X-men.

• (1410)

The St. Francis Xavier X-Men and the Saskatchewan Huskies were knocked out of the tournament during the round robin, each with two losses. It must have been the refereeing.

Saturday, in the semi-finals, the University of Moncton Blue Eagles eliminated Wilfrid Laurier Golden Hawks, 5 to 4 in double overtime, and the University of New Brunswick Varsity Reds shut out the University of Quebec at Trois-Rivières Patriots, 6 to 0.

That set up the Sunday national championship game, which UNB won over University of Moncton, 3 to 2 in overtime, with over 6,000 screaming fans on each side from all over the province, to win the Cavendish University Cup, which is an emblem of supremacy in university hockey for all of Canada.

Honourable senators, I am sure you will join with me in congratulating the City of Moncton on the wonderful job that it did in staging this particular tournament, together with all the

participating teams — particularly the two teams from little New Brunswick that were the class of the tournament — and my alma mater, the University of New Brunswick Varsity Reds, for winning it all. They are the champions of Canadian university hockey.

Way to go!

CANADA-CHILE FREE TRADE AGREEMENT

TENTH ANNIVERSARY

Hon. David Tkachuk: Honourable senators, I have been privileged, over the last week, to attend a number of events at the Chilean embassy. A number of senators from Chile are visiting here in Ottawa, as well as a number of members of their house. In their country, both houses are elected, so it was a special privilege to meet them last night at Ambassador Ortega's home.

The reason for all this activity and my avid participation is that this year marks the tenth anniversary of the Canada-Chile Free Trade Agreement, which came into force on July 5, 1997.

As an aside, at the events hosted by the Chilean ambassador, Mr. Ortega, were a number of senators and members who will be travelling throughout the country. Two of them will be coming to my home province of Saskatchewan, to meet in Saskatoon this week on agriculture matters.

The Prime Minister who signed the Canada-Chile Free Trade Agreement was the Right Honourable Jean Chrétien, of course, and his trade minister was none other than Senator Art Eggleton. It is too bad he is not here today.

Mr. Chrétien and Mr. Eggleton have much to be proud of for following former Prime Minister Brian Mulroney's lead in promoting free trade as a way of the future. As we Catholics like to say, there is nothing more zealous than a convert — and converted they were.

I want to quote remarks Senator Eggleton made at the time before the Standing Senate Committee on Foreign Affairs and International Trade. He said:

We expect that this agreement will be a bridging agreement that will facilitate Chile's accession to the North American Free Trade Agreement, to NAFTA. . . . Not only does this agreement provide a considerable advantage. . . in terms of our European and Asian competitors. . . it gives us a leg-up on Chile's regional trading partners. . . as well.

This initiative is important to Canadian businesses. It's important that they get active quickly and it's important to get this implemented quickly. . . .

Since the Free Trade Agreement was signed, Canadian trade with Chile has more than tripled, from \$718 million annually in 1997 to \$2.3 billion today. There is much for us to be proud of in this anniversary year. I want to congratulate all involved, particularly Ambassador Ortega of Chile, who has been such a gracious host this past week.

QUEBEC ELECTION

RIGHT TO VOTE

Hon. Charlie Watt: Honourable senators, during Quebec's exciting election yesterday, my wife and I went to vote, only to find out we could not participate. We were not on the list. We were told that we were not from that particular community, which happened to be my own community.

This is not an isolated case. A few people were turned away because they could not participate. Again, they did not appear on the list.

• (1415)

Honourable senators, this is an important issue that I would like to bring to your attention. I am planning to make a formal complaint on the matter.

ABOLITION OF SLAVERY

TWO HUNDREDTH ANNIVERSARY

Hon. Tommy Banks: Honourable senators, Senator Di Nino has mentioned this fact, but I think it is worth mentioning twice. I want to take note of the fact that last Sunday, March 25, was the two hundredth anniversary of the Act of Abolition which ended, for all time, transport by sea of the slave trade. On that day, 200 years ago, it received Royal Assent in the Parliament of Westminster.

There can hardly ever have been a more important, more unselfish and more noble act of any legislature anywhere. It is a shining example and a beacon in the progress of civilized government, and it is a height to which we should pay the greatest respect and to which we should all aspire.

HEALTH

ASSISTED HUMAN REPRODUCTION— APPOINTMENTS TO BOARD

Hon. Vivienne Poy: Honourable senators, in honour of International Women's Day, which was on March 8, I would like to speak to an issue that is of concern to women in Canada.

In December, the government announced 10 appointments to the board of Assisted Human Reproduction Canada. Last month, I received a plea from the Infertility Awareness Association of Canada that further appointments should include representation from fertility experts as well as patients; the women struggling to conceive.

In an article in the *Canadian Medical Association Journal* published February 27, it was noted that the government appointments went against the advice of an expert selection panel. To quote the article, the appointments led "some scientists to fear" that they were "intended to circumvent the legislation the Agency will enforce."

Health Canada already had a short list of prospective candidates, but of the 25 candidates recommended by the expert panel, only two are now on the board. According to the article of

the board members appointed, “four have expressed socially conservative views on issues directly related to the board’s mandate.”

Dr. Michael Rudnicki, Scientific Director of the Stem Cell Network, an organization that brings together more than 70 scientists, clinicians, ethicists and engineers, speculates that:

It’s analogous to having a Jehovah’s Witness who is totally opposed to transfusions being appointed to the board of the Canadian Blood Services.

Since it is likely that the majority of the agency’s mandate will involve looking after in vitro fertilization patients and regulating clinics, organizations such as the Infertility Awareness Association of Canada and other stakeholders should be brought to the table. It is therefore important that the government consider the views expressed in the *Canadian Medical Association Journal* and that of the patients in any possible future appointments in order to provide the board of Assisted Human Reproduction Canada with some balance.

Honourable senators, I will end with a quote from the editorial on this topic published by the *Canadian Medical Association Journal*:

The unmistakable signal sent is that the current government values control more than transparency in decision-making; favours ideology over scientific and clinical expertise; and believes that patient representation is altogether dispensable.

It is ironic that this government refers to accountability and then sends this signal to our medical community and to the women who only wish to have a family.

• (1420)

ORDEAL OF MS. NAZANIN FATEHI

Hon. Rod A. A. Zimmer: Honourable senators, I rise today to acknowledge the accomplishments of a group of people whose devotion to justice and human rights saved a young, innocent woman from a terrible fate.

The remarkable story of Nazanin Fatehi’s brush with death began in a park in Karaj, Iran, in 2005 when she was just 17 years old. During a brutal attack by three men who attempted to rape her and her 15-year-old niece, Nazanin fatally stabbed one of the assailants. What ensued was a long ordeal during which an Iranian court found Nazanin guilty of murder and left her to languish for several months on death row for this act of self-defence.

This injustice was brought to my attention in the spring of 2006 by the Honourable Belinda Stronach, Member of Parliament for Newmarket-Aurora, and Ms. Nazanin Afshin-Jam, an Iranian-born singer, model, artist, actress, human rights activist and former Miss World Canada in 2003. These women, along with Ms. Mina Ahadi, head of the International Committee Against Execution, played a major role in creating awareness of this situation and in appealing to decision-makers around the world in order to save Nazanin’s life.

In addition to conducting numerous media interviews, Ms. Afshin-Jam launched the website, www.helpnazanin.com, to bring attention to the plight of her namesake. Ms. Stronach, who also felt compelled to act, assisted me with the establishment of a trust fund. She also enlisted the assistance of former Foreign Affairs Minister, Lloyd Axworthy, Governor General Michaëlle Jean, Ambassador Allan Rock and High Commissioner for Human Rights, Louise Arbour, all of whom alerted their associates to the harrowing situation.

Following an outcry from members of the international community, including Amnesty International, a retrial was granted in January of this year, and five judges ruled that Nazanin’s actions were carried out in self-defence. However, under Islamic Shariah law, three of the judges ordered the payment of diyya, or blood money, in the order of U.S. \$43,000 to the family of her deceased attacker. This sum was raised through generous donations, including a major donation by Ms. Stronach, and I am happy to say that Nazanin was released from prison and reunited with her family. However, in order to cover legal and other costs, we continue to appeal for additional donations.

Honourable senators, many individuals and groups played an integral role in securing Nazanin Fatehi’s freedom and, in particular, I would like to congratulate Ms. Afshin-Jam and Ms. Stronach, who are present in the Senate gallery today, for their compassion, leadership and conviction. It is my sincere hope that Ms. Fatehi’s human rights victory will pave the way for other women throughout the world who face injustice.

Honourable senators, Ms. Afshin-Jam has dedicated the title track from her forthcoming album *Some Day*, to Ms. Fatehi. The album is to be released on April 24. The chorus chimes:

Someday, you will find a way,
Someday, the darkness fades away.

Honourable senators, this is a beautiful memory of a remarkable story. Fitting words from one Nazanin to another, and they have never even met!

VISITORS IN THE GALLERY

The Hon. the Speaker: I draw the attention of honourable senators to the presence in the gallery of Ms. Nazanin Afshin-Jam, human rights activist, actor and artist. She is the guest of Senator Zimmer and is accompanied by the Honourable Belinda Stronach, Member of Parliament for Newmarket-Aurora. On behalf of all senators, welcome to the Senate of Canada.

I also draw the attention of honourable senators to the presence in the gallery of His Excellency, Vladislav Tretiak, Member of the Russian State Duma, Chair of the Russia-Canada Parliamentary Group and, as Senator Mahovlich will confirm, another hockey legend. On behalf of all honourable senators, welcome to the Senate of Canada.

• (1425)

[Translation]

ROUTINE PROCEEDINGS

PLAN OF ACTION FOR DRINKING WATER IN FIRST NATIONS COMMUNITIES

TABLED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Plan of Action for Drinking Water in First Nations Communities, progress report of March 22, 2007.

SPEAKERS' DELEGATION TO BENIN, BURKINA FASO AND MALI

SEMINAR ON PARLIAMENTARY DEMOCRACY:
THE CANADIAN EXPERIENCE—
JANUARY 8-16, 2007—REPORT Tabled

Hon. Rose-Marie Losier-Cool: Honourable senators, in accordance with rule 28(4), and with leave of the Senate, I have the honour to table, in both official languages, a document entitled *Parliamentary Democracy: The Canadian Experience*, concerning the seminar held in Benin, Burkina Faso and Mali from January 8 to 16, 2007.

[English]

STUDY ON NATIONAL SECURITY POLICY

INTERIM REPORT OF NATIONAL SECURITY
AND DEFENCE COMMITTEE Tabled

Hon. Norman K. Atkins: Honourable senators, I have the honour to table, in both official languages, the eleventh report of the Standing Senate Committee on National Security and Defence, an interim report entitled, *Canadian Security Guide Book 2007—Coasts: An Update of Security Problems in Search of Solutions*.

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

CANADA-CHINA LEGISLATIVE ASSOCIATION

ANNUAL MEETING OF ASIA PACIFIC
PARLIAMENTARY FORUM, JANUARY 21 TO 26, 2007—
REPORT Tabled

Hon. Joseph A. Day: Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-China Legislative Association respecting its participation in the Fifteenth Annual Meeting of the Asia Pacific Parliamentary Forum held in Moscow, Russian Federation, from January 21 to 26, 2007. We were well hosted.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF EVACUATION OF CANADIAN CITIZENS FROM LEBANON

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

That, notwithstanding the Order of the Senate adopted on Tuesday, October 24, 2006, the Standing Senate Committee on Foreign Affairs and International Trade, which was authorized to examine and report on the evacuation of Canadian citizens from Lebanon in July 2006, be empowered to extend the date of presenting its final report from March 30, 2007 to June 29, 2007; and

That the Committee retain until September 30, 2007 all powers necessary to publicize its findings.

ANTI-TERRORISM ACT

NOTICE OF MOTION TO AUTHORIZE SPECIAL COMMITTEE TO EXTEND DATE OF FINAL REPORT

Hon. David P. Smith: Honourable senators, I give notice that at the next sitting I shall move:

That, notwithstanding the Orders of the Senate adopted on Tuesday, May 2, 2006, on Wednesday, September 27, 2006 and on Thursday, December 14, 2006, the date for the Special Senate Committee on the Anti-terrorism Act to submit its final report be extended from March 31, 2007 to February 23, 2008.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES RELATED TO NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that, at the next sitting I will move:

That notwithstanding the Order of the Senate adopted on Thursday, April 27, 2006, the Standing Senate Committee on Human Rights which was authorized to monitor issues relating to human rights and, *inter alia*, to review the machinery of government dealing with Canada's international and national human rights obligations, be empowered to extend the date of presenting its final report from March 31, 2007 to March 31, 2008 and that the Committee retain until June 30, 2008 all powers necessary to publicize its findings.

• (1430)

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO EXTEND DATE OF FINAL REPORT ON STUDY
OF INTERNATIONAL OBLIGATIONS REGARDING
CHILDREN'S RIGHTS AND FREEDOMS

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

That, notwithstanding the Order of the Senate adopted on Wednesday, November 29, 2006, the Standing Senate Committee on Human Rights, which was authorized to examine and report upon Canada's international obligations in regards to the rights and freedoms of children, be empowered to extend the date of presenting its final report from March 31, 2007 to April 30, 2007 and that the Committee retain until July 30, 2007 all powers necessary to publicize its findings.

AGRICULTURE AND FORESTRY

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

Hon. Joyce Fairbairn: Honourable senators, I give notice that at the next sitting of the Senate, I shall move:

That, pursuant to rule 95(3)(a), the Standing Senate Committee on Agriculture and Forestry be authorized to sit on Friday, March 30, 2007, even though the Senate may then be adjourned for a period exceeding one week.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY GENDER EQUITY IN PARLIAMENT

Hon. Marie-P. Poulin: Honourable senators, I give notice that, on Wednesday, April 18, 2007, I will move:

That the Standing Senate Committee on Human Rights, in the spirit of reflection and commemoration of International Women's Day and the 25th anniversary of the patriation of the Constitution and its *Canadian Charter of Rights and Freedoms*, be authorized:

- (a) to examine and report on all issues related to female representation in Parliament, including the barriers to the participation of women in federal politics;
- (b) to propose positive measures for electoral and other reforms that will
 - (i) promote gender equity in Parliament, and
 - (ii) achieve an increase in the number of women in Parliament; and
- (c) to consider the status of female representation in other legislative assemblies for comparative purposes in formulating proposed measures; and

That the Committee present its report no later than June 29, 2007.

THE SENATE

GENDER EQUALITY—NOTICE OF INQUIRY

Hon. Terry M. Mercer: Honourable senators, I give notice that in two days:

I shall call the attention of the Senate to gender equality in the process of governance, specifically how we, as Senators in the Senate of Canada, can be a model for gender equality by requiring that the number of Senators in this place be composed of 50 per cent women and 50 per cent men.

Senator Cools: And 50 per cent bright.

[Translation]

VICTIMS OF CRIME

NOTICE OF INQUIRY

Hon. Consiglio Di Nino: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to problems and challenges faced by victims of crime.

BUDGET 2007

NOTICE OF INQUIRY

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I give notice that, two days hence, on behalf of the government:

I will call the attention of the Senate to the budget, entitled *Aspire to a Stronger, Safer, Better Canada*, tabled in the House of Commons on March 19, 2007, by the Minister of Finance, the Honourable James M. Flaherty, P.C., MP, and in the Senate on March 20, 2007.

• (1435)

[English]

QUESTION PERIOD

PUBLIC WORKS AND GOVERNMENT SERVICES

QUEBEC ELECTION

Hon. Marcel Prud'homme: Honourable senators, my question is directed to the Minister of Public Works and Government Services. We all saw his enthusiasm in endorsing Mr. Charest on Sunday during the St. Patrick's Day parade and in wishing him good luck on election night.

All senators know that for many months I have supported the ADQ, and I voted for them yesterday. In view of a good future relationship between the Senate and this new government in

Quebec, does the honourable minister intend to make a phone call today to warmly congratulate the new leader of the official opposition in Quebec? Can I count on the Minister of Public Works to help us smooth our relationship with the new government in Quebec in view of the fact that hundreds of thousands of those who voted for the ADQ yesterday are considering their options for the next federal election?

As an aside, there will be a meet and greet with Mr. Vladislav Tretiak, Chair of the Russia-Canada Parliamentary Group, at 3:20 in the Speaker's chambers.

[Translation]

Hon. Michael Fortier (Minister of Public Works and Government Services): Honourable senators, earlier today the Prime Minister issued a press release to announce that he had spoken to the Premier of Quebec, Mr. Charest, and to the Leader of the Opposition, Mr. Dumont, whom he congratulated on the results of yesterday's election.

Naturally, I would like to say the same. I can also say that our government will have a good relationship with the Government of Quebec and that we will work constructively with them for the good of all Quebec taxpayers.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

INDIAN RESIDENTIAL SCHOOLS AGREEMENT— APOLOGY TO VICTIMS

Hon. Céline Hervieux-Payette (Leader of the Opposition): Honourable senators, could the Leader of the Government in the Senate explain why it was fair to apologize to Canadians of Chinese origin, to Canadians of Japanese origin, to Iranians holding Canadian citizenship, and to Canadians of Ukrainian origin, but it would be inappropriate at this time — given the deplorable situation they find themselves in — to apologize to Canada's Aboriginal peoples for what was done to them in residential schools where their rights were violated?

[English]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, on March 21, the Indian Residential Schools Agreement received final court approval. Preparations are underway for the implementation of the settlement, expected later this year.

As the honourable senator knows, when Minister Prentice spoke of the agreement, which extends back to the time of the previous government, he said that an apology was not part of the settlement, and he made that position very clear again yesterday.

[Translation]

Senator Hervieux-Payette: Honourable senators, the Leader of the Government should remind her government that, when the Minister of Indian Affairs refused to apologize to residential school survivors, that was only the latest in a string of broken promises to Aboriginal peoples. His position contradicted a written commitment made to the Assembly of First Nations. In that document, the deputy prime minister at the time wrote, and I quote:

[Senator Prud'homme]

... there is a need for an apology that will provide a broader recognition of the Indian Residential Schools legacy and its effect upon First Nations communities ...

Which has certainly cast a shadow on Canada's reputation.

... and its effect upon First Nation communities.

Can the Leader of the Government tell us why this government is refusing to apologize even though it has apologized to other Canadian citizens who have experienced injustice in Canada? An apology is not necessarily part of the monetary settlement, but we know that money is one thing and that human relations are another.

• (1440)

[English]

Senator LeBreton: As I said in my first answer, the agreement, which was negotiated over a long and protracted period over the course of two years, it was well understood by the parties at the table that the settlement agreement did not contain an apology.

I believe, honourable senators, it is most important that the government and all parties to the agreement take every step necessary to ensure that the agreement is implemented as soon as possible and that the former students who are entitled to settlement get that settlement. It is in no one's interests to go back and reopen the negotiations. I repeat: As negotiations proceeded over the last two years, all parties agreed to the conditions of the agreement — an apology was not part of the settlement.

Senator Hervieux-Payette: I am quite sure the Leader of the Government has not understood my question. There is a difference between financial compensation and asking a person for their pardon because we have committed a grave sin against this group of Canadians, the first Canadians. I beg the Leader of the Government in the Senate to ask the government to proceed with an apology so that we can open a new page and continue to build Canada along with the first citizens of this country.

Senator LeBreton: Honourable senators, the government and the Minister of Indian Affairs and Northern Development, Mr. Prentice, have worked hard on this agreement. It was well received by all concerned. The government is now proceeding to deal with serious issues in the Aboriginal community. I will only go so far as to say that I will make the minister aware of the honourable senator's views on this particular matter.

ABORIGINAL BUSINESS AND ECONOMIC DEVELOPMENT

Hon. Nick G. Sibbeston: Honourable senators, the Standing Senate Committee on Aboriginal Peoples released its report on Aboriginal business and economic development last week. The report is now before the Senate.

The report focuses on the phenomenon of Aboriginal people getting into business and using economic development tools to participate in the Canadian economy in an effort to provide jobs for its people and create wealth. It should be obvious to any government that business such as this is important. This is one clear way that Aboriginal people can rise up and thus narrow the gap between those well off and the poorer people in our society.

While there has been a measure of success, there are many other areas in our country where Aboriginal people are having a hard time getting on their economic feet and need the support of government to be successful. Unfortunately, I feel the budget earmarked very little for the serious economic development that we envisage in our report.

My question to the Leader of the Government in the Senate is this: Would the minister not be partisan and adversarial on this issue? Can she describe how she could be an advocate for the Senate and for the Aboriginal people in her dealings and meetings in cabinet with her colleagues, Mr. Prentice and the Prime Minister? Could she be a help to the Aboriginal people of our country and do something to provide more money for economic development, which is so important?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, there is no question that the government works very hard to address serious issues with regard to the Aboriginal community. It is not, as my honourable friend quite rightly states, a partisan issue nor should it ever be.

• (1445)

Last year's budget announced \$450 million over two years to support priority areas of education, water and housing. Budget 2007 confirms that the \$300 million in 2007-08 will continue thereafter as ongoing funding, beyond the funding announcements in Budget 2006. This will mean that close to \$1 billion in additional funding is available to the Aboriginal communities between now and 2010.

With regard to the specific issue of assisting Aboriginals to develop careers and open businesses, those suggestions from Senator Sibbeston are worthy and I will endeavour to obtain specific information from the department as to what dollars are earmarked specifically for those areas and how to access those funds.

FISHERIES AND OCEANS

COAST GUARD—ACQUISITION OF ICEBREAKERS

Hon. Willie Adams: Honourable senators, my question is to the Leader of the Government in the Senate. I wish to address the election promises that the Prime Minister made.

We have 26 communities in Nunavut, all of them along the coast except for one community, Baker Lake, which is inland. We can still get to Baker Lake from the river.

Last summer, the Prime Minister visited Nunavut and talked to some of the leaders in the community as well as the Government of Nunavut about the economy and the future of the North.

Before the budget, there was a promise to build the three icebreakers for the Arctic in the future, but nothing has happened even though the government has been in power for over a year. In every community along the coastline, when the summer ships come in it is sometimes difficult to unload the cargo for the community.

There has been privatization of ports in the South. Money to support the Canadian Coast Guard in Nunavut is needed. Sometimes the Coast Guard does not have enough funds. They built some little harbours to help us, but the budget from the Government of Canada is only for summer maintenance.

The Prime Minister promised when he went from Vancouver up to the Arctic that he would address the future of the Canadian Coast Guard.

Senator Comeau has spoken about the Coast Guard from Resolute up to Coppermine — I call it Kugluktuk. One summer we travelled on a Coast Guard ship. We had a good trip. In the Arctic, sometimes they have to change the crews. They sometimes have to fuel up in Alaska or other places. We do not have the facilities for that in the territory.

We need to develop more commerce in the communities in the future. Instead of doing all the unloading of fish in Greenland, we want to negotiate with people down east. With smaller ships, they can unload in the community. The supplies come down from Newfoundland. They do not have the facilities to do that. I hope this government will be able to promise to do something in the near future for our community development.

• (1450)

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, I wish to thank the honourable senator for those good and valid questions. In the budget, we have committed to six Coast Guard vessels. The honourable senator knows that —

Senator Rompkey: Not icebreakers.

Senator LeBreton: You like that, do you, Senator Rompkey?

Senator Rompkey: No, they are not icebreakers.

Senator LeBreton: The Prime Minister visited the North, as was stated. Probably the highlight of his first year as Prime Minister was going up to Alert and observing Operation Lancaster in Iqaluit. He also met with officials in Iqaluit.

I assure the honourable senator that the Department of National Defence, the Canadian Forces and the government are currently examining options to improve surveillance and response capabilities as well as our overall presence in the North. I will impress upon my colleagues the senator's views on this situation. I hope that, in the not too distant future, they will have something to announce.

[Translation]

BUDGET 2007

FUNDING OF HEALTH CARE FOR ABORIGINAL CHILDREN

Hon. Roméo Antonius Dallaire: Honourable senators, my question is for the Leader of the Government in the Senate. Recently I chaired a committee that was examining the issue of sexual and commercial exploitation of Aboriginal children. A rather detailed study showed that far more Aboriginal children than non-Aboriginal children were removed from their families and handed over to a child services system.

In 2006, the Assembly of First Nations revealed that 27,000 Aboriginal children were removed from their families, not because they were beaten or abused, but essentially because of the extreme poverty in which they lived and the lack of shelter.

As far as Budget 2007 is concerned, it would seem that the Aboriginal child care system will receive \$109 million less than the child care system for non-Aboriginal children, despite the fact that the proportion of Aboriginal children in need is much greater.

Why not allocate as much funding, if not more, to the Aboriginal child care system?

[English]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for his question. The honourable senator is asking specific questions about an obviously serious situation. I will determine for the honourable senator what the Department of Indian Affairs and the minister have been doing about this particular issue, and what kind of dollars have been allocated to address this obviously serious situation.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

CULTURE AND GENERAL APPROACH OF DEPARTMENT

Hon. Roméo Antonius Dallaire: Honourable senators, human beings are not like trucks. If you have a truck but no more fuel, you can park your truck in a snow bank and wait until you get some money for fuel.

On February 21, I requested some information regarding bridge funding for the Aboriginal Healing Foundation, which was about to close down its 140 projects in response to a glitch in funding. I am most appreciative of the fact that we did get an answer, and that \$25 million out of the \$40 million required is being advanced to meet that need. However, that funding will not arrive until May, so we still have a few more months of people being fired and people not receiving the services they need, and having to recreate the whole thing.

• (1455)

My question is this: Can Minister Prentice, who seems to be a reasonable chap, shift his department's approach to our Aboriginal people from a culture of neo-colonialism to the mainstream of human-rights-based responsibility for that significant portion of our population that is nearly one million in strength?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Thank you. I do not accept Senator Dallaire's description of the department. I believe that Minister Prentice is trying to change the culture and also address the issues at the level of the communities that are involved.

I am glad the honourable senator acknowledges that we responded to his last question. I realize that, as the honourable senator states, there might be a lag of a month or two. I will take that question as notice and I am sure the department will provide

[Senator Dallaire]

us with an answer as to why they particularly listed May as the start date, and whether there is any opportunity to move up the date.

I do not want to minimize the seriousness of the problem in any way. It is a serious problem and more serious in some regions of the country than in others. I will attempt to obtain further information for the honourable senator.

IMPLEMENTATION OF KELOWNA ACCORD

Hon. Larry W. Campbell: My question is to the Leader of the Government in the Senate. Can she explain to honourable senators how her government can justify their inaction on Aboriginal issues?

Do I need to remind the leader that there is a perfectly good plan, drafted by 10 premiers, which received the endorsement of all major Aboriginal groups in Canada? The full implementation of the Kelowna accord would be a major step forward for Aboriginal people. By not implementing the accord, the Conservative government has sent the message to premiers and everyone else involved with drafting the accord, that they were wrong and their input is meaningless.

The government's refusal to apologize for the atrocities committed in the residential school system, their unwillingness to listen to native leaders and their ineffective response to Aboriginal land claims is tantamount to condoning systemic racism. When will this minority government realize its repeated shortcomings and implement, as well as provide funding for, the Kelowna accord?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank Senator Campbell for that question. I absolutely reject the statements that he attributed to our government. I think any serious individual watching the efforts and the work being done by Minister Prentice would vehemently disagree with the preamble to his question. As I have stated in this place in the past, we all understand that the Kelowna accord was a statement of good intentions without a fiscal framework attached. I have made it clear that the minister and the government support the principles of the Kelowna accord.

The work that Minister Prentice is doing and the money that was allocated in Budget 2006 and Budget 2007 will go a long way to addressing many of the serious issues that are faced in the various Aboriginal communities. I want to reiterate that this government is concerned and I do not, for one moment, accept your statement that we do not care about our First Peoples. It is offensive, frankly, to use the word "racism" when dealing with issues like this.

As Senator Sibbeston said, this issue is of concern to all Canadians, whether they be Liberals or Conservatives, and partisan statements like that one should not enter into the debate.

• (1500)

Senator Campbell: Quite frankly, I find the honourable senator's answers to be offensive. Which part of this statement would she like to call offensive — the refusal to apologize for residential schools?

Senator Stratton: Did your government?

Senator Campbell: If that was not part of it, why are all the leaders asking for it?

Would it be the part about the unwillingness to listen to native leaders? Is it the ineffective response to the Aboriginal claims? There is nothing partisan at all about what I am saying. This is simply what the First Nations and the Aboriginal peoples of Canada are asking for.

I would ask the honourable senator to take this matter to Minister Prentice and find out who is truly being untruthful here. Is it the minister, or is it the native leaders who say that they were promised an apology for what took place within the residential schools?

Senator LeBreton: I will be happy to take the honourable senator's comments to Minister Prentice.

Again, I will respond in terms of the residential schools issue. Negotiations began under the previous government and were brought to finality by the present government. Throughout the negotiations, which were overseen by a pre-eminent judge and attended by the Aboriginal community and government representatives, the issue of an apology was not part of the final residential schools settlement.

Why the various people at the table, when they were negotiating this settlement, did not raise the issue is something that only they can answer. The fact is that now we have the good news that we can proceed with completing these settlements. The issue of an apology was not part of the agreement.

I will be happy to make the honourable senator's strong views known to the minister.

Hon. Tommy Banks: Honourable senators, I have a supplementary question for the Leader of the Government. In her earlier response to Senator Campbell, she said again that there was no fiscal framework for the Kelowna accord.

Everyone on this side knows that the Kelowna accord was a very real thing. However, since the honourable senator raised the subject of no fiscal framework, I would ask that she refer to a document in the Department of Finance called the sources and uses table. It lists coming government expenditures, which can only be removed from the list by agreement of the Minister of Finance.

If the honourable senator will look at the document of November 24, 2005, she will note at page 4 that there are three items: \$800 million in respect of the softwood lumber matter, which was spent; \$755 million for agricultural relief, having to do with BSE, which was spent; and, next on the list, \$5.1 billion, having to do with the costs associated with the Kelowna accord.

I would ask that the Leader of the Government read that document, and perhaps she would be good enough to table it in this house so we can all see it.

Senator LeBreton: Honourable senators, I believe that issue was raised by Senator Fraser in the fall session and we provided a response.

I think the situation is very clear. When one looks at the date of the Kelowna agreement, it was literally a few days before the government fell, which precipitated the election. This is well documented and understood. Certainly, in the documents or reports that I have reviewed on this particular issue, no clearly defined fiscal framework was provided to the government as to how the Kelowna accord could be implemented.

I will provide the honourable senator's question to the appropriate officials and ask them to give us an explanation as to what weight this particular document the honourable senator refers to may have.

Senator Banks: When the honourable senator is asking that question, would she raise the fact that, in the National Finance Committee, when the question was asked about how much money had been saved from that aspect of the budget, the answer was "about \$5 billion."

Senator Mercer: It is sleight of hand, a shell game.

SETTLEMENT OF LAND CLAIMS

Hon. Gerry St. Germain: Honourable senators, my question is to the Leader of the Government as well. I would like to reinforce what Senator Sibbeston said. We are making this a partisan issue. Let us not do that. This issue rises above partisanship. It is about people like Senator Sibbeston, who was sent to a residential school at the age of five. We do not need any ridiculousness or the hypocrisy of 10 years of Liberal inaction. What we need is action.

Senator Mercer: We are not making this a partisan matter, are we? Do not make it partisan — it is above partisanship!

Senator St. Germain: Further to Senator Sibbeston's leadership, the Aboriginal People's Committee has just conducted two studies. The work of committee members has been exemplary; Senator Sibbeston and I will speak to that later today in this house. However, to be fair — and all I seek is fairness — we have a situation where we have reported on specific claims, which is an important lead item. We can ask this question of National Chief Phil Fontaine. Claims are the main issue that has to be settled if our Aboriginal peoples are to be given an opportunity to meet their potential. In the budget was a reference not made to there being a follow-up on specific claims?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): The honourable senator is quite right, and we are looking forward to his report.

The answer is yes. As I have pointed out, it is interesting that the settlement of specific land claims has always had greater success under Conservative governments historically in this country than under Liberal governments.

I wish to remind honourable senators that in September 2004, Paul Martin promised \$700 million for Aboriginal health care. However, by the time Mr. Martin went to Kelowna in November 2005, one year later, not a single dollar of that money had begun to flow from the federal government. Even as Mr. Martin was making more promises, he had not even delivered on the \$700 million that he had promised the year before.

[Translation]

ANSWER TO ORDER PAPER QUESTION TABLED

INDUSTRY—CANADA RESEARCH CHAIRS PROGRAM

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 24 on the Order Paper—by Senator Downe.

[English]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before proceeding to Orders of the Day, I am pleased to introduce two House of Commons pages who are participating in the page exchange this week.

[Translation]

Alain Dupuis, of Val Thérèse, Ontario, is studying political science and communications in the faculty of social sciences at the University of Ottawa.

[English]

Sarah Forsyth, of Ottawa, Ontario, is enrolled in the faculty of social sciences at the University of Ottawa, where she is majoring in psychology.

• (1510)

ORDERS OF THE DAY

APPROPRIATION BILL NO. 4, 2006-07

SECOND READING

Hon. Nancy Ruth moved second reading of Bill C-49, for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2007.

She said: Honourable senators, Bill C-49, Appropriation Bill No. 4, 2006-07, provides for the release of supply for Supplementary Estimates (B) 2006-07. These supplementary estimates were tabled in the Senate on February 22 this year and were referred to the Standing Senate Committee on National Finance. They are the second and final set of supplementary estimates for the fiscal year that will come to an end this week, on March 31.

Supplementary Estimates (B) 2006-07 seek Parliament's approval to spend a total of \$424.5 million on expenditures that were not sufficiently developed or known at the time of tabling the 2006-07 estimates, the Main Estimates, or at the time of tabling the Supplementary Estimates (A) last fall. They also provide information on reductions to projected statutory

spending totalling \$314 million, for a net supplementary estimates requirement of \$110 million.

Given the time-sensitive nature of the supply, it has been our long-standing practice to examine estimates prior to receiving the supply bill from the other place. Therefore, these supplementary estimates were discussed in some detail with the Honourable Vic Toews, President of the Treasury Board, and the Treasury Board Secretariat officials in their appearance before the Standing Senate Committee on National Finance on February 27 this year. The meeting provided an opportunity to discuss not only the supplementary estimates but also issues of interest to the committee members. An account of that meeting is provided in the committee's eleventh report, which Senator Day tabled on March 21.

Supplementary Estimates (B) 2006-07 provides for major budgetary items such as \$102 million for compensation adjustments, which are transfers to departments and agencies for salaries and other related adjustments; \$40 million to agricultural and agri-food in support of the Cover Crop Protection Program in response to the flood damage in 2005-06; \$34 million to agricultural and agri-food for new opportunities for agricultural initiatives to foster investments that support the transition of farmers in agricultural products into new areas of opportunity; \$33 million to the Department of Justice for funding to provincial and territorial governments for the delivery of youth justice services and programs; \$31 million to the Canada Revenue Agency for the implementation of the GST rate reduction and the costs of administrative measures related to personal tax credits; \$23 million to strengthen Canada's position in international commerce by further developing the Asia-Pacific Gateway and Corridor; \$23 million for the operating budget carry-forward; \$20 million to prepare for, implement and administer the 2006 Canada-United States Softwood Lumber Agreement; \$19 million for additional RCMP positions and federal prosecutors to focus on law enforcement priorities; and \$16 million for public security initiatives.

The supplementary estimates also outline a decrease of \$211 million in budgetary statutory spending that was previously authorized by Parliament. Adjustments to projected statutory spending do not require approval through a supply bill and are provided for information purposes only.

The larger statutory items in the supplementary estimates include: \$420 million for contributions in support of business risk management programs under the agriculture policy framework, the Canadian Agricultural Income Stabilization Program; \$172 million for payments to the Newfoundland Offshore Petroleum Resource Revenue Fund; \$110 million for the Newfoundland fiscal equalization offset payment; and \$40 million to prepare for the fortieth general election, to conclude the work of the 2006 general election and to pay a quarterly allowance to political parties.

A decrease of \$748 million in the forecast for the Consolidated Specified Purpose Accounts, which reflects decreases in the expected payout of EI benefits due to improved labour market conditions, and the transfer to the Province of Quebec of responsibility for delivering maternity and parental benefits; a decrease of \$184 million in public debt charges to reflect lower than expected short-term interest rates; and a decrease of \$65 million in the forecast of the Canada Education Saving Grant payments.

Bill C-49, Appropriation Act No. 4, 2006-07, now seeks Parliament's approval to spend \$424.5 million in voted expenditures. The Supplementary Estimates (B) 2006-07 are fully consistent with the overall planned spending level of \$222 billion for the fiscal year that is now ending as set out in the May 2006 budget and the November 2006 economic and fiscal update.

Honourable senators, should you require additional information, I would be pleased to try to provide it.

Hon. Lowell Murray: As I listen to the honourable senator, who is the sponsor of this bill, which seeks, as she says, appropriations of over \$400 million for the fiscal year ending March 31, 2007, it occurs to me that today is Tuesday, March 27. There are only three working days left in the fiscal year.

Does the honourable senator not think it will be quite a challenge for the government to dispose of \$400 million and change in that short time?

Senator Nancy Ruth: With respect to the honourable senator, I do not.

Hon. Joseph A. Day: Honourable senators, in discussing the eleventh report of our Standing Senate Committee on National Finance yesterday, which report was adopted last evening, I undertook to review the schedules attached to Bill C-49 and ensure that they compared with schedules 1 and 2 that appear in the Supplementary Estimates (B). I have done so, and they are reflective of one another. I think we are in order from that point of view.

The only other point I would make that I think is important for honourable senators to be aware of is that in schedule 2 to Bill C-49, of the \$424 million that honourable senators are being asked to approve as a supplementary estimate, \$55 million of that in schedule 2 may not be spent in this fiscal year. That is something we have seen happening in the last little while, where normally Main Estimates and supply bills deal only with one fiscal year. However, in this particular schedule 2, when honourable senators vote for this bill, they are agreeing that \$55 million of the \$424 million that honourable senators are approving could be spent this year or in the next fiscal year.

Apart from that, honourable senators, I am prepared to recommend that we support this particular bill.

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

Hon. Anne C. Cools: I wonder if I might pose a question to the honourable senator. Perhaps he could explain a little more fully as to how procedurally, or instrumentally, this carry-over expenditure is being accomplished. It is something that some of us might take strong objection to.

• (1520)

Senator Day: Honourable senators, I will not speak to the mechanics of the bill because it is an approval by Parliament to authorize the executive to spend \$424 million that had not been approved previously. The honourable senator can see that the supply bill approving this has two schedules. The amount of

\$369 million in the larger schedule will be spent between now and the end of this fiscal year, March 31, 2007. Obviously, some of this money has been committed already. It is important for honourable senators to know that Schedule 2 states:

Sums granted to Her Majesty by this Act for the financial year ending March 31, 2007 may be charged to that fiscal year and the following fiscal year ending March 31 and the purposes for which they are granted.

If Parliament is prepared to grant government the authority to spend the money in this fiscal year and next fiscal year, because the program runs over two fiscal years, then Parliament is giving the authority to the government to do so.

Senator Cools: The honourable senator is the Chairman of the Standing Senate Committee on National Finance before which Minister Toews, President of Treasury Board, appeared to testify. Were questions on this point addressed to the minister? If so, what was his response?

Senator Day: I have imperfect recollection and I regret that I am not certain whether the question was asked. However, it will be asked in the future.

Senator Cools: It is interesting that senators are voting today conditionally on the grounds that answers will be provided in the future. This is a new way of operating and is laughable, in a way. Perhaps, the Chair and Deputy Chair of the Finance Committee could bring this question back to the house at the next go-round, accompanied by the minister's responses.

Senator Day: As the honourable senator knows, full funding will be sought within three months, so we will have a great opportunity at that time to pose that question. I look forward to reporting back to the honourable senator.

Senator Cools: I thank the honourable senator for his undertakings to look into the matter with some thoroughness. I apologize but, as he knows, I was yanked unexpectedly off his committee.

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

Hon. Senators: Question!

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

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

Senator Nancy Ruth: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(b) of the *Rules of the Senate*, I move that Bill C-49 be read the third time now.

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

Some Hon. Senators: No.

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

APPROPRIATION BILL NO. 1, 2007-08

SECOND READING

Hon. Nancy Ruth moved second reading of Bill C-50, for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008.

She said: Honourable senators, one or two weeks ago, I took the adjournment on the thirteenth report of the National Finance Committee on the 2007-08 estimates. I rise in response to that report and to speak to Bill C-50.

Bill C-50, Appropriation Act No. 1, 2007-08, provides for the release of the interim supply for the 2007-08 Main Estimates tabled in the Senate on February 27, 2007. The spending authority granted by this bill is intended to provide the government with sufficient spending authority to carry it until the end of June, allowing it to cover spending that is not authorized through existing statutes.

The estimates were discussed in some detail with the President of Treasury Board and Treasury Board Secretariat officials during their appearance before the Standing Senate Committee on National Finance on March 20, 2007. I thank the Honourable Minister Vic Toews for appearing before the Finance Committee for the second time in less than one month. Along with my chairman, I too would like to extend my thanks to Ms. Laura Danagher of Treasury Board for her helpful service to the committee over the past few years. This was her last appearance prior to moving on to another position as Chief Financial Officer of the Canadian Security and Intelligence Service. I join other members of the committee in wishing her well.

A full account of our meeting with the minister and his officials is set out in the thirteenth report of the National Finance Committee, its first interim report on the 2007-08 Main Estimates, tabled by Senator Day on Thursday, March 22, 2007.

Library of Parliament staff are to be thanked and congratulated on their ability to produce a detailed draft report on the meeting and the issues raised by the honourable senators who participated in such a short period of time.

Honourable senators, the government submits estimates to Parliament in support of its request for the authority to spend public funds. The Main Estimates include information on both budgetary and non-budgetary spending authorities. Parliament subsequently considers appropriation bills to authorize the spending. The Main Estimates 2007-08 total \$211.7 billion, of which \$210.3 billion is for budgetary expenditures and \$1.4 billion for non-budgetary expenditures.

Budgetary expenditures include the cost of servicing the public debt; operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and

payments to Crown corporations. The Main Estimates support the government's request for Parliament's authority to spend \$74.9 billion under program authorities that require Parliament's annual approval of their spending limits. The remaining \$135.4 billion is for statutory items previously approved by Parliament, and the detailed forecasts are provided for information purposes only.

The \$1.4 billion in non-budgetary expenditures, such as loans, investments and advances, consists of \$94.3 million in voted spending authorities and \$1.3 billion in statutory spending that was previously approved by Parliament. These non-budgetary expenditures are outlays that represent changes in the composition of the financial assets of the Government of Canada.

Part I of the Main Estimates 2007-08 includes a detailed comparison to last year's Main Estimates. Together, the budgetary and non-budgetary voted spending authorities total \$75 billion, of which \$21.8 billion is sought through Appropriation Act No. 1, 2007-08. The balance will be sought through Appropriation Act No. 2, 2007-08 in June of this year.

• (1530)

Honourable senators, should you require additional information, I would be pleased to try to provide it.

Hon. Joseph A. Day: Would the honourable senator take a question from me?

The Hon. the Speaker *pro tempore*: Senator Nancy Ruth, will you take a question?

Senator Nancy Ruth: Yes.

Senator Day: In reviewing the Main Estimates, as we did in committee, we were not advised as to the period of time over which interim supply was being sought. I do not see it in the Main Estimates for what period. Typically, the Main Estimates request for interim supply is for a period of three months, leading us to June.

I am wondering whether the honourable senator has had a briefing from the government on this issue which we have not had the opportunity to have. If the honourable senator will look at the schedules attached to the supply bill, Bill C-50, perhaps she could help us out with this point. At schedule 1.1, the government is seeking eleven-twelfths of interim supply. At schedule 1.2, the government is seeking eight-twelfths of interim supply. The typical interim supply, being for three months, is shown in schedule 2 for those items in schedule 2. That wording did not appear in the Main Estimates.

Can the honourable senator help us?

Senator Nancy Ruth: I cannot help the honourable senator right now, but I will later.

Senator Day: If the honourable senator could undertake to obtain that information for us, perhaps we could have it conveyed to the honourable senators before third reading.

Senator Nancy Ruth: I would be glad to do that.

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

Motion agreed to and bill read second time.

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

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

THE ESTIMATES, 2007-08

FIRST INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Banks, for the adoption of the thirteenth report (first interim) of the Standing Senate Committee on National Finance, (2007-08 Estimates), presented in the Senate on March 22, 2007.

Hon. Lowell Murray: Honourable senators, I proposed the adjournment of this debate yesterday afternoon with the intention of keeping the motion on the Order Paper and the debate open for some time so that it might provide the occasion for a more wide-ranging discussion of budget policy.

I note today that the deputy leader of the government has placed a notice of inquiry on behalf of the government for a discussion of Mr. Flaherty's budget. Therefore, it is no longer necessary, certainly not from my point of view, to delay the adoption of this thirteenth report. As far as I am concerned, I would not stand in the way if the motion were to be put now.

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

Motion agreed to and report adopted.

THE ESTIMATES, 2006-07

FINAL REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Banks, for the adoption of the twelfth report of the Standing Senate Committee on National Finance, (2006-07 Estimates), presented in the Senate on March 21, 2007.

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

Motion agreed to and report adopted.

FOOD AND DRUGS ACT

BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Dallaire, for the third reading of Bill S-205, to amend the Food and Drugs Act (clean drinking water).—(*Honourable Senator Cochrane*)

Hon. Pat Carney: Honourable senators, I am speaking on Bill S-205 to amend the Food and Drugs Act, or the clean drinking water act, introduced by Senator Grafstein regularly over the last five years. Senator Grafstein also has a companion bill, Bill S-208, which deals with the issue of water and would require the Minister of the Environment to establish, in cooperation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute the focus of sources of drinking water in the future.

Senator Grafstein has ably outlined the objectives and history of this bill, which he first introduced in another form in the year 2001, similar to my bill and Senator Forrestall's bill to preserve heritage lighthouses. It has seen many forms of renewal in this chamber and I hope it will be concluded.

I am grateful to Senator Grafstein's initiatives on this matter because his bill gives me an opportunity to emphasize my concerns regarding freshwater, particularly, the legislation enacted by the former Liberal government which, in the view of many experts, would permit bulk water shipments of fresh water to be exported to the United States and others.

Senator Grafstein's bill is a remedial measure to amend the Food and Drugs Act by adding clean drinking water as an objective so that the federal agency already mandated to regulate drinking water in bottles, ice cubes and soft drinks would regulate community drinking systems as well.

In his excellent speech on the subject, where he deals with the issue of whether this is a federal jurisdiction, Senator Grafstein states the following:

There is a long list of areas where the federal government makes frequent infrastructure investments in matters traditionally considered within the provincial scope of activities when it affects the health of Canadians or the economy of the country as a whole. The fact that the federal government could save billions in preventive health costs if community drinking water supplies were no longer a threat to the public health and to thousands of Canadians daily is now, I believe, beyond question.

Since he has spoken on this issue, the budget introduced last week by the Conservative government did outline a National Water Strategy that would provide \$93 million over two years to improve the quality of water in Canada's rivers, lakes and oceans.

A summary of the National Water Strategy initiatives contained in the budget document notes that ensuring clean and safe water for Canadians is a joint undertaking by the municipal, provincial and federal governments. The federal government has

over 100 programs related to water that deal with areas of federal responsibility, including drinking water on First Nation Reserves and in federal facilities, water quality relating to fish and fish habitat, oceans and their resources, and transboundary and international waters.

• (1540)

Some of the budget items include \$11 million over two years for action related to the cleanup of eight areas of concern in the Great Lakes basin under the Canada-U.S. Great Lakes Water Quality Agreement; \$5 million over two years to the International Joint Commission for further study of the Great Lakes and outlying regions on water quality with the U.S.; \$12 million over two years to support the cleanup of Lake Simcoe; \$7 million over two years to support federal leadership in advancing the cleanup of Lake Winnipeg; and \$19 million over two years to advance the health of the oceans to support greater water pollution prevention, surveillance and enforcement along Canada's coast.

The new long-term plan for infrastructure funded by Budget 2006 and Budget 2007 will provide a total of \$33 billion over the next seven years to help support infrastructure investments by provinces, territories and municipalities, some of which will be used for water and waste water treatment projects.

In addition, honourable senators, some progress has been made on the issue of clean water for Aboriginal reserves. Last week, the Honourable Jim Prentice, Minister of Indian Affairs and Northern Development, tabled a report in Parliament that details the improvements that have been made over the past 12 months in water quality on reserves. A year ago, Minister Prentice announced a plan of action to ensure that all First Nations communities have access to clean, safe drinking water. In reporting progress over the last year, he noted that in the last 12 months the number of high-risk water systems in First Nations communities have been reduced from 193 to 97. There is still a long way to go.

Some of those reserve projects in my province of British Columbia include Semiahmoo, south of Surrey; Shuswap, which is in the interior; the Toqhaht, which is near Ucluelet; Canoe Creek which is southwest of Williams Lake; and the Lake Babine Nation community, near Smithers and Toosey. I must confess that I had never heard of this community before, but the population of 276 people with 141 on the reserve, which is 200 kilometres south of Prince George. Progress is being made, but we have a long way to go. I am grateful to Senator Grafstein for taking these initiatives and pushing these issues on to the public agenda.

Canadians have taken fresh water — safe fresh water — for granted. Our country has the third largest supply of fresh water in the world. However, emerging awareness of global warming impacts on water supplies is focusing Canadian interest in our water resources and the need to protect and conserve them.

I have a personal interest in this debate. I live on an island where we must rely on the rain to supply our wells and our reservoirs. We only care about water when the reservoir runs dry. Secondly, I have told my colleagues before about how the loss of water access impoverished my own family's homestead in the Okanagan, when the government brought in a system of water licences and my grandfather did not get the licence to the pump bowl, which was a huge spring beside his log cabin, on the

grounds that the government had no business interfering with his property. Possibly, family legend says, there was some alcohol consumed in this debate. The neighbour licensed the pump bowl next to grandfather's log cabin and that was the end of our homestead. When the old man died there was no grain in the barn and no cattle on the range. There was nothing, because he had no water for the homestead.

Many Canadians are increasingly concerned that other countries, particularly America, will covet our freshwater resources. They take comfort in the assumption that Canada has legislation that prohibits the export of bulk water to the U.S. This is a false assumption. As the Conservative critic on Bill C-6 in 2001, I was the first parliamentarian to point out that the legislation, aimed at prohibiting the export of bulk water, actually licensed such exports. This judgment was subsequently supported by committee witnesses and the Privy Council Office. This dangerous amendment to the International Boundary Waters Treaty Act was passed by the Liberals on December 18, 2001 and warrants re-examination by our new Conservative government. I have raised this issue with Senator Banks, chair of the Standing Senate Committee on Energy, the Environment and Natural Resources.

At the time, when I wrote the premiers of the provinces, pointing out the possible impacts of Bill C-6, I had some surprising results. Some premiers never answered my letter; others expressed alarm and still others made it clear that they wished to keep open the option to export fresh water.

At the time, the Minister of Foreign Affairs, John Manley, told the Foreign Affairs Committee of the Senate that the purpose of the bill was to give a legislative context to the treaty and to make clear the federal government's position on the removal of water in its natural state from within the basin. However, it was not clear to members of the committee, some of whom are still in this chamber, that whatever the government's intent, the legislation did not achieve this goal. The intent was not spelled out. The intent to limit bulk exports is not contained in the legislation itself. It is suggested in the regulations that can be changed in secret without parliamentary approval.

In my speech on second reading, I described Bill C-6 as a sleeper that could result in the complete opposite of its stated objective, which is to limit bulk water exports. That is supported by many Canadians, including myself. In fact, we have pointed out that the legislation, now enacted, could actually be used to permit some bulk water exports where no such permission now exists.

Minister Manley told us in committee:

There is nothing in this bill that characterizes water as a tradable good, nor could it be interpreted to do that.

Several witnesses disagreed with this statement.

This is the problem and the heart of my argument with the legislation. The huge regulatory and ministerial discretionary powers that are enshrined in law mean that the bulk water export ban is not binding on the government. Basically, the legislation as it now reads says:

Thou shalt not export bulk water unless the minister says you can.

• (1550)

At the time, trade lawyer Barry Appleton told us:

Rather than create the opportunity to develop some environmentally sustainable comprehensive water policy, this bill has created a mechanism to actually license, in certain circumstances, water going from Canada to the United States.

I am sure that that was not the intention; however, under the wording of this bill, it is clearly the effect. Dr. Howard Mann, an Ottawa-based lawyer and policy consultant specializing in international environmental and trade law, told the committee:

This is a serious risk. Once exports of water begin, governments, federally and provincially, cannot arbitrarily deny further exports. Any denial of exports would have to be in accordance with trade law, including chapter 11. You are in the game as soon as you start down that road.

Chapter 11 is the chapter dealing with national treatment that would allow Mexico and the United States to access our water resources. I stress again, as the minister responsible for the Free Trade Agreement at the time, water itself was not in the Free Trade Agreement but tradable goods are covered.

When I questioned University of Calgary law professor, Nigel Banks, I asked:

Can this bill as presently drafted, which gives discretionary power to the Governor-in-Council and also to the regulatory process, be used to license the export of bulk water from boundary waters?

Would the removal of waters for irrigation purposes to the United States be allowed in this case if you could show by an environmental assessment or other means that it did not affect boundary levels?

Dr. Banks said, "I think the answer is yes."

There is a lot of support for our concern, and that concern is still relevant. This legislation should be reviewed and clarified as to its intent and its impact. As the old nursery rhyme says:

Water, water everywhere and not a drop to drink.

That would be a future that could affect us in Canada, if we do not take tough measures on this subject of continuing interest.

I am grateful again, as I said, to Senator Grafstein for taking the initiative on this issue of clean fresh water for Canadians.

On motion of Senator Comeau, debate adjourned.

PROTECTION OF VICTIMS OF HUMAN TRAFFICKING BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Phalen, seconded by the Honourable Senator Day, for the second reading of Bill S-222, to amend the Immigration and Refugee Protection Act and to enact certain other measures, in order to provide assistance and protection to victims of human trafficking.—(*Honourable Senator Comeau*)

Hon. Wilfred P. Moore: Honourable senators, I rise today to lend my support to Bill S-222, an act to amend the Immigration and Refugee Protection Act and to enact certain other measures to provide assistance and protection to victims of human trafficking.

I commend our colleague, Senator Phalen, who has championed this just cause and has drawn the attention of this chamber to a truly miserable form of human exploitation.

This bill serves to meet some of our responsibilities as signatories to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, ratified by Canada in 2002. This protocol is known as the Trafficking Protocol. It provides a definition of trafficking, and requires signatories to not only criminalize trafficking but to also provide support for the victims of such practices.

Thus, the purpose of Bill S-222 is to:

... provide for specific legislative measures to assist and protect victims of human trafficking who are without legal status in Canada by

(a) providing a means for them to legalize their status as temporary residents and facilitating their eventual acquisition of permanent resident status in appropriate circumstances; and

(b) providing them with the appropriate status to access necessary health and social services.

As Senator Phalen mentioned in his excellent speech on February 6, 2007, the key tool in providing the above-mentioned access for victims of human trafficking would be based on the Trafficking Victims Protection Act, a statute of the United States of America passed in 2000.

According to HumanTrafficking.org, this legislation:

... enhances pre-existing criminal penalties in other related laws, affords new protections to trafficking victims and makes available certain benefits and services to victims of severe forms of trafficking. One option that has become available for some victims who assist in the prosecution of the traffickers is the "T-Visa" that allows the victim to remain in the United States of America.

Bill S-222 features the Victim Protection Permit, which would allow for a victim of human trafficking to remain in Canada as a temporary resident, with the benefits accorded this status, for 120 days with the possibility of an extension to three years if certain qualifications are met.

These three criteria for a three-year extension are:

- (a) the foreign national is or has been a victim of human trafficking in, or in the course of coming into, Canada; and
- (b) either
 - (i) the foreign national has complied with, or is willing to comply with, any reasonable request for assistance in the investigation or prosecution of acts of human trafficking or related offences, or
 - (ii) there is a serious possibility that the foreign national or a member of their family, would suffer hardship, retribution or other harm if the foreign national were removed from Canada.

This aspect of the legislation is important. In the other place, the latest report from the Standing Committee on the Status of Women dealt with issues of human trafficking in Canada. The committee too embraces the need to provide the necessary protection for victims and feel that little has been done to meet the requirements of the Trafficking Protocol. As Danielle Strickland from The Salvation Army informed that committee:

If we provide adequate care and provision for these traffic victims, I believe we can free some of them enough that they would begin to share some of the secrets of the trafficking trade, which would benefit us in combating sexual trafficking more than we could ever imagine.

Thus, the importance of this protection is two-fold: It provides the victim with rights to health care and social services as well as protection from deportation, and it also provides law enforcement with the opportunity to combat human trafficking through the cooperation gained from the victim.

Part 2 of the bill outlines the responsibility of the Minister of Health to:

- (a) provide for the establishment and operation of a national, multilingual toll-free telephone hotline within the Department of Health to provide counseling, information and referral services to assist victims of human trafficking.

Also included in this section is the need for proper training of those operating the hotline, as well as a need for a national education campaign to make Canadians aware of the problem that exists in this country regarding human trafficking.

Once again in the other place, the Standing Committee on the Status of Women also recommended the creation of such a hotline for victims of human trafficking.

These measures contained in Bill S-222 are appropriate responses to a problem that is unfortunately alive and well not only internationally, but, right here in Canada.

As Senator Phalen informed us in his speech, there are merely estimates available to demonstrate the scope of trafficking in Canada. The Royal Canadian Mounted Police have provided estimates of between 600 to 800 individuals being trafficked into Canada each year for the purposes of sexual exploitation or forced labour, the great majority being trafficked for the former purpose.

I suggest that only one case of human trafficking per year would justify the provisions contained in Bill S-222.

Recently, Senator Phalen and I had the opportunity to attend an information session on human trafficking, which was presented by the International Justice Mission Canada. International Justice Mission, IJM, is a unique human rights organization that provides a direct response to individual cases of abuse through the use of professional investigations and the mobilization of local authorities for intervention.

According to that organization, the vast majority of cases forwarded to it involve the sexual trafficking of women and children. IJM estimates that between 18,000 and 50,000 women are trafficked into the United States each year to be sexually exploited. That estimate is worrisome for Canada as it might translate into women being trafficked through Canada to the United States in numbers significantly higher than the 600 to 800 estimate provided by the RCMP.

According to Jamie McIntosh, the Executive Director of International Justice Mission Canada, it is of paramount importance that:

... Canada place the highest priority on the enforcement of anti-trafficking law by targeting funding for police and NGO efforts. IJM believes Canada should be providing the necessary funding in order to pursue this goal on both a national and international basis.

Mr. McIntosh placed a great emphasis on Canada's international role in combating human trafficking, and he also provided a specific example of how Canada has been active in this regard. He said:

In 2003, IJM conducted a three-week undercover operation in the Cambodian village of Svay Pak, just outside of Phnom Penh, in which IJM identified 45 children under the age of 15 who were being offered for sexual exploitation, often to foreign sex tourists, including Canadian citizens. On March 29, 2003, in an operation conducted jointly with the Cambodian National Police, thirty-seven girls were rescued from the brothels, including nine who were between the ages of five and ten years. A former UN police officer from Toronto provided logistical support for the operation. As well, a Staff Sergeant from the Toronto Police Service has been active in providing training to the police in Cambodia.

Although this role is outside the scope of this bill, I mention it to draw awareness of honourable senators, indeed of all Canadians, to the type of victims who might reach Canada, and to demonstrate that Canada can play an active role in international prevention as well.

Finally, honourable senators, as has been mentioned earlier today in this chamber, March 25, 2007, marked the two hundredth anniversary of the passage of An Act for the Abolition of the Slave Trade by the British Parliament. That statute was the culmination of many years of determined struggle by William Wilberforce, a devout Christian who led the fight as a British member of Parliament. I commend to you the feature film, *Amazing Grace*, currently in theatres, which is a superb biography of Wilberforce and his historic work.

Here we are, 200 years later — 200 years after the abolition of slavery — and yet human trafficking has evolved into a multi-billion dollar industry with no end in sight.

Honourable senators, I urge you to support Bill S-222.

On motion of Senator Andreychuk, debate adjourned.

• (1600)

KYOTO PROTOCOL IMPLEMENTATION BILL

SECOND READING—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

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

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Comeau, that Bill C-288 be not now read a second time, but that the subject-matter thereof be concurrently referred to the Standing Senate Committee on Banking, Trade and Commerce and the Standing Senate Committee on Energy, the Environment and Natural Resources;

That the committees report back no later than December 31, 2007; and

That the Order to resume debate on the motion for the second reading of the bill not appear on the *Order Paper and Notice Paper* until such time as both committees have reported on the subject matter of the bill.—(Honourable Senator Murray, P.C.)

Hon. Lowell Murray: Honourable senators, I will continue where I left off after a few brief introductory remarks last Thursday.

Let me acknowledge immediately that the Speaker of the House of Commons has ruled that this bill is not, technically speaking, a money bill. However, as the Speaker of the House of Commons and the Speaker of the Senate never tire of reminding us, their role is to rule on matters of parliamentary procedure, not on questions of law or public policy, and certainly not on the Constitution.

It is in this constitutional context that I address this bill. When I speak of the Constitution, I speak of the conventions of our Constitution in the sense used by the Supreme Court of Canada when they refer to “the unwritten rules which include constitutional convention and the workings of Parliament.”

Senator Grafstein reminded us the other day that the Supreme Court of Canada had said that these conventions of our Constitution, these unwritten rules, are coequal with the written Constitution, and no wonder. Among the subjects that are not covered in the written Constitution and that form part of our constitutional conventions are not only the role but the existence of a prime minister and the principle of confidence — that a government must have the confidence of the House of Commons to continue governing. In brief, most elements of our system of responsible government are not covered in our written Constitution but are, rather, conventions, part of the unwritten Constitution. Yet, as we know, those conventions are absolutely vital to our governance.

When we speak about responsible government, we have a tendency to emphasize, because we are parliamentarians, the responsibility of Parliament to hold the government accountable and responsible. As I say, that is as it should be. We speak of the power of the purse and other prerogatives of Parliament vis-à-vis the executive.

However, I suggest that equally important, and something that we must also emphasize, is the role of ministers in this dynamic. It is not for nothing that we call it “cabinet government.” It is in their hands, the hands of ministers, that power and responsibility are concentrated. They have the duty of office, the duty of government. They have constitutional responsibility for the use of power, individually and collectively. It is because they are responsible individually and collectively as ministers, as an executive, that Parliament can do its job of holding them accountable and responsible.

Some honourable senators may recall my expressing exasperation a few years ago when several ministers in the Chrétien government were found to be freelancing on important matters, including even constitutional matters — the role of the monarchy and that sort of thing. Honourable senators may not recall that in the written reply that I received to questions I asked on this matter, the then Prime Minister, Mr. Chrétien, pointedly, if belatedly, called those ministers to order and reminded them of the purpose of cabinet unity and solidarity. It underpins our system of responsible government.

Bill C-288 introduces congressional law-making into the Westminster and Canadian parliamentary system. In an exchange between Senator Meighen and Senator Grafstein the other day, one of the points raised was that the congressional system has its own inner logic. It seeks to achieve its own equilibrium. So does ours — our Westminster and Canadian system. They seek to achieve their equilibrium by a separation of powers and by a system of checks and balances between the legislature and the executive. We seek equilibrium in the dynamic of the responsibility of ministers to govern and the role of Parliament to control the exercise of ministerial power.

The systems are vastly different. In the Congress, all members are expected to participate in law-making by introducing bills. Our old friend, Senator John Stewart, wrote a book in 1977 called

The Canadian House of Commons. In discussing the difference between our system and the congressional system he said, "The distinction between private members' business and government business is irrelevant."

Honourable senators know that there are important laws on the statute books of the United States that bear the name of their congressional sponsors such as Sarbanes-Oxley and, for those of us old enough to remember a few generations back, Taft-Hartley and many others.

The members of the Congress are active players in preparing the national expenditure program. The president may propose a budget. Someone said to me the other day that presidential budgets, for some years, have been "Dead on Arrival" in the Congress because the Congress may modify them in any way and send them back, at which point the president must accept them or exercise presidential veto; another aspect of their system that we do not have.

Last week, the House of Representatives in Washington passed a resolution, one of the elements of which is to bring the troops home from Iraq by September 2008. As soon as President Bush got wind of it, he said, "I'm going to veto it." Then, referring to still another aspect of their dynamic, he said, "By the way, looking at that vote, I don't think you have the votes to override my veto."

The systems are so different that it seems to me to be a considerable mistake to try to patch elements of one system onto another.

In his book, Dr. Stewart wrote, "If we are to understand the functions of the House of Commons, we must begin by purging from our minds both every taint of congressionalism and the view that Parliament is 'the legislature'. The view that the House of Commons is a congress is incompatible with responsible government."

Later, he spoke of the Speech from the Throne opening each new session of Parliament. In his words, "It is no mere antiquarianism." It shows that, as in the past, the relationship still prevails, "that is, that the members have been summoned not so that they may introduce their bills but so that they may consider the financial requests and any legislative requests to be put before them by the Queen's ministers." Later he said, "The power of the House to influence the Queen's government is political, not legal."

There are time-honoured ways in which one or other or both of the Houses of Parliament can express their views and make their views known on important matters. Our friend, Senator Segal, put down a motion the other day in which the Senate would call on the government, and call on the House of Commons to join us in calling on the government, to withdraw our ambassador in Zimbabwe and sever diplomatic relations with that country.

If that motion were to pass both Houses, it would not have the effect of severing diplomatic relations or withdrawing the ambassador. It would, however, send a most powerful message to the government and to the international community that we want a more robust, a more aggressive, if you like, position on the part of our government toward the situation in Zimbabwe.

• (1610)

However, it is the prerogative — and that motion recognizes that it would be the prerogative — of the Queen's ministers to decide whether or not to cut off relations. Nor do I want to suggest for a moment that private members' bills are inconsequential. To come back to Senator Segal, he has one that as a matter of fact I seconded, to provide for quarterly financial reports from the government to Parliament and a resort to the accrual accounting system.

Senator Ringuette has Bill S-201, to amend the Public Service Employment Act for the elimination of bureaucratic patronage and geographic criteria.

Senator Downe has Bill S-203, to give priority for appointments to veterans.

Senator Grafstein's Bill S-205 would amend the Food and Drugs Act regarding clean drinking water.

Senator St. Germain has Bill S-216, for the Crown's recognition of the self-governing First Nations of Canada.

Let us never forget Senator Carney's bill on the preservation of heritage lighthouses.

Private members' bills are not inconsequential, but they may not force the government to do something that the government has resolved not to do. It is up to the government to propose measures to Parliament. Parliament cannot force the government to propose a particular measure. This bill, it seems to me, does stand our system on its head.

Professor Ned Franks, someone we all know and have seen at parliamentary committees, says, "The parliamentary system means government in and with, but not by, Parliament."

Professor Tom Flanagan, writing in *The Globe and Mail* on February 20, described this bill as "bastardized Americanism," which I must confess is a bit rich, coming from someone who supported the old Reform/Alliance nostrums and bromides, and brought bits and pieces from the United States to be patched on to our system, such as fixed election dates — which I oppose for the same reason that I oppose this bill — the Triple-E Senate and all the rest of it.

Clause 4 reads that this bill "is binding on Her Majesty in Right of Canada." This private member's bill would compel the government to bring in a plan now and to implement that plan year by year through the year 2012, a plan that must include, says the bill, fiscal measures and incentives, regulations, interventions in the market — all to do what the government has repeatedly said it cannot responsibly do, except at considerable cost to the Canadian economy and has, therefore, resolved not to do.

This bill would force the government to do those things. Whether the government is right or wrong on the Kyoto Protocol is not the issue here. The constitutional reality, honourable senators — and this is as hard for some people to say as it is for some people to hear — is that the Harper government enjoys the confidence of the House of Commons as matters now stand. They have survived their Speech from the Throne. They are on the way to surviving their second budget. They have managed to get

through Parliament a number of bills that they regard as central to their mandate. They have the responsibility to govern. They may propose measures to Parliament. They cannot be forced to propose a particular measure.

I believe that this bill is unprecedented — I will stand corrected if someone can show me precedence for it — in the extent to which it directly conflicts with our system of responsible government, and to the extent that it may create a precedent, I believe it would be a big mistake to pass it. Therefore, if given the opportunity, I shall register my opposition in principle by voting against it at second reading.

Hon. Joan Fraser: Would Senator Murray take a question?

Senator Murray: Yes.

The Hon. the Speaker: I must advise that Senator Murray's time is exhausted. It would require an extension of his time.

Hon. Senators: Agreed.

The Hon. the Speaker: Is it agreed he has five minutes more?

Hon. Senators: Agreed.

Senator Fraser: Honourable senators, I always love listening to Senator Murray speak, and I certainly hesitate to take him on on matters of this gravity, where he has such direct personal experience.

Nonetheless, I was puzzled by his argument. He mentioned a number of private members' bills that have been before us at one time or another, but it struck me that perhaps a useful parallel here would be with the bill that was brought forward several times, finally successfully, by our former colleague Senator Gauthier on official languages. That bill was designed to oblige the Government of Canada to act, almost certainly in ways that will cost money, to give teeth to Part VII of the Official Languages Act.

When I was on the Official Languages Committee and listened to testimony — and also I think on the Legal Committee — about this bill, I learned that when that portion of the Official Languages Act was brought in by the Mulroney government, the minister of the day, Mr. Bouchard, when asked, had assured members of the Senate that the bill would have teeth, that it would oblige the government to act, that it was not simply an expression of good wishes — one might even say, not just a press release.

However, once the bill was passed, successive governments bitterly opposed the idea that they were, in fact, required to do anything at all under that portion of the act. Senator Gauthier set about persuading Parliament to instruct them to live up to their word, the word given by the minister of the day when the law was passed. He won. We have all considered that, I believe, a high achievement, a great moment for Parliament.

Why was it good then for parliamentarians to attempt to hold the government to the word of its predecessor, and not now?

Senator Murray: I remember, of course, the bill that Senator Gauthier brought in several times. I supported it. I remember the original bill, because I was the sponsor of it in this place. I do not

have those bills in front of me, but I know what Part VII said, and says. In its original version, if I may put it in a nutshell, it was "the government may" or "ministers may." In the Senator Gauthier version, it is "ministers shall."

I think if my friend examines the Senator Gauthier bill and then examines Bill C-288, with its requirement for fiscal measures, incentives, regulations and interventions in the market and so on, she will find that this bill is far more constraining on the government than are the amendments brought in by Senator Gauthier. It is purely speculative, in the case of Senator Gauthier's amendments, as to whether they will or will not cost money. In the Official Languages Committee, of which I am still happily a member, we have frequent discussions about ways, quite short of calls on the treasury, in which the government may, can and should exercise its responsibility to promote "the vitality of official languages communities across the country." In a word, my honourable friend is drawing a very long bow when she tries to compare those two pieces of legislation.

• (1620)

Senator Fraser: I would agree that Senator Gauthier's bill did not come with infinite numbers of specific annexes, but the whole point of that bill was, as I recall, to make the need for promotion across a broad range of areas that are, in the end, justiciable. Official language minorities are now in a position to take the Government of Canada to court, where it will be ordered to act. With respect, I would still say that there is a parallel here that we should bear in mind.

Senator Murray: Parallels are not identity.

The Hon. the Speaker: Senator Murray's time is up. We are now continuing debate.

Hon. Anne C. Cools: Honourable senators, I had wanted to place a question to Senator Murray. I was relying on his response to make a decision as to whether or not I would intervene in the debate. I know that we granted Senator Murray five minutes, but the objective or the goal of this place is to have a debate. I do not understand why we cannot have some debate. As a matter of fact, I do not understand why "five minutes" was pulled out of the air. Just as easily, senators could have agreed to 10 minutes.

I would like a question answered. Senator Murray has made an extremely bold statement. Some of what he said I disagree with, and some I would question. He is saying the opposite of what I understand, namely, that there are circumstances when a government must give consideration to the opinions of the two Houses. I wanted Senator Murray's opinion on that comment. Perhaps Senator Murray could ask for an additional few minutes. It seems to me that when a senator as distinguished as Senator Murray raises important issues, we should be able to discuss them.

Senator Murray: It is difficult to resist an invitation couched in such generous terms. I think it would be a very rash government and an imprudent government, especially in a minority position, that would ignore an expression of opinion by one or other or both Houses of Parliament, an opinion such as the one proposed in Senator Segal's motion with regard to Zimbabwe. What more can I say?

This bill is not an opinion; it is a bill that will force the government. It goes to the heart of government policy at a time when it appears the government is in the middle of formulating its own policy. The proposed clean air act is in the House of Commons, Mr. Baird is over in Potsdam, and the Prime Minister is saying that the days of voluntary compliance with emissions is over and there will be something more obligatory with regard to emissions regulations. This bill is forcing the government to do something that goes to the heart of government policy.

Honourable senators, there is a role for private members' bills. Many private members' bills do not pass because they commend themselves to the government, especially to public and parliamentary opinion, and end up as government bills. My friend knows that.

Senator Cools: I thank the honourable senator for his response. Senator Murray is making a few different points, some of which are at variance with one another. I take the point about the notion of receiving into Canada, furtively or surreptitiously, a congressional system. I thank him for his quotations from former Senator Stewart, particularly where Senator Stewart makes the point that Her Majesty or the notion of Her Majesty in this system is no antiquarian or quaint fact and that the House of Commons is not a system of delegates.

Perhaps I can cite an authority that I just happen to have with me, unrelated to this bill, I promise you. There have been instances when this house and the House of Commons, by resolution, caused a government to take a different position. For example, I believe in the 1878, a Lieutenant-Governor of Quebec — I think his name was Letellier — was removed as a result of a motion of this house condemning his activities in Quebec. I have not looked that up for a little while. Sir John A. Macdonald, when he acted to recommend to the Governor General of the day that the lieutenant-governor should be removed, relied on the Senate resolution.

The authority I would like to cite for Senator Murray is from Mr. Alpheus Todd. For any senators who do not know the work of Alpheus Todd, he is probably one of the most stupendous writers on the subject of Parliament. His work predated Erskine May's. Many people do not know that he was born in England but lived in Canada.

I happen to have with me a citation from his book, *On Parliamentary Government in England*, Volume 2, the 1892 edition, in which he says the following:

An expressed opinion of either House of Parliament, and especially of the House of Commons, upon any matter, whether it be a legislative question or one that comes within the sphere of prerogative or administrative function, even if it has been adopted by the house in opposition to the advice of ministers, is always entitled to respectful consideration.

Even if it has been adopted in opposition to the minister. This is an important point. Senator Murray is on to something very important, and we should have a whole-scale debate on this matter.

[Senator Murray]

Alpheus Todd continues:

But the degree of weight to be attributed to any such resolution will be governed by the circumstances of the case. . . .

Todd continues. I will skip a few lines.

Ministers have sometimes deferred to the wishes of Parliament, thus formally declared, while at other times they have taken a stand and refused at all hazards to comply therewith.

These are the critical words. Mr. Todd writes:

The persistence of either House in a declaration of opinion upon any important question in which ministers do not concur must ultimately assume the shape of confidence or non-confidence in the administration.

In other words, Mr. Todd is making the point, which has now become obfuscated or forgotten, that if either house persists on a matter of important policy or an important question, if either house persists in its position in contradistinction and in opposition to the ministry or the minister, the minister should resign.

I remember discussing this point with Senator Banks a few years ago, and I see it happening here all the time. Ministers now send notes saying that they are opposed to this private member's bill and to that private member's bill, urging senators to vote against particular bills. That is also very wrong and extremely objectionable. The rule is that if the house is in opposition to the minister, the minister has to change his position and put his weight behind the bill or resign.

I wanted to put that point to Senator Murray. He raised these profound issues, and they are very welcome. I know I welcome them.

• (1630)

On that point, it depends on the circumstances of the case and on other matters, such as the degree of public support and all the other questions that come together, to make confidence concrete and real.

Honourable senators, I appear not on the substance of Bill C-288 as I have not read it yet; maybe I will now to be eligible to join the debate. One cannot assert that governments simply can ignore the Houses of Parliament when expressed opinions are concluded by a vote of the house.

Perhaps Senator Murray would like to respond.

The Hon. the Speaker: Continuing debate, Senator Joyal.

Hon. Serge Joyal: I want to be sure that I am within procedure. Do I understand that Senator Murray's time has been extended to allow me to ask a question?

Senator Cools: Yes.

The Hon. the Speaker: It is on Senator Cools' time.

Senator Cools: No, no, I asked the chamber —

Senator Cowan: You spoke.

Senator Cools: I thought I asked the chamber if we could extend Senator Murray's time. Senator Murray stood up and spoke and I was answering him. That is what I thought.

There is never a vote. It is unanimous consent.

The Hon. the Speaker: Senator Murray's time is expired. Continuing debate, Senator Bryden.

Senator Cools: Can I take the adjournment, then?

Hon. John G. Bryden: Senator Murray's time was extended by five minutes.

Senator Comeau: Originally, yes but it is over now.

Senator Cowan: Then Senator Cools made a speech.

Senator Bryden: Honourable Senator Cools is saying that it was open as long as Senator Murray said things that supported the position.

Senator Cools: Yes.

Senator Bryden: The honourable senator is now saying, "But now I will cut it off." There is fairness to be known.

Senator Comeau: I do not cut anything off.

Senator Cools: But five minutes — you do.

Senator Cowan: Then she made a speech.

Senator Cools: I did not make a speech. I asked Senator Murray a question.

Senator Bryden: If the Honourable Deputy Leader of the Government did not ask that Senator Murray be limited to five minutes, Your Honour, why would you not allow Senator Joyal to ask his question? It is obviously open.

Senator Stratton: No.

Senator Cools: Precisely: It was open.

The Hon. the Speaker: Continuing debate on the motion that is before the House.

Senator Cools: Honourable senators, to make this clear, my understanding is that I was not speaking —

Senator Cowan: Sure you were.

Senator Cools: I was, but I was speaking to Senator Murray on Senator Murray's time. This habit has crept into this house of a voice calling out "five minutes," and the Speaker saying "five minutes," but it is an unfair practice. My understanding is

that I asked the house for permission to extend Senator Murray's time and that is what was granted.

Senator Bryden: Your Honour, is there a rule that time, when extended, can only be extended by five minutes?

Senator Day: No.

The Hon. the Speaker: Unless a point of order is raised, the matter before the house is under debate. Is there further debate on the motion before the House?

Hon. Terry Stratton: I move adjournment.

The Hon. the Speaker: It was moved by the Honourable Senator Stratton —

Senator Cools: Honourable senators —

The Hon. the Speaker: — seconded by Honourable Senator Di Nino that further debate in this matter be continued at the next sitting of the Senate.

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

Some Hon. Senators: Yes.

Senator Cools: No.

The Hon. the Speaker: On division.

Senator Cools: Something is wrong here. The mover —

Senator Stratton: Order.

The Hon. the Speaker: Honourable senators, the matter has been determined by the house, on division, I take it.

Does Senator Cools wish to raise a point of order?

Senator Cools: Well, Your Honour —

The Hon. the Speaker: The answer is either yes or no.

POINT OF ORDER

Hon. Anne C. Cools: Your Honour, you are fast to rise to your feet to do particular things. I think, perhaps, you should ascertain whether other honourable senators wished to speak.

With my questions to Senator Murray, I was trying to clarify exactly what it was that he was saying by offering some authority. Senator Stratton has jumped up to take the adjournment, and perhaps that may not be out of order, but it would seem to me that, in respect of the intervention by Senator Murray, the mover of the motion, the sponsor of this bill, or whatever it was, should be accorded an opportunity to question Senator Murray on his extremely important intervention. That is all I was trying to say.

This body is supposed to be self-regulating. We are supposed to give you advice, Your Honour, as to where next to move in respect of these proceedings, which is what I thought I was doing. I do not want to prolong the situation, but Senator Bryden is correct: As long as someone was agreeing, it was all right.

Perhaps we must review this silly, supercilious, extravagant creation of one or two people about this five minutes. What is the point of debate? Close the place down, then, if there is no debate.

I do not like what has happened. This is unfair and it is not proper, Your Honour. It is your job to defend our rights here to debate. That is all.

The Hon. the Speaker: Is there further comment on the point of order?

Hon. Joan Fraser: Thank you, Your Honour.

I think Senator Cools raises a matter of some substance when she talks about the practice in recent years of giving leave to extend time for —

Senator Cools: No, I am not.

Senator Fraser: Five minutes. Perhaps it is something we should think about again. However, in this case, leave was sought to extend the time. I heard, on both sides, what has become the customary, “We will give leave for five minutes.” I heard no dissenting voice to that.

Senator Cools: Yes.

Senator Fraser: Rule 4(k)(iii) states:

“Leave of the Senate” means leave granted without a dissenting voice.

The Senate is the master of its own destiny. If the Senate decides to extend leave for five minutes, then that is the end of the matter. However, that does not mean that I disagree with the deeper substance of the point that Senator Cools makes about our now almost automatic resort to this practice.

Senator Cools: I want to say this automatic five minutes is a fraud. I could speak to the point of order.

Hon. Gerald J. Comeau (Deputy Leader of the Government): I want to go back a bit in the history of this issue.

Some time ago, if I recall, we had half-hour speeches.

Senator Cools: No.

Senator Comeau: Well, then, 20 minutes.

Senator Cools: No, we never had that.

Senator Comeau: This chamber, for some reason, decided at one point to make speeches on such matters 15 minutes.

Senator Cools: You did.

Senator Comeau: Whatever, you can go back over the history as to who was responsible, but speeches were brought down to 15 minutes.

Some people had prepared their notes but they may not have wrapped up completely at the 15-minute mark and were asked to sit down halfway through a flight of oratory that may have been interesting. It was extremely rude for one to be asked to sit down halfway through a sentence.

It evolved over time that one would stand up and ask for an extra few minutes of time to wrap up a speech. With time, this practice evolved to five minutes. Whether or not we like it, it evolved to five minutes.

We have developed the equivalent of a house order. Once leave is granted, it becomes a house order of five minutes. Once the five minutes is over, that particular house order is then finished, over.

If we wish to change that house order, that is, if we do not like the convention that we have established and we want to make it longer, we can give it a try. We can ask for 20 minutes, half an hour or an hour if we wish. One might get the house order at that point. However, it evolved to five minutes. This practice is fair to everyone.

• (1640)

I heard someone mention a while ago that this is a very senior member of the Senate and, therefore, this person should be allowed more than five minutes. I do not think we want to go there. I do not think we want to start singling out some senators as being worth five minutes and others as being worth 10 or 15 minutes. The reason behind granting five-minute extensions was to give those last few minutes to wrap up a speech when one might not have calculated their time well.

I suggest that this is not a point of order; this is a point of opinion. I think His Honour should rule that this point of order is not in order.

Hon. Sharon Carstairs: Your Honour, I would have to agree that there is no point of order. The rule is very clear. It states that senators have 15 minutes, unless they are the leaders or the main speakers, number one and two, to a piece of legislation. Having said that, it has become the custom to extend the time, which has, in itself, led to much.

Perhaps His Honour should convene the advisory council to the Speaker and have a more thorough discussion of whether there should be time limits on the speeches of individual senators and what extension of that time limit should be granted.

Hon. Grant Mitchell: Honourable senators, I would like to add another wrinkle to this point of order. I was trying to get the attention of His Honour before the motion was moved by Senator Stratton to adjourn debate. I wanted to speak on this very issue to address the points made by Senator Murray and Senator Cools.

I have two concerns. One is that His Honour perhaps neglected to recognize me because he thought that I would be speaking on second reading, thereby closing the debate. That was not my intention; I wanted to speak on this amendment, which would not close debate.

Your Honour, I feel that I should have had a chance to speak; I could have been recognized. I know Senator Stratton probably did not want to cut me off, but that is what occurred. I am seated a long way back in the chamber and am only five feet, six and three-quarter inches tall. I just ask that you keep your eyes this way a little bit.

Hon. Terry Stratton: I appreciate Senator Cools' concern and Senator Mitchell's concern, but there is tomorrow. We can speak tomorrow.

Senator Cools: No, tomorrow the Senate must adjourn at four o'clock.

Senator Stratton: The honourable senator can speak Thursday; it is not the end of the world.

Senator Cools: Honourable senators, I want to close this discussion since I began it. We cannot speak tomorrow to Senator Murray directly. That is one of the objectives of this chamber, namely, that we are supposed to be able to dialogue with each other. Once Senator Murray's time has passed, one can speak about what he said, but one cannot engage him directly and obtain his thoughts directly. It is not the same thing at all.

Honourable senators, I categorically reject any notion that, as Senator Comeau says, there is a form of a convention about the "five minutes," or that there is a practice or that it is a house order. None of those is true.

In actual fact, odd habits or undesirable behaviours have grown up because governments have wanted to limit debate on certain questions. When Senator Comeau was describing the origin of this practice, we can remember exactly where this 15-minute rule came from. It came out of the rules introduced after the GST debate by Senator Brenda Robertson in this place, at the behest of the Conservative government. They were adopted in 1991 in the same way.

Many times in this place individuals have asked for extensions of 15 or 20 minutes. I recall a very able speech given by Senator Michael Kirby when he began by asking for an additional 15 minutes of extra time.

What has happened here, honourable senators, is a kind of corrupt practice. At one point, someone asked for a ruling, and the Speaker ruled to the effect that when an honourable senator requests an extension, another honourable senator can bring forth an amount of time.

I questioned that ruling then and I question it now on the grounds that unanimous consent is required. Perhaps it should be that when a senator asks for an extension of time, they should indicate how much to all honourable senators. Unanimous consent is a negative. It is an agreement to suspend a rule. It cannot be converted to a system of voting on a positive.

For example, if the Speaker wants to put before us that an extension be for five or 10 minutes, that would have to be done by a motion. The Speaker simply does not have the power in this place to obtain these kinds of opinions of the house by virtue of unanimous consent.

Honourable senators, two weeks ago I sat through a situation here where senators were denied opportunities to have a few extensions of time. All that debate was curtailed; but, a few minutes later, we were subjected to a series of one-hour bells. This government had ample time for itself; it just did not have time for other senators.

The issue here is not the lack or the absence of time. The issue here is that this government simply does not want to hear any views that disagree with it.

I strongly object, honourable senators, that any Speaker of this place should facilitate, ameliorate or allow that sort of process. Five minutes extra is not a lot of time for anyone who does serious research. Fifteen minutes is not a lot of time to address issues that are as difficult and complex as this.

Honourable senators, the terrible thing about today is that the sponsor of the bill was denied the opportunity to put questions directly to Senator Murray and to be able to get an answer. God knows, I know that Senator Murray has the competence to answer all of those questions with great skill and vigour.

Honourable senators, there is no practice here; there is no house order. This is all a lot of nonsense. These are not conventions. Conventions govern the relations of power between Her Majesty and us. It is a different kettle of fish altogether. We are not talking about a convention, and it is irresponsible to make such spurious and specious statements.

Honourable senators, I thought that I could ask the house for an extension — he had asked for an extension; that is the matter I thought I was addressing.

Honourable senators, I watch what this government is doing to the system, and we should bow our head in prayer.

The Hon. the Speaker: I wish to thank all honourable senators for their contributions to this matter, which I will take under advisement and issue a ruling.

• (1650)

KELOWNA ACCORD IMPLEMENTATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Larry W. Campbell moved second reading of Bill C-292, to implement the Kelowna Accord.—(*Honourable Senator Tardif*)

He said: Honourable senators, it is my pleasure to introduce Bill C-292 at second reading. This bill calls for the immediate implementation of the Kelowna accord and requires that the Minister of Indian Affairs and Northern Development prepare a report reviewing the progress made by the Government of Canada in fulfilling its obligations under the accord.

I would like to begin by thanking Senator Lovelace Nicholas for the comments she made on March 22, 2007, in this chamber, where she outlined the desperation and disappointment that is felt throughout the Aboriginal community.

I am also deeply saddened by the shameful lack of funding in the minority Conservative government's 2007 Budget. If the moral test of any society is how it treats its most vulnerable members, then we are failing. I call on all honourable senators and all Canadians to raise the moral character of this government and this country by insisting that this Conservative government honour our commitment to the Kelowna accord.

Bill C-292 will act as a call to action. Bill C-292 is not "a statement," as Minister Prentice called it. Bill C-292 is a clear indication to all current and future governments to fulfill a moral imperative and to pull the Aboriginal population of this country out of poverty.

No one should forget that what we are dealing with here is a situation of Third World living conditions in a First World country. The United Nations Human Development Index ranks First Nations communities sixty-eighth among 174 nations. Canada has dropped from first to sixth place due, in part, to the housing and health conditions in First Nations communities.

Honourable senators, let me take a few minutes to outline some statistics that demonstrate the dire situation in which our Aboriginal populations find themselves.

The on-reserve housing shortage is currently estimated at 20,000-35,000 units and is growing by 2,200 units per year. Off-reserve, the core housing need is 76 per cent higher among Aboriginals than among non-Aboriginals. In the North, the core housing need is 130 per cent higher among Aboriginals than among non-Aboriginals.

The unemployment rate among Aboriginals is 19.1 per cent compared to a national rate of 7.4 per cent. On reserve, the rate of unemployment is 26.6 per cent, which is 3.5 times higher than the national average. The median employment income for Aboriginals is \$16,000 compared to \$25,000 for non-Aboriginal Canadians.

Incidents of child mortality in Aboriginal communities is almost 20 per cent higher than it is in the rest of Canada. Aboriginals are three more times likely to have type 2 diabetes. Suicide rates are anywhere from three to 11 times more frequent, in particular among the Inuit.

About 44 per cent of Aboriginal people aged 20 to 24 have less than a high school education compared to 19 per cent for the rest of Canada. At the post-secondary education level, 23 per cent of Aboriginal people aged 18 to 29 have completed a post-secondary education degree compared to 43 per cent in the rest of Canada.

Honourable senators, these statistics are completely unacceptable in a country with such vast wealth and resources. What is our plan to address this tragedy?

The minority Conservative government will claim that they will solve the problems through increased funding. Their plan includes a supposed \$3.7 billion for targeted investments. Let us forget for a moment that this \$3.7 billion includes \$2.2 billion in funding for legal obligations and programs contained in the Residential Schools Settlement Agreement and the fact that Minister Prentice includes as new money \$600 million for Aboriginal and northern housing — commitments made by the previous Parliament in Bill C-48 that he, honourable senators, subsequently voted against.

Let us also forget the fact that we regularly hear from the minister about how his government spends \$9 billion annually, although, once again, that money gets trickled down through various levels of government leaving little for the Aboriginal population. The minister knows full well that these monetary figures are irrelevant and will not close the gap between Aboriginals and non-Aboriginal Canadians. He has said so himself:

So it may not just be a question of more money. It may be a question of ensuring we are getting the appropriate results from the appropriate effort.

If money alone were the solution to poverty, then judging by the amount of money spent worldwide on the elimination of poverty, there would not be a single poor person left in the world. We have thrown good money after bad for far too long. This government's actions are not getting the job done and not getting the appropriate results from the appropriate effort.

Honourable senators, the Kelowna accord is not another handout, but rather a plan that has been specifically designed to work with tested institutions and make them accountable to each other and to the Aboriginal populations that will be the beneficiaries.

The Kelowna accord is a first step in alleviating the major problems that are faced in Aboriginal communities throughout Canada. The First Ministers and Aboriginal Leaders Conference in Kelowna committed to strengthening the relationships between Aboriginal people and federal, provincial and territorial governments, and to building mutual respect and trust, combined with a 10-year commitment to finding solutions to address the serious conditions that contribute to poverty.

As honourable senators will remember, the roundtable discussions were open to 1,000 invitees, including the Assembly of First Nations, the Inuit Tapiriit Kanatami, the Metis National Council, the Native Women's Association of Canada and the Congress of Aboriginal Peoples. In addition, members of federal, provincial and territorial governments came together and, through hard work and an intense 18 months of negotiations, hammered out and committed to a set of concrete benchmarks. The accord was subsequently endorsed on public television by all 10 provincial premiers.

It is insulting, callous and ignorant to imply that the Kelowna accord was simply a press release or a concept drawn up on the back of a napkin. To do so negates all the hard work and effort that our public servants, Aboriginal groups and various levels of government dedicated to this endeavour.

The individuals who met in Kelowna understood the need to bring all groups and agencies together to accomplish a common goal. The programs would never again be designed outside of the Aboriginal communities and then imposed upon them; rather, they would be community-made and community-based.

Just one of the many initiatives that came out of Kelowna was the pledge of \$90 million to assist national and regional Aboriginal organizations in handling their core capacity to work with government in policy development and other initiatives. Due to the Conservative government's short-sightedness, the money was never delivered. Without the skilled knowledge base entrenched in the local communities, how do we ever expect to resolve the issues of dependence?

In the other place, the Liberal member from Nunavut, Nancy Karetak-Lindell, summed it up perfectly by saying:

The recent history of this country has made it very difficult for people in the communities to practise their own ways of governing, their own ways of reconciling differences, their own ways of educating their people, which really are not very different from those of the rest of the country. It is just that we have learned to look at

things through a different lens. We all have the same end goals, but the way to achieve those end goals can differ from one part of the country to another, or from one cultural group to another. As I said, the end goals are the same, and they are to provide a good future for our children and to take advantage of this country's resources, which every Canadian should be able to access. How we reach those goals can be different.

It is shameful that the Conservative government insists on unilaterally dictating to others rather than on providing people with the skills to make informed choices and to take control of their future.

In a shining example of decency and honour, I am delighted that my own Province of British Columbia has taken it upon itself, after being abandoned by the federal government, to provide concrete steps to achieving the aims set out in the Kelowna accord. The First Nations leadership from British Columbia, former Prime Minister Martin and Premier Gordon Campbell signed, in good faith, the agreement called the Transformative Change Accord, which included stakeholders from the Government of British Columbia, the Government of Canada and the leadership council representing the First Nations of B.C.

This agreement was the kind of responsible leadership that Canadians want to see from government. It included social, environmental, fiscal and economic goals. People recognized that what happened in Kelowna was a framework that would allow people to move forward. It was a commitment on the part of the Liberal government and the First Nations peoples, and they fully expected future governments to honour that commitment. Unfortunately, this commitment cannot be sustained and cannot have the desired outcomes without ongoing support from the federal government and all stakeholders.

• (1700)

The idea behind the Kelowna accord is to create an interdepartmental, multi-stakeholder agreement that would foster trust and respect. We find ourselves today with a system riddled with conflict. We simply cannot allow this cyclical relationship between poverty, dependence and frustration to continue.

What has become abundantly clear, more so now with new Statistics Canada information, is the fact that Aboriginal Canadians represent the largest segment of our youth, and they represent the fastest growing segment of our population. In a First World country such as ours, it is criminal to allow another generation to experience the misery and despair that has plagued generations of Aboriginal populations. The younger generation will not be as willing to wait for piecemeal solutions from government. We will continue to see more conflicts such as Oka, Ipperwash and Caledonia.

As we found out yesterday, the only people who seem to be holding talks with Aboriginal people in Caledonia and seriously addressing Aboriginal needs are the housing developers. Steve Charest, President of King & Benton, yesterday made this statement:

Best I can tell, the federal government's position is it's not their problem I think that's the wrong attitude and my preference would be to see the federal government as part of the solution.

Honourable senators, this government needs to understand that the way to resolving conflict is through mutual, beneficial talks, not another 200 years of neglect.

As outlined in the December 2006 final report of the Standing Senate Committee on Aboriginal Peoples entitled *Negotiation or Confrontation: It's Canada's Choice*, the government needs to recognize that the principles of fairness, inclusion, dialogue and recognition of regional differences be used as guidelines for creating any successful Aboriginal development strategy.

Honourable senators, an accord is one that follows all the guidelines that we deem necessary to resolving these kinds of issues. Let us not fail to act from a lack of will.

Let me draw to your attention another issue that has been front and centre in the media and a supposed concern for the Conservative government; the lack of action on unsafe water.

In Kashechewan, Ontario, the Aboriginal community deals almost annually with the flooding of the Albany River onto their reserve, leading to undrinkable water, mouldy housing, disease and a population with little hope for the future. What is the government's reaction? Instead of listening to the community and their wish to be relocated to higher ground, they hired Alan Pope, a resident of Timmins, Ontario, who wants to move them to, you guessed it, Timmins.

The idea of actually allowing people to have a say in their future and then provide support in the form of training to run water purification systems or participate in the rebuilding effort is foreign to a government that likes simple take-it-or-leave-it answers.

Not to be forgotten, as of March 16, 2007, there were 92 First Nations communities across Canada under drinking water advisories. In my province of British Columbia, the Kwicksutaneuk First Nation community on Gifford Island, off the northern tip of Vancouver Island, has been struggling with the problems of undrinkable water for almost 10 years.

Will we move all these communities to major centres? We need sustainable long-term approaches and communities that have the education and capacity to weigh all available options and create, with help from various levels of government, mutually beneficial solutions.

The resources contained in the Kelowna accord will allow native communities to train community policy leaders so they can shape their future so that government does not need to hire outside contractors like Alan Pope to find short-term fixes to long-term problems. The times of dictating unilateral decisions are over. Let us stop pretending that Ottawa always knows best and start addressing the concerns of the people on the ground.

Honourable senators, there has been a lot of talk from the government about how Bill C-292 does not contain clear, precise and detailed policy descriptions. The Conservative government,

in a dishonest campaign of misinformation, has claimed that Bill C-292 will not oblige them to act. The legislation clearly states that the Government of Canada shall immediately take all measures necessary to implement the terms of the accord known as the Kelowna accord.

Within the accord there are six pillars: health, lifelong learning, housing, economic opportunities, negotiations and land claims. All of these have a specific level of funding and concrete goals.

I remind honourable senators that the \$5.1 billion earmarked for Kelowna will be spread over a 10-year period and would go toward the education, health, housing and economic opportunities for Aboriginal peoples. This is not a windfall, as some have suggested, for Aboriginal communities. This is a necessity.

Let me clear up once and for all one final untruth perpetrated by this government about the funding for Kelowna. As has been confirmed by officials in the Department of Finance and senators within this place, the money for the Kelowna accord was designated in the fiscal update presented by the former Prime Minister. The money was designated as a line item in the sources and uses table. Kelowna had dedicated funding and would have gone ahead if the current Prime Minister and Minister of Finance had not cancelled the program.

I hope, honourable senators, that you can join with me and, I believe, the vast majority of Canadians who want to see an end to the poverty that has plagued our Aboriginal populations and the shame that we must all feel for contributing to the grief and pain that they have undergone. Please do what this government refuses to do and help our Aboriginal peoples by studying and passing Bill C-292 as quickly as possible, which will put us on the road to mutual respect, accountability and shared responsibility.

Hon. Gerry St. Germain: Will the honourable senator take a question?

Senator Campbell: Certainly.

Senator St. Germain: I worked with Senator Campbell on many of the issues that he makes reference to and that are in the accord. What surprises me is how he can perform in such a non-partisan manner and with the degree of excellence that he brings to the committee and then make a speech like this and cite the Conservative government so negatively. However, this is the world of Ottawa and the world of politics.

Senator Cordy: Look in the mirror.

Senator St. Germain: I do not think any of us can look in the mirror on this issue, none of us, because we have all sat back and not done the right thing. Had we done the right thing, we would not be here now.

I have been a senator in this place for close to 14 years and have listened to one Speech from the Throne after another. I will not say that the administration before the Chrétien administration did everything right, either. I do not think we have done this right.

We should not stand up in this place and be critical of each other. I think what we should be trying to do is build the bridges that will bring the Aboriginal people over to us.

I still think that this is a money bill. Senator Murray spoke earlier in regard to Bill C-288, the Kyoto bill. He said the power of the purse rests with the executive in a cabinet government.

Could the Honourable Senator Campbell explain to me how this is not a money bill and does not require the purse of the government to effect this accord?

Senator Campbell: I thank the honourable senator for his question.

I have to agree that I do not think any of us, no matter what our political stripe, can honestly look in the mirror. I am simply saying that this accord gave us a framework to move forward and was probably the first time we ever saw an agreement between the federal government, 10 provincial premiers and the First Nations. I checked into it, and it was a totally non-partisan agreement. I would invite the honourable senator to talk to Conservative premiers, such as Premier Danny Williams.

I agree with the honourable senator that none of us can be proud of this, which has gone on in excess of 200 years.

• (1710)

I do not know how to answer the honourable senator's question about the money bill. I have sat here and listened to the Leader of the Government in the Senate repeat, time after time, that there was no money; there was no commitment; there was nothing in there. The honourable senator has a perfect point. It is up to the government to implement this initiative. I do not know how they will do it. They can do it within the framework of the monies they already have, I do not care. I cannot answer whether or not it is a money bill. On the one hand we hear denials, and on the other hand we know it is in the budget.

I am simply saying that this is a framework that was agreed upon by everyone and it was a way of moving forward. I agree with the honourable senator that we should be moving forward. Any time we can get everyone on the same page, we should take advantage of it. In this case, we did not.

I have to be honest with the honourable senator: I do not understand why we did not. It was there and it was ready to go.

Senator St. Germain: Honourable senators, in our travels with regard to the studies that we have done on specific claims and economic development, we have heard continually that DIAND, as a department, does not function to serve the constituency it was designed to serve.

An Hon. Senator: What is perfect?

Senator St. Germain: Nothing is perfect. Senator Stratton says that Liberals are perfect. I will agree with Senator Smith: nothing is perfect, but some things are more imperfect than others, and this is one of the most imperfect departments in government. Native group after native group, leader after leader, elder after elder have told us it does not work. Yet, this accord that the honourable senator speaks of that should be initiated was to be administered by that very inept organization. We have heard time and time again — some of the senators from the committee are

here — that it is time we started devolving this particular department and work towards serving the constituency it is supposed to serve.

I ask the honourable senator: What is his reaction to that? Say the funding was \$5.2 billion over ten years, as he says — I thought it was over five years; \$5.2 billion over 10 years is even worse — how do we resolve this situation if this paternalistic, social welfare organization continues to patronize and operates in a paternalistic manner over the constituency of people who need help?

Senator Campbell: I thank the honourable senator for his question. He knows very well that I am not a fan of DIAND. My answer to the honourable senator is: We know what DIAND is about. Go to the Prime Minister, have him put this accord in place and have whoever he wants to oversee it. I do not care. Have it put into effect in some way that the money goes directly to the First Nations and does not get siphoned off by bureaucracies and by agents who are trying to move a whole city to Timmins. I agree with the honourable senator: That is his problem. They are the government. We are telling you that you need to put it into place.

Hon. Roméo Antonius Dallaire: The honourable senator spoke of conflict. I will give a very short history. I was in command in 1990 around Oka, and commanded in the province of Quebec when Hydro Quebec was trying to flood half of the province — and the Cree in particular were up in arms — and saw the vulnerability of our internal security, particularly the vulnerability of our infrastructure, let alone human security.

The First Nations, the Aboriginals, numbering about a million, are in more than 600 locations in the country. If they ever coalesce, they could bring this country to a standstill in no time flat, for there is no capability that we have to stop it.

How is it that we have not seen the rage in that community express itself in the nature of a conflict? What is holding them back, and how long will it be held back before we face a totally different scenario that will cost many more billions of dollars than \$5.1 billion over ten years?

Senator Campbell: I thank the honourable senator for his question. I am not an expert in this field, but I can tell honourable senators two things: First, I believe that cooler heads prevail. I truly believe that the Aboriginal way is negotiation, and that their first step is not confrontation. In these places that I talked about — Caledonia, Oka, Ipperwash — the people were pushed right to the edge. Like the honourable senator, I was in the military and I saw Ipperwash from the inside as a cadet and instructor. I saw the Kettle Point reserve and I was appalled. I came from Brantford, where we had the Six Nations, a confederacy of people who made good money; it was like Brantford. I was appalled at what I saw. In all of these places where we see conflicts, the people have been pushed past the breaking point.

The second thing I would say to honourable senators is that the young generation now is better educated and better understands how to deal with us without going to a barricade. They know how to use courts and public opinion, and they are on the side of right. That is what people do not understand. They are on the side of right at Oka, Caledonia and Ipperwash. We took their land and we told them to go and take a powder. They were pushed to that

point because there were no negotiations on how it should all come together. That is why I believe we are not seeing a coalescing.

The last reason is this: These are nations. It is like suggesting that all of Europe would get together to take on North America. They are nations. Each and every one of them has different customs, different traditions, different religious ideas, different needs and economics. We must stop thinking of them as one group. They are all nations.

Senator Dallaire: I have seen that scenario played out in other places, where cultures were non-confrontational to start with but have been pushed that way. I have also seen the White part of this country become exceptionally aggressive when their backyard all of a sudden gets wrapped up in a conflict that turns nasty. I have seen White Canadians prepared to kill Aboriginals in Oka if they had had the chance, but the only problem was that they did not have the weapons to do it.

I return to the honourable senator with the following question: Do we see a movement toward activism on the part of the Aboriginal community or, the most perverse option, on the part of the White community towards the Aboriginals in bringing about these solutions?

Senator Campbell: Again, I am not an expert on this area. I do not know at what point that happens. However, I think that in certain places in Canada, there is a feeling amongst the Caucasian community, for want of a better word, that we are giving things away, and that we have gone too far. There is a sense that we own the land and that it is ours.

This is not a topic that gets one votes. This is not a topic where you support Aboriginal people and you watch your vote tally go up. It does not do that. This is a topic that goes to the very essence of who we are, what we are and where we are going.

I can tell honourable senators, as a coroner, I have done an inquest into suicides in the North, in Hall Beach and Igloolik. I did the inquest of the suicide of a young woman from Resolute Bay, and I found out that the people of Resolute Bay were moved there by the Canadian government and left. People in their communities died. It is about us, about who we are as a nation. We cannot go to the rest of the world and say:

Shame on you.

We cannot go to these other places and say:

You have to clean up your act.

We cannot do this until we clean up our act first. That is where we are.

• (1720)

Hon. David Tkachuk: I have the same problems with this bill as I have with the private member's bill on Kyoto. I have also seen over the years massive amounts of money being spent on many programs initiated by government. We have been providing social housing on Indian reserves for a long, long time, but we still have serious housing problems on reserves.

Honourable senators, let us say hypothetically that this bill passes and the government is forced to implement a program that is not part of our election platform, or part of what we want to do today. Instead, we want to do it in a different way. Let us say we do that, and five years from now the same conditions exist; the same problems exist as they have existed for the last 30 years. All of those things still exist. Who is responsible?

Senator Campbell: I suppose we are responsible because ultimately we are the ones passing the bill and asking the government to do this. I do not understand from the point of view of government what the difficulty is here. I agree with the honourable senator that we have been spending money hand over fist, but the money never trickles down to where it is supposed to be. By the time we go through 14 deputies and 14 assistant deputies, and so on and so forth, by the time the money gets down there, nothing gets there.

I think all we are simply saying is that there is a framework here that everyone has agreed to it. Forget that the Liberals were into it. Getting ten premiers and all of the First Nations across Canada to sit down together is a good idea. We can make it work and we can measure it. There are places where we can look at it and see that it is being done. That, in and of itself, is a miracle.

Then you fill in the federal government and I think you truly have an amazing document. Maybe some of my words were too strong. This idea was just made up, 18 months before it was signed. There was the first meeting here in Ottawa with 1,000 people. It continued on. It did not just show up one day. Was it signed just before the election? Yes. Could that have had something to do with it? I do not know. Maybe it could. At the end of the day, I truly believe this idea will work. Perhaps the Conservative government can actually say: "DIAND has outlived its usefulness, and there should be a new way to proceed, involving governments and First Nations." This would ensure that any money that any government puts out gets to the people, for housing, for education and for economics.

On the committee, we heard about the economics of this system. It is a framework that needs to be put in place. The Conservative government already has programs that they promised that fit right in with this framework. I would suggest that this is an opportunity not to remake the world, since there is a framework that is ready to go.

On motion of Senator Stratton, debate adjourned.

AGING

INTERIM REPORT OF SPECIAL COMMITTEE— DEBATE CONCLUDED

The Senate proceeded to consideration of the second report (interim) of the Special Senate Committee on Aging entitled: *Embracing the Challenge of Aging*, which was tabled in the Senate on March 1, 2007.

Hon. Sharon Carstairs: Honourable senators, I know it is late in the day and I will try to be as quick as I can. Prior to making my remarks on the Aging Report, I must digress to say that I take the liberty of embarrassing one of our pages who was introduced to us this afternoon. I do not normally like to do such a thing, but this embarrassment is a result of my pride.

Earlier this afternoon, you introduced a page from the House of Commons by the name of Sarah Forsyth. Sarah is the daughter of Barbara Brackett and Peter Forsyth. Barbara is my niece, and that makes Sarah Forsyth my great-niece. She is the granddaughter of my sister Catherine, unfortunately deceased, and Patrick Brackett. She is the great-granddaughter of my parents, the late Honourable Harold Joseph Connolly, a former member of this chamber, and Vivian Connolly. She is continuing, I would suggest, a family tradition on the floor of the Senate following my father, her great-grandfather, me, her great-aunt, and now Sarah.

It was a particularly special moment for me this afternoon when she was introduced.

Honourable senators, the population of Canada is projected to increase from 32.3 million in 2005 to approximately 39 million in 2031 and 42.5 million in 2056. The declining fertility rate and increased life expectancy are leading to an increasing proportion of elderly among the Canadian population. The proportion of persons aged 65 or over was 8 per cent in 1971. It is 13 per cent today and it is projected that by 2031, about one in four Canadians, 25 per cent of the population, will be 65 years of age or over. The proportion of the oldest seniors, 80 years of age or over, is also projected to increase sharply. By 2056, an estimated one out of ten Canadians will be 80 years or over, compared with about 1 in 30 today.

This impending reality presents a wide variety of complex issues for our country, and more particularly for the seniors and our aging population, ranging from financial security and retirement to housing and transportation issues, to chronic diseases and health care needs. It is important that we review public programs and services for seniors. This would include the gaps that exist in meeting the needs of seniors and the implications for future service delivery as the population ages to determine if we are providing the right programs and services at the right time to the individuals who need them. That is what the Special Senate Committee on Aging has been mandated to study, and it is my pleasure today to rise to begin consideration of its first interim report entitled *Embracing the Challenge of Aging*.

As I mentioned when I tabled this report, the report has been prepared according to the Canadian National Institute of the Blind's guidelines for documents to be accessible to the visually impaired. This means that the font is slightly larger, italics were avoided and the layout is designed to make it easier for someone with a visual impairment to read. I hope this will make the document more accessible to seniors and others who have an interest in this topic.

Honourable senators, to fulfill its ambitious mandate, the committee opted to divide its study into two phases: a brief overview of key issues related to aging in order to identify key questions to guide the study, followed by a second phase of hearings where the committee would explore the questions identified in phase one in more depth.

The committee began the first phase of its study last fall by holding five panels with leading experts, seniors' organizations and representatives of relevant federal government departments and agencies. These panels served to open the door to new questions, new ways of looking at things, and to challenging some of the commonly held beliefs about aging.

• (1730)

This interim report marks the end of the first phase of the study. The report itself is comprised of two parts. Part 1 outlines the key questions organized into four broad themes that the committee will study in the next phase, which has already begun.

Part 2 of this report provides a summary of evidence the committee heard in the first phase of its study. It examines the demographic profile of seniors in Canada today and highlights how that picture is likely to change in the future. The report raises questions about the diversity within the aging population and how that affects the need of those population bases. Finally, it identifies key questions and issues that were consistently discussed by witnesses in phase one: Active participation of seniors in society and in the economy, seniors at risk, health promotion, prevention and care for the aging, and the range of support services to seniors such as housing and transportation.

Based on this evidence that the committee heard in this first phase of the study, it developed a path forward for the next phase. Part 1 of the report outlines this path forward as it summarizes the four broad themes around which the committee organized its work. These four themes are: defining seniors, the diversity of seniors and their needs, defining a policy approach, and determining the role of the federal government.

The first theme, defining seniors, centres around the question of whether the age of 65 should be used as a determinant for the age of eligibility for retirement programs. In some countries this age is being adjusted to respond to a variety of pressures.

In this next phase of the study, the committee will examine whether the age threshold set in the 1960s still reflects the economic and social realities of old age today. At the same time, it is mindful that the move from age-based criteria would entail complex policy decisions such as evaluating job-related competencies.

The second theme is the diversity of seniors. Like the broader Canadian population, the growing segment of the elderly population represents tremendous diversity in terms of age, gender, ethnocultural background and the regional differences and settings — urban or rural — in which they live. Canadians over the age of 65 are not a homogenous group with identical needs.

One of the witnesses, Douglas Durst, talked about thinking about seniors in three broad age categories: the young-old, who are 65 to 75, newly retired, healthy and fit; the middle-old, who are 75 to 85 and are slowing down; and the frail-old, who are 85 and older and have special physical and social needs. Each of these broad age categories have their own unique set of needs. Furthermore, certain aspects of the population, such as Aboriginal seniors, have much different life expectancies and, therefore, different associated needs.

Finally, the aging of the population does not occur evenly across the country, in part due to migration within the country. The regional imbalance in aging has important implications for labour-market planning and the distribution of aging-related costs. In this next phase, the committee will examine how

programs, policies and services can be designed to meet the needs of diverse senior populations across Canada.

The third theme centres on the policy approaches to aging. The committee has heard of a number of frameworks that can be used to orient and coordinate policies, including the life course perspective, healthy aging and active aging. For instance, predictions of an age quake have gripped the collective consciousness, warning of an impending inability to maintain current levels of public support to health and income and of impending labour shortages.

The committee has heard evidence to the contrary, however. While the retirement of the baby boom generation will likely have important consequences for the labour market, several witnesses reassured the committee that their retirement will not necessarily lead to a reduction in the standard of living, and the sustainability of government programs is not really in doubt. However, it may well lead to encouraging phased-in retirements designed to keep workers in the workforce longer.

A life course approach to aging considers important life transitions such as education, family formation and retirement to find policies that facilitate these transitions through programs such as parental leave, lifelong learning and phased-in retirement.

Furthermore, the committee has heard that the health of seniors is intricately linked to experiences throughout their lives. Several witnesses reminded the committee that aging is a lifelong process and that health in the senior years hinges on supportive environments throughout life as well as during the senior phases of life. As one witness said, healthy aging does not start at age 65; it starts the day one is born. The chronic condition does not start when one turns 65; it has its roots in the 30s and 40s.

In this next phase of the study, the committee will examine the challenge of moving toward a policy framework that could more adequately spread productive work over the full course of life. The committee will also examine the determinants of health over the life course that contribute to seniors' health or to situations of risk for seniors. The committee will want to determine the advantages and limitations of each of these two approaches; to what extent are they already being used by the federal government and whether they should be used more extensively.

The final theme revolves around determining the federal government role in programs and services for our aging population. The responsibilities for programs and services for seniors rest at the federal, provincial, territorial and municipal levels. Several departments are responsible for various issues and must work together at the federal-provincial-territorial level to address seniors' issues for all Canadians.

At the federal level, although Human Resources and Social Development Canada has overall responsibility for seniors, several departments administer programs aimed directly at seniors.

In this next phase of the study, the committee will examine the direct and indirect roles of the federal government. It will study questions such as: What policy and program initiatives can and should the federal government take independently, and what should be done in partnership with provinces and territories? What should the federal government's priorities be? Is there a

coherent approach within the federal government to address the challenges and opportunities of an aging population? What are some of the policy levers available to the federal government to minimize the potentially negative impacts of an aging population? How well are federal programs and services for seniors coordinated with provincial and territorial programs? Are there areas that need to be better coordinated?

In conclusion, honourable senators, population aging is a success story and seniors are a rich and vibrant part of our country. At the same time, it is necessary to provide the services and supports that will allow seniors to live with dignity. Your committee views the aging population as an opportunity — an opportunity to rethink how we balance work, family and leisure throughout the life course, and an opportunity to re-examine the way we view and value the experience of seniors. As we continue our work in this next phase of the study, we have before us a great challenge, but one filled with possibility.

The Hon. the Speaker pro tempore: If no other senators wish to speak, the report is considered debated.

STUDY ON INVOLVEMENT OF ABORIGINAL COMMUNITIES AND BUSINESSES IN ECONOMIC DEVELOPMENT ACTIVITIES

REPORT OF ABORIGINAL PEOPLES COMMITTEE AND MOTION REQUESTING GOVERNMENT RESPONSE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Aboriginal Peoples, entitled: *Sharing Canada's Prosperity—A Hand Up, Not a Handout*, tabled in the Senate on March 20, 2007.—(Honourable Senator St. Germain, P.C.)

Hon. Gerry St. Germain: Honourable senators, I move:

That the sixth report of the Standing Senate Committee on Aboriginal Peoples, entitled *Sharing Canada's Prosperity—A Hand Up, Not a Handout*, tabled in the Senate on March 20, 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 Indian Affairs being identified as Minister responsible for responding to the report.

• (1740)

Honourable senators, it is with great pleasure that I rise today to speak to the sixth report of the Standing Senate Committee on Aboriginal Peoples entitled *Sharing Canada's Prosperity—A Hand Up, Not A Handout*.

Let me begin by thanking my esteemed colleagues — they are esteemed, and some of them do get steamed, as we just witnessed — who served with me on the Aboriginal Peoples Committee. I want to acknowledge their hard work, unwavering dedication and commitment to this issue. I am speaking of my deputy chair, Senator Sibbeston, and Senators Campbell, Dyck, Gill, Gustafson, Hubley, Lovelace Nicholas, Peterson, Segal and

Watt. These very capable senators have worked diligently and very effectively on the committee.

Honourable senators, First Nations, Inuit and Metis people in this country share a common commitment to addressing the economic challenges facing their communities. There is a growing awareness in Aboriginal communities that economic development is fundamental to addressing the social disparities that many experience. Senators, time and again we were told that “there can be no social justice without economic justice.”

Economic development is fundamental to raising the standard of living for Aboriginal people in Canada and in reducing dependence on social assistance. Despite the importance of economic development to Aboriginal well-being, only a small fraction of federal spending on Aboriginal programs is targeted to this area. For instance, in the Kelowna accord, there was less than 4 per cent. If social conditions are to improve, it is time for governments to stop treating Aboriginal economic development programs as discretionary and for the federal government to make meaningful investments in Aboriginal economic development.

Honourable senators, historically, Aboriginal peoples were shunted aside to pave the way for European settlement and development. Separated from mainstream economies and unable to develop their own, the result was and is a significant economic gap between Aboriginal people and the Canadian population generally. Despite considerable efforts by successive governments to improve the social and economic conditions of Aboriginal people, many continue to lag behind the rest of the Canadian population when measured against nearly every social and economic indicator. Aboriginal leaders told us that high unemployment rates, lower income levels and elevated rates of dependency on federal transfers are no longer tenable conditions.

Rejecting the status quo, Aboriginal people are demanding and expect change. Past and current approaches to improving the economic and social well-being of Aboriginal people have not met with great success. The almost exclusive emphasis on social programs and spending by federal government is, for many, misguided.

Increasingly, Aboriginal people view economic development as fundamental to reshaping their social outcomes and are asking that this area be afforded much greater priority.

The committee believes that assisting Aboriginal communities to build their economies and position themselves to take advantage of economic opportunities is critical to addressing existing social problems. Equally important for many Aboriginal people and communities, economic development is critical to nation building, self-reliance and autonomy. Piecemeal efforts by governments and sporadic investments in economic development, however, are not enough to bring about meaningful change.

This report attempts to shed light on what new approaches are needed to affect that change. We argue that the current federal imbalance of spending weighted heavily towards social programs must be addressed. Meaningful, long-term strategic investments in Aboriginal economic development, both on and off reserve — and the off-reserve aspect is critical — are fundamental if the full promise of economic renewal is to be realized.

Aboriginal communities, individuals and businesses are committed to laying the foundations for their economic self-reliance. Despite considerable obstacles, many are doing so successfully. Economic development is being framed in such a way that it is respectful of community values, practices and cultures. Preserving traditions and cultures is being reconciled with the world of business and the modern economy. This is economic development "on their own terms," and it is showing great promise.

Communities such as the Millbrook First Nation in Nova Scotia or the Squamish First Nation on the far West Coast take advantage of their strategic locations to develop a range of commercial and real estate enterprises. Communities such as the Whitecap Dakota First Nation in Saskatchewan are developing key partnerships and establishing profitable business ventures such as golf courses and resorts. Others, like the Tlicho in the Northwest Territories, are taking advantage of large-scale resource developments, such as diamond mining, and are negotiating impact and benefit agreements from large developers. Across the country, Aboriginal people, businesses and communities are taking their place in the national and global economy.

Through innovation, imagination and an unwavering entrepreneurial spirit, Aboriginal people are contributing not only to the well-being and the economic futures of their communities but to national prosperity as well. They are ready to contribute more and do even better.

I would like to thank Senator Sibbeston, who had the vision and foresight to request that we conduct this study as a committee. He led the charge. We worked with him. I see Senator Campbell here. Senator Watt was here earlier. I see Senators Hubley, Gustafson and Segal, but Senator Sibbeston provided the leadership.

As I pointed out earlier, from the residential school to the premier of the Northwest Territories, I do not care if you are Liberal until you die, Senator Sibbeston. You are a good man and you have done good work. I was honoured to continue this study as chair following the change of government, and I think that we have a bright future if we continue to work with an open, non-partisan mind.

Hon. Nick G. Sibbeston: Honourable senators, I recognize it is late in the day so I will not say very much, but a lot has been said about Aboriginal people, the difficulties they encounter and the need for our country to put forward more resources so that Aboriginal people can rise and we can lessen the gap.

When the committee went out to the communities to study Aboriginal business, we saw zeal, enthusiasm, energy, pride and hope. This is why the matter of economic development for Aboriginal people is so significant. Business opportunities are the way that Aboriginal people can get up on their feet and contribute to Canada in a meaningful way.

I have had the good fortune in my life of seeing the transition of Aboriginal people from the traditional way of life. My ancestors were hunters and trappers. When I grew up, Aboriginal people did not have anything. No one owned a vehicle in my hometown. All they had was their equipment to go out on the land — dog

teams, sleds, guns, snowshoes and canoes. As I became older, beginning in the 1980s and 1990s, Aboriginal people began to own things. We began to see a real change in the Northwest Territories. Aboriginal people were making the transition from a traditional way of life to a wage economy, and then to owning businesses.

In the North, this transformation has happened in part because of land claims. I give credit to the government because, beginning in 1984, they began negotiating land claims in the North with the Inuvialuit up in the Beaufort Sea area, and the Inuvialuit got their land claim. Over years of payments, they received \$60 million. Today, Inuvialuit companies are members of the Fortune 500 group of companies. They have been so successful and have done so well that their assets are now in the area of \$1 billion. They have been very successful in turning capital, along with their ownership and access to lands in the North, to good use. They have made the transition.

• (1750)

Other Aboriginal people, the Dogrib for example, have been very successful in engaging in the diamond mines. They are also stressing education. A few years ago, they had a dozen people in university and training schools in the south and now they have over 200. They are using their access and benefits money to supplement their income so that people from their area can go to school in a comfortable way. They stress education. They have partnerships and businesses with the diamond mines and I think they are on to a very good future, all because of business.

Why does the government not recognize that it can help Aboriginal people in business? It is like a rolling snowball. It is not a situation where they would have to eternally give them money. The government could give money once and the Aboriginal people would use this money to be successful. That is what we want the government to do.

We wanted to contribute something to Canadian society, both the governments and Aboriginal people, when we began looking at involvement in business. We wanted to know why some Aboriginal people succeeded while others were having a very difficult time. We did look at this aspect.

A study was done at Harvard on Aboriginal businesses. Professor Cornell, for one, looked at this whole issue in the United States. He tried to find out why certain Aboriginal people in the States were succeeding while others were not. One of the things he discovered, and saw offhand, was the matter of governance. Those First Nations that had good governance, obvious rules for their conduct and their dealings with business, were the ones that were successful. There were other elements, too, such as leadership and location.

This report deals with that aspect. We have been able to identify the factors that lead to Aboriginal success. We list them here on page nine in the executive summary.

Canadians should know that Aboriginal people are getting into business and are beginning to succeed. There are areas where this is happening. Unfortunately, there are places where this is not happening, particularly in the more remote parts of our country, where people oftentimes are mired down in social problems. Some communities have a hard time. It is these areas, as well as others,

where native people are still struggling and need the help and focus of governments to provide monies and start-up funds so that they can get on their economic feet.

Unfortunately, inasmuch as this is an important area, the money available for economic development programs has actually been shrinking, to the point where it is now only 8 per cent of the \$9 billion or so that the government is allotting to Aboriginal people.

I will not say much more. Last week, my colleague Senator St. Germain and I had an opportunity to go out West. We found it was hard to get publicity and news here in Ottawa about our report so we went to Winnipeg, Calgary and Vancouver. We met with some Aboriginal people but we also met with many news people. As a result of our visits, there have been quite a few news reports. The *Calgary Herald* stated that our report has been able to provide practical and workable ideas for closing the gap between the First Nations communities and the rest of Canada. In Vancouver, *The Province* urged the Prime Minister to get on board with this committee's recommendations.

We hope that this report will be of some substance and use to everyone, governments and Aboriginal people alike, as it is the result of intense effort and very good work by the committee. We went to see people who have been successful and I believe we have the information here that the government and everyone else can use to respond in a positive way to the Aboriginal people in their quest for economic development.

I give this report to you, and I hope that it is accepted and is of use to everyone in our country.

Hon. Roméo Antonious Dallaire: Would the honourable senator accept a question?

Senator Sibbeston: Yes.

Senator Dallaire: Former Prime Minister Paul Martin has created an NGO to help support young Aboriginals launching new businesses. Is that a trend we are seeing or an exception? Should that not be a trend supported by Canadian industry for Aboriginal youth?

Senator Sibbeston: I am not particularly aware of the NGO that you speak about, but the role of industry is very important. We have instances where industry has become involved in supporting and partnering with Aboriginal business. They have been very successful where they have done that. That is the case in the oilsands, and up in the North with the diamond mines.

The last 10 years has seen the beginning of a social conscience on the part of industry. They are starting to do something and, where possible, engage Aboriginal people where they are side-by-side or where there is an interest. That phenomenon has been occurring and some credit must go to big business, in particular, in helping Aboriginal people get into business. That is a very good thing.

Senator St. Germain: Is it not true, if I recall correctly, that Mr. Morgan, who headed EnCana, created a department within EnCana that not only trained Aboriginal young people, or

Aboriginal people in general, to develop an economy but then set them up in business, which was very successful. Do you recall if that was EnCana?

Senator Sibbeston: I am not aware of that, but I know that EnCana is one of the companies that has a good relationship with Aboriginal people. Wherever possible, they contract with Aboriginal people to the point where Aboriginal people own their own oil rigs and contribute in that way.

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

Hon. Senators: Question!

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

Motion agreed to and report adopted.

• (1800)

[Translation]

BUSINESS OF THE SENATE

The Hon. the Speaker *pro tempore*: Honourable senators, it being six o'clock, pursuant to rule 13(1), I must now leave the chair to return at 8 p.m., unless there is agreement not to see the clock.

Hon. Gerald J. Comeau (Deputy Leader of the Government): I move, if honourable senators agree, that we not see the clock.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators, that we not see the clock?

Hon. Senators: Agreed.

[English]

THE SENATE

MOTION TO URGE CONTINUED DIALOGUE BETWEEN PEOPLE'S REPUBLIC OF CHINA AND THE DALAI LAMA—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Andreychuk:

That the Senate urge the Government of the People's Republic of China and the Dalai Lama, notwithstanding their differences on Tibet's historical relationship with China, to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet.—(*Honourable Senator Cools*)

POINT OF ORDER

Hon. Anne C. Cools: Honourable senators, I rise to speak on this motion. I have been looking at my notes and I think that my remarks are more in the nature of a point of order. I think I shall rise, therefore, on a point of order about this motion.

Honourable senators, my point of order is on the form of this motion as a proceeding in Parliament, and not at all on its substance or the substantive issues therein. I wish to be clear that I am not speaking on the merits, the righteousness or the contents of this motion. I am adopting no position on the motion's merits; I am confining myself to its form.

Honourable senators, I assert that the motion is out of order. This motion was moved by Senator Di Nino and it is defective. It is defective because it purports to ask the Senate to communicate and converse directly with the sovereign and sovereign government of another country. The Senate cannot lawfully do this because it does not possess the constitutional power to do so.

Senator Di Nino's motion states:

That the Senate urge the Government of the People's Republic of China and the Dalai Lama, notwithstanding their differences on Tibet's historical relationship with China, to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet.

The impugned words are "That the Senate urge the Government of the People's Republic of China." These words are in the form of an address to a foreign sovereign. Such a proceeding is not permitted by section 18 of the British North America Act, 1867. The Senate cannot vote on such a motion, and the Speaker should not put such a question because it is defective and improper.

Honourable senators, the BNA Act, 1867, section 18, is the foundation of the law of Parliament of the Senate's rules, practices and usages. Consequentially, all Senate practices are governed and determined by section 18. It grants no power whatsoever to the Senate to address foreign sovereigns: that is, foreign heads of states and their ministries. The Senate can address or communicate only with our own sovereign, Her Majesty, Queen Elizabeth, or her representative, the Governor General. In short, the Senate, like the House of Commons, advises Her Majesty on, and consents to, matters that are of Her Majesty's service to her Canadian subjects. The Senate cannot advise a foreign sovereign on matters of service to that sovereign's people.

Any advice that the Senate wishes to offer pertaining to another sovereign must be offered to Her Majesty, who then communicates with the foreign sovereign. Her Majesty, honourable senators, acts on the Senate advice through the Minister of Foreign Affairs, who is currently Peter MacKay. The Senate is free to express all its views to support and condemn whoever, whatever and whenever it pleases, but in so doing and on matters of foreign policy, the Senate must speak through Canada's sovereign and Canada's ministers.

The Senate cannot directly communicate with or address a foreign sovereign. Neither can the Senate attempt to bind a foreign sovereign. That is the law of the Royal Prerogative of Her Majesty in matters of war, peace, treaties and all foreign relations. It is a most jealous area of the law, not to be slighted by the Senate.

Honourable senators, any urging, imploring, entreating or demanding of a foreign sovereign is the ken and responsibility of the Minister of Foreign Affairs, Peter MacKay. The Senate can only communicate with foreign sovereigns through Her Majesty's ministers. The parliamentary manner of communicating with a sovereign, Her Majesty or Her Majesty's ministers or government is called an address. Erskine May, in his treatise, *The Law, Privileges, Proceedings and Usage of Parliament*, 22nd edition, tells us about the nature of an address. Under the subheading "Communications to the Crown originating in Parliament," at page 606, he said:

An Address to Her Majesty is the form ordinarily employed by both Houses of Parliament for making their desires and opinions known to the Crown.

Continuing at page 607, Erskine May said:

Addresses have comprised every matter of foreign or domestic policy; the administration of justice; the expression of congratulation or condolence . . . and, in short, representations upon all points connected with the government and welfare of the country. . . .

Honourable senators, there is no similar proceeding to speak to a foreign sovereign. The Senate cannot urge the Chinese president and his government to do anything, however noble and honourable the desired actions may be. It is not open to the Senate to rule the world. The Senate has trouble ruling itself. Urging a foreign government is the ken of the Minister of Foreign Affairs.

Honourable senators, less than one year ago, on June 7, 2006, I raised this very point here in the Senate. Interestingly, at that time it was in a debate on a similar motion by the same senator, Senator Di Nino, about another foreign policy matter, about President Putin, the President of Russia. That motion read, in part:

That the Senate of Canada implore President Vladimir Putin, President of Russia, to use his good office to shed light on the whereabouts of Raoul Wallenberg. . . .

The critical and impugned word was "implore." Senator Di Nino's motion asked the Senate to speak directly with, to petition, the Russian president. On June 7, 2006, I questioned this form of proceeding in this house. I said:

Senator Di Nino is the progenitor of this motion. I am not sure that the Senate of Canada has a way to speak to the President of Russia, as it seems to me that sovereigns speak to sovereigns, in protocol. Perhaps, since Mr. Wallenberg is already a citizen of Canada, the Foreign Affairs Minister might have an interest in advancing the issue himself directly, which would relieve us of being put in the unusual position of imploring.

I then continued to press the point that the Senate cannot be a supplicant or a petitioner before a foreign sovereign. I said:

We should really pay attention to these motions. The Senate of Canada cannot be properly in the position of being a supplicant to a head of state of another country. However, because Raoul Wallenberg has already been made an honorary citizen of Canada — I believe a motion went through this particular house to that effect — the motion would be better scripted and would be a lot more full-bodied if we made our appeal to the Minister of Foreign Affairs and to our sovereign to have the dialogue with Mr. Putin, the President of Russia, because we have no way of dialoguing with the president of a foreign state.

Honourable senators, Senator Di Nino, as did the Senate, took the parliamentary point that I had made regarding the Senate's position and the Senate's constitutional relationship to foreign sovereigns in foreign relations. A few days later, on June 13, 2006, in the Senate, Senator Di Nino said:

Your honour, I am seeking guidance. Senator Cools said that if I were to make what she calls a friendly amendment, she would not have an objection and I could then close the debate on my motion. I am prepared to do that, if that is appropriate. Senator Cools is not here, but she did ask me to make that request.

Senator Di Nino then acted to correct his motion by removing the direct communication or address to the Russian president. He deleted the word "implore" from his motion and converted it from a motion petitioning President Putin to one of offering support for the efforts of the International Raoul Wallenberg Foundation.

• (1810)

Honourable senators, today I raise the same parliamentary point again. I assert that the Senate, as the upper house, cannot procedurally communicate with or address a foreign sovereign — the head of state of China — regarding Tibet or any other question. The Senate cannot lawfully "urge the Government of the People's Republic of China" to do anything. The Senate cannot be a supplicant or petitioner to a foreign sovereign.

Honourable senators, by way of example or illustration, I refer to the action of the House of Commons on their motion to seek the same result. On February 15, 2007, the House adopted its motion on the matter of the Dalai Lama. Interestingly, the House's motion, unlike that of the Senate, was in accord with the lawful and appropriate mode of proceeding. Unlike the Senate, the House's motion does not ask the House of Commons to urge the Chinese government. Rather, it asks the Government of Canada to urge the Chinese government. In short, the motion of the House of Commons urges that Minister MacKay confer with the Government of the Republic of China.

Honourable senators, I would like to put that motion on the record. Toronto's Peggy Nash, Member of Parliament for Parkdale-High Park, moved the motion. Her first attempt failed. In her second and successful attempt, recorded in the *Debates of the House of Commons* on February 15, 2007, Ms. Nash said:

Mr. Speaker, I rise on a point of order. I am seeking unanimous consent for the following motion. I move:

She continued, and these are the words of the motion as carried:

That, in the opinion of the House, the government should: urge the Government of the People's Republic of China and the representatives of Tibet's government in exile, notwithstanding their differences on Tibet's historical relationship with China, to continue their dialogue in a forward-looking manner that will lead to pragmatic solutions that respect the Chinese constitutional framework, the territorial integrity of China and fulfill the aspirations of the Tibetan people for a unified and genuinely autonomous Tibet.

Honourable senators, the House of Commons motion did not speak directly to the President of China or to the Government of China; it spoke directly, in this modern form of address, to the Government of Canada. The House of Commons' motion followed the parliamentary order in respect of no direct communication with foreign sovereigns. I note that there was no debate on the motion in the other place. I am not speaking to the substantive issues in this motion before the house but to the defectiveness and the insufficiency of the motion as it purports to engage the president of a foreign state.

Honourable senators, the propriety and admissibility of this motion is of critical importance. As senators will remember when I spoke to the motion in respect of President Putin, I stated that the Senate cannot be a supplicant to a foreign sovereign. Conversely, a foreign sovereign cannot be a supplicant to the Senate or to the Parliament of Canada. This is about the sovereignty of nations. "Sovereignty" means one sovereign is not a supplicant to another sovereign.

This is especially pertinent because a few days ago I received a letter from the Chinese Ambassador to Canada, His Excellency Lu Shumin, dated March 12, 2007, and received by my office on March 19, 2007. It would seem that he wrote to all senators. He wrote:

Honourable Senator, I am writing to you with regard to a motion currently under discussion in the Senate concerning Tibet tabled by Senator Consiglio Di Nino on February 7. To be frank, I found what is mentioned in the motion are not true to the facts and quite misleading. I wish to tell you the truth about the matter and share some of my thoughts on the subject.

His Excellency's letter continued:

I hope the above-mentioned information will be of some help to you to better understand the Tibet question. I sincerely hope that you do not support the motion so as to avoid harming the friendly relations and co-operation between our two countries. . . .

He signed the letter: Sincerely yours, Lu Shumin, Ambassador of China.

His Excellency has written to senators to challenge and petition in respect of what has been said. This letter reveals why Senator Di Nino's motion is defective. The motion has relegated the President of China and his plenipotentiary, Ambassador Shumin,

to a position of supplicant and petitioner to the Senate. This is objectionable and not permissible under parliamentary practice. That this is occurring is shameful and shaming, despite any or all good in the substantive issues that may be contained in the motion. I speak solely to the nature of the proceeding that is before the house and not to the merits of the substantive issues in the motion, and I steer a wide berth around making a judgment on the rightness or wrongness of the substance of the motion.

Honourable senators, in the course of human events, nations and countries enter into relationships of different kinds. These relationships include the expectations of a certain quality of ministerial and parliamentary deportment toward one another. This is especially true, necessary, and important when countries have disagreements, particularly serious ones, because this expectation of deportment allows sovereigns and sovereign countries to express disagreement while still retaining their relations. This is one reason that the Senate or the House of Commons should not address foreign sovereigns but should address their own sovereign in respect of their views on foreign affairs policies and questions. The Senate is free to adopt any position at any time because it speaks to its own sovereign. I would be shocked if, in another country, similar motions were being passed directly purporting to speak to Canada's Governor General or to Her Majesty.

Honourable senators, I observe to date that neither the position of Foreign Affairs Minister MacKay nor that of the Government of Canada on the China-Tibet question has been placed before the Senate in this debate. In fact, the debate has been remarkably brief and scant and has provided no information on the government's position and little about Tibet. No member of parliament and no senator may purport to be an alternative or quasi-foreign minister shaping Canada's foreign policy by introducing motions and addresses to foreign sovereigns, and seeking to have those motions affirmed without the Senate hearing from either the minister or from the Chinese government. It is an incontrovertible parliamentary principle that an impugned person or group must be permitted to answer the charges. Further, not to hear from the minister would be disastrous, in particular if the minister or the government holds a different position on the matter than the Senate. Such a position would have the effect of creating a situation of non-confidence in the minister. I have made it my business not to inquire into the minister's position such that I would not attempt to take a position pro or con on the matter of Tibet.

Honourable senators, some months ago many Canadians were concerned about recent exchanges involving Prime Minister Harper and China. I found that many of Mr. Harper's words toward the Chinese president were ill-considered. Many Canadians were worried that relations between the two countries would be damaged. I fail to see how this motion as scripted to speak directly to the Chinese president could be helpful to Canada's relations with China or helpful to achieving the Dalai Lama's dreams, as Senator Di Nino's motion hopes to achieve.

I will repeat that, honourable senators. This motion is not helpful to Canada's relations with China, nor is it helpful to the Dalai Lama.

• (1820)

Honourable senators, undoubtedly Senator Di Nino is well-intentioned and his work springs from his and others' sense of justice. That is worthy. I have no quarrel with or opinion on

that at this time. However, this motion is defective and, consequently, His Honour the Senate Speaker, should declare it out of order and permit Senator Di Nino to replace it with a better motion that conforms to the law of Parliament and to the notion of the sovereignty of nations.

Honourable senators, I recently told someone that I was planning to speak to this matter, and someone has set upon my desk an article from the *Ottawa Citizen* that was received in my office today, March 27. The article is dated March 23, 2007. It is a letter to the editor from Senator Di Nino. This is the first I have seen this letter. The headline is "China's claim to Tibet is dubious."

As I said before, I am not speaking to the substance, but there is something very wrong in this matter.

The Hon. the Speaker *pro tempore*: I thank the Honourable Senator Cools very much and refer her to rule 18(3).

I believe that we have heard enough and that she has made her point. She raised the matter as a question of privilege.

Do any other senators wish to speak on this point of order?

Senator Cools: I beg your pardon. I could not hear you.

The Hon. the Speaker *pro tempore*: I said that, pursuant to rule 18(3), I have determined that I have heard enough to rule on the point of order. I believe you have spoken for more than 20 minutes.

Do any other senators wish to speak on this point of order?

Senator Cools: I would like to finish my sentence.

Hon. Tommy Banks: I believe that Senator Cools has made her point with great clarity — perhaps not concisely, but with great clarity. It seems to me a valid question, particularly with regard to the precedent referred to, and I hope that Your Honour will take it under advisement. Perhaps senators on the other side could suggest to Senator Di Nino that he might begin to prepare an amendment that would make the motion before us consistent with our previous experience and the previous ruling on such a question. Again, I am referring only to the procedure, not to the substance of the debate.

The Hon. the Speaker *pro tempore*: If no other senators wish to speak on this point of order, I thank Senator Cools for having brought the matter to our attention. We will take it under advisement and give the chamber an answer.

CANADIAN NATIONAL VIMY MEMORIAL

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Dallaire, calling the attention of the Senate to the final phase of the restoration of the Canadian National Vimy Memorial, begun in 2001 under the auspices of the Canadian Battlefield Memorials Restoration Project.
—(Honourable Senator Banks)

Hon. Norman K. Atkins: Honourable senators, I rise to speak to the inquiry introduced by Senator Dallaire and to recall an event that happened some 90 years ago.

The historic Battle of Vimy Ridge started at 5:30 on April 9, 1917, and was the greatest and bloodiest Canadian victory during the First World War. The battle brought together four divisions of the Canadian Corps, soldiers from across the country, and was of great strategic importance. At battle's end, over 3,598 Canadian soldiers had made the ultimate sacrifice and another 7,000 had been wounded.

Some of you may already know that I take great pride in the fact that my father, Gunner George Atkins, served in that war with the 46th Queen's Battery of the Canadian Field Artillery, part of the Canadian Expeditionary Force, and indeed fought in the battle at Vimy Ridge. In fact, he kept a personal diary, and the entry on that day is as follows:

Put over a barrage this morning at 5 o'clock. The Canadians took Vimy Ridge a-flying. Took a lot of prisoners, etc.

The rest of the entries in that diary are very interesting and certainly give the flavour of the horrendous conditions and difficulties.

I recently had the pleasure of meeting with Dr. Tom Cook, a World War I historian and a member of the staff of the Canadian War Museum, for an informative chat. Many Canadians might be interested to know that soldiers were technically not supposed to keep diaries or take cameras to the front for fear of information falling into the wrong hands. That said, Dr. Cook concedes that these diaries and pictures comprise one of the few real resources we have that give a bird's-eye view of what really happened during those terrible days and months. Each diary and picture fills in the gaps in information that exist today.

In 1992, Senator Meighen and I had the honour of attending the seventy-sixth anniversary celebration of the Battle of Vimy Ridge. The Canadian National Vimy Monument was indeed impressive. It was designed by Canadian architect and sculptor Walter Seymour Allward, and was originally unveiled in 1936. The monument is a reminder of the Canadians who captured Vimy 90 years ago. It is also a reminder that many of those who fought at Vimy paid a very high price for our freedom and peace. Fortunately, my family, my father, was not one of them, although he was wounded three times during the war.

After decades, the monument was falling into disrepair, which had become evident even in 1992. Appropriately, the Canadian government embarked on a major multi-million dollar restoration project. I say "appropriately" because, as our colleague Senator Dallaire has succinctly stated:

This monument is a symbol of our national unity and our commitment to defending human rights. It is a monument that represents Canada's past and its future.

I have no doubt that the monument has been restored to its original stature, and I am pleased that many Canadians will be present for the unveiling ceremonies that will take place on April 9 of this year.

Canadians are right to honour our brave Canadian soldiers and our military history. The unveiling of the restored Vimy Monument allows Canadians to reflect not only on the sacrifices made by our soldiers those 90 years ago, but also on those that have been made since that great battle and to those being made in our name today.

Honourable senators, after serious consideration, I have taken the opportunity to honour the legacy of our fallen soldiers by donating my father's diaries and photographs to the Canadian National War Museum. These documents are precious to me and to my family, so I am doing this in the hope that they can be of some use in keeping future Canadians informed about the sacrifices made to allow this country to be what it is today.

• (1830)

Hon. Roméo Antonius Dallaire: Would the honourable senator accept a question?

Senator Atkins: Yes.

Senator Dallaire: The restoration committee was able to acquire enough stone to last us another 100 years. Thank God for that because the quarry is closing down. When we celebrate this ninetieth anniversary, in 10 years it will be the one-hundredth anniversary of Vimy. It will also be the one-hundredth anniversary of Canada within months of that celebration.

What would the honourable senator think of some sort of means by which, over the next 10 years, we would develop something that could bring a bit of that monument home? We would have something more tangible, as siblings of those who fought there will be ebbing in numbers. It may be more appropriate to have something closer to home, whatever it might be. Perhaps we might need a committee to look into that.

Senator Atkins: I think it is a good idea to do everything we can to keep a focus on Vimy and what it represents.

This year a number of young people will be going to Vimy for the celebrations. In 10 years, hopefully more and more young people will be encouraged to go and be supported to go, in the effort to identify to young people the importance of Vimy and how it relates to our history.

The Hon. the Speaker *pro tempore*: Do other senators wish to speak on this inquiry?

On motion of Senator Banks, debate adjourned.

CANADA'S COMMITMENT TO DARFUR, SUDAN

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Dallaire calling the attention of the Senate to the situation in the Darfur region of Sudan and the importance of Canada's commitment to the people of this war-torn country.—(*Honourable Senator Tardif*)

Hon. Hugh Segal: Honourable senators, I rise to speak to the inquiry put forward by Senator Dallaire regarding the situation in Darfur and Canada's commitment to our brothers and sisters in that war-torn country. No one of us with any knowledge of the goings-on in the region, who see the images of the carnage and the suffering, can consider themselves removed from the situation and not want desperately to be helpful. We all agree that the "Responsibility to Protect" has never been more meaningful than in Darfur, but this notion means literally nothing without a very real ability and will to deploy. The situation in Darfur is a classic example of how our collective inaction may destroy even the idea of the "Responsibility to Protect."

I suggest to honourable senators that what is needed immediately is a more open and frank debate about new actions we must take directly, not only in Canada, but at the United Nations General Assembly, in national parliaments and legislatures and among law-makers of all stripes, in all civilized societies, as to how far we are prepared to go exactly with the obligation for the "Responsibility to Protect." Do we need to revisit the Westphalian idea of sovereign borders? Does the protection of the most vulnerable and the weakest amongst us mean that we have to be prepared to violate the sovereignty of member states.

If not, if we feel a responsibility as civilized governments to bracket our actions based on our respect for the old rules, when at the same time non-state players do not — such as Hezbollah, al-Qaeda, the Janjweed — who are we fooling? These non-state actors claim that their actions are on behalf of their countries, their broad groups and interest groups, as they define them, and backed up by sovereign support from various other organizations. Surely we must also dig deep and ask ourselves the toughest question, which Senator Dallaire has had the courage to ask in many places around the world. If Darfur and all its horrors were taking place in Eastern Europe, Central America or Asia, would we be equally careful and judicious in our respect for sovereign borders and our excuses for non-action?

I would point out that there is a supreme irony in public opinion, having forced out the Canadian company Talisman from Sudan, only to have their position taken over by the Chinese. The Chinese need for Sudanese resources means that Sudan has, in effect now, a de facto veto protecting it on the UN Security Council, standing in the way of precise and specific action. Surely this was not what was aspired to by those who pressured the Canadian company to leave, but it is what we now have. China's obligations as a global power are not discharged through the amoral endorsement of inviolate sovereignty, even of those nations encouraging or turning a blind eye to ethnic cleansing. China is a great and admirable power, and those who have sat earliest and longest with China, as Canada has, should be using goodwill and diplomacy to urge the Chinese leadership throughout Africa, and especially in Darfur, to be applied on these humane and appropriate grounds.

Let me make a prediction here this evening. I predict that if China does not engage, we will see the pressure to boycott the Beijing Olympics increase and broaden its base throughout the United States, throughout Europe, throughout this country, causing all kinds of difficulties for our Chinese friends who want to host outstanding Olympic Games. China has the capacity to act now to help dissipate that difficulty, and we should be working to help the Chinese come to that conclusion, in respect but with focus.

We should engage more directly on a tougher program of sanctions and pressures regarding Khartoum, and we should be working in every imaginable way to see Sudanese officials, diplomats and military brought to justice in The Hague.

Honourable senators, let me refer to an article reported in *The New York Times* just 24 hours ago. Secretary-General Ban Ki-moon of the United Nations, Egypt and the Arab world are making the case for help and assistance with the problem in Sudan. He has asked for help in changing the mind of Sudanese leader Omar Hassan al-Bashir, who has been defying the United Nations' request to put troops into Darfur to help the overwhelmed African Union mission there. Government and rebel violence in Sudan's western Darfur region has left 200,000 people dead and 2.5 million displaced. Secretary-General Ban Ki-moon reports that al-Bashir has written to reopen the agreement that he had made, calling for an interim heavy support package of 3,000 well-equipped military police officers, along with aviation and logistic support, to beef up the 7,000-soldier African Union force now in Darfur.

They are going back on the agreement they made so as to slow down the capacity of the larger world to have a meaningful impact in diminishing the crisis, death and slaughter.

Let me not suggest for one moment that Canada has been silent or inactive on the issue. The report issued by the Standing Senate Committee on Foreign Affairs and International Trade made specific recommendations but also reported that Canada has contributed over \$190 million toward the African Union mission in Darfur. Our forces and our funds have supported helicopter transport, the loan of armoured personnel carriers, provision of equipment and technical assistance from Canadian Forces personnel.

I had an opportunity a week and a half ago in London to be at a meeting of the Aegis Foundation whose patron is our colleague the Honourable Senator Dallaire, an organization devoted to fighting the Holocaust and that kind of ethnic cleansing in Africa today. The leader of the British Conservative Party who had just come back from Darfur spoke eloquently of the leadership that Canada is providing. The purport of my comments today is not to be in any way critical of what we have done. He made the case that Britain and Europe should be doing far more than they are doing in Darfur, for a host of different and substantial reasons.

• (1840)

We had an official from the Department of National Defence appear before the Standing Senate Committee on Foreign Affairs and International Trade who talked about the importance of Canada's military training assistance program, or MTAP, which provides language training, professional training and peace support training to participating states, 19 which are African. Broadly speaking, the program aims to promote democratic principles and the rule of law, the protection of human rights and international stability, to build peace support operations capacity amongst Canada's peacekeeping partners and contribute to the global war against terrorism through selective assistance. In short, the MTAP program aims to build up African peacekeeping capacity, but, honourable senators, only 10 per cent of MTAP's total \$12-million budget is spent on training Africans, meaning that only 190 officers actually received this training last year, and the bulk of the training actually took place at CFB Borden, north of Toronto.

Canada is not a military superpower. Our military personnel, dedicated, well-trained and amongst the best in the world, can only accomplish the goals that they can based on their numbers and the needs in the field. We are currently fulfilling a very serious NATO obligation sanctioned by the United Nations in Afghanistan, and the bulk of our army personnel is needed for that particular engagement. We cannot be all things to all people at all times. I suggest to you that the “but” is what is most important. If we — referring to the collective “we”, the international community — do not crunch the issue around Darfur, we may be tacitly admitting that the responsibility to protect, also a Canadian idea, was little more than a whimsical notion, not even a well-rooted or full-blown concept. The international community must put their money, efforts, personnel and goodwill where their mouths are, or we may be affirming that there is neither the will nor the capacity to implement the responsibility to protect. If we cannot protect the young girls who are abused and raped, the farmers in the fields who are hacked to death, the elderly, the sick, the displaced and those left with nothing, who exactly are we responsible for protecting?

The recommendations that were outlined in the Senate report on Africa talked about specifics that we might be able to apply: by boosting our support for peace and security efforts in Africa by greatly expanding Canada’s commitment to the United Nations peace support operations, in particular Operation MONUC; by helping to build the capacity for peace in Africa by significantly increasing the budget and resources of the Department of National Defence Military Training Assistance Program so that they can provide more training to a greater number of officers from more African countries; by supporting the African Union, and by recommitting to and strengthening its work on children affected by armed conflict. It should expand the scope of such programs beyond direct combatants to include all children.

Honourable senators, I support these recommendations, especially in relation to Darfur. The current struggles worldwide are definitely stretching the abilities of many countries, including our own. First and foremost, we must protect our own interests, as is the duty of every civilized government. However, if we cannot find it in our hearts and, more important, in our foreign aid and military budgets to step into Darfur as best we can, we are abdicating our responsibilities as human beings. It seems to me that there are already too many on this planet who have abdicated that particular responsibility. The civilized international community cannot afford to be counted among them.

Tell me, if you will, what the difference is between, “We can’t do much if Khartoum won’t agree,” and the line from the late 1930s, “None is too many.” For the Africans being slaughtered daily, this is the 1930s; we have a duty to act.

Hon. Roméo Antonius Dallaire: Honourable senators, forgive me for rising so often today, but the subjects are close to my heart.

I would say to the Honourable Senator Segal that, in the early 1960s, when many African nations were gaining their independence, they turned to Canada to help them build their bureaucracies, judicial systems, systems of governance and

so on. They also turned to Canada to help them build their armies to be responsive to the democratic processes which we recognize fully. Some of those countries have been exceptionally successful, like Ghana, which is a leader in peacekeeping.

Hon. Gerald J. Comeau (Deputy Leader of the Government): On a point of order, I do not want to appear ungrateful, but my impression was that Senator Dallaire had already spoken on this subject.

Senator Dallaire: I am asking a question.

The Hon. the Speaker *pro tempore*: Senator Dallaire is asking Senator Segal a question.

Senator Dallaire: Thank you for guiding me to focus — not wanting to take too much time, of course — on a subject that might not be particularly pertinent.

What about responsibility to protect and Canada’s commitment to things like the African stand-by force, to using forces not in the thousands but in the hundreds to assist the Africans in building up their own capability? Ultimately, is Darfur not, in fact, the prime example for us to “operationalize” the doctrine of responsibility to protect, and that we lead that “operationalization”?

Senator Segal: I think the honourable senator makes the point more eloquently than I can. The world did not wait with respect to what happened in the old Yugoslavia. Deployments were made and decisions were put into place; UNPROFOR, in the first round and then, pursuant to the peace accords, NATO deployed. Quite frankly, we worried about ethnic cleansing and about finding things which, frankly, I have seen myself when I visited Bosnia and Herzegovina — namely, mass graves. There were too many of those. Had we not acted, there would have been far more. Had we waited for European diplomacy to deploy, if you look at the broad sweep of history, from Sarajevo 1 to Sarajevo 2, or from Auschwitz to Srebrenica, European diplomacy is always the same: Wait until the bodies are stacked like cordwood. Then they call us naive, Canadians, Australians, Brits, Americans, gathering up our kids to go and do something about it before it is too late.

The point that Senator Dallaire’s question underlines is this: What is different about Darfur? That there is a government of thugs in Khartoum who would rather we were not there? We have faced that situation before. That there is a Westphalian border that defines an area in which they have sovereignty? They purport to have nothing to do with what the Janjaweed are doing to the civilian population and the migrant population.

Clearly, we can go through this “After you, Alphonse” routine for some period of time, and we know one thing for sure: More people will die every day. If “responsibility to protect” is to survive, it will survive because it was fully engaged in Darfur. If we do not engage in Darfur, that idea that Canadians worked on will die.

On motion of Senator Cowan, debate adjourned.

THE SENATE

FAILURE OF GOVERNMENT TO APPOINT QUALIFIED PEOPLE TO THE SENATE—INQUIRY— DEBATE ADJOURNED

Hon. Tommy Banks rose pursuant to notice of March 21, 2007:

That he will call the attention of the Senate to the failure of the Government of Canada to carry out its constitutional duty to appoint qualified persons to the Senate.

He said: Honourable senators, I know the hour is late, so I will not talk for a long time. The way it works is that if I am to pursue this inquiry, I must do so now, so I beg your indulgence.

I rise today to call the Senate's attention to what I believe is a serious breach of the government's duty to respect the rule of law and to ensure the proper functioning of Parliament. In nearly 800 years of development of our kind of government, it has been clearly established that the government is a function of Parliament and not the other way around. When a matter is brought before Parliament for its consideration and when Parliament then makes an act, that act of Parliament is not a mere suggestion. It is not a proposal that the government might consider. It is not a mere resolution or option that the government might wish, if it chooses, to follow. It is the will of Parliament, expressed in an act of Parliament, and Parliament expects the government to give effect to the provisions of that act.

• (1850)

Earlier today, Senator Murray referred to a different situation than the one to which I refer, which is the question of whether a government will abide by a law that is extant. The act, the law to which I refer, is not merely an act of Parliament, it is the supreme act of Parliament. It is the Constitution Act, 1867, in which is set out the means by which Canada is to be governed.

I refer in particular to the two sections of that act that set out the process by which persons are called to the Senate.

The first of these is section 24 of the Constitution Act, 1867, which obliges the government of the day to name persons to the Senate. It states:

The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified Persons to the Senate; and, subject to the Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator.

The second is section 32 of the act, which is even more specific and clear, and describes what happens in the event of vacancies in the Senate. It states:

When a Vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.

Honourable senators, those sections are not enabling sections. The language is mandatory, not permissive. Those sections do not provide the government with the option of filling vacancies. Those sections create a legally binding obligation on the government to replenish the membership of the Senate.

The rule of law is one of the hallmarks of a mature democratic society such as Canada's. The rule of law includes the notion that the government has a duty to observe the law. The lack of enforcement provisions in the statute, as in this case, does not diminish that duty and because there may not have been legal recourse to the courts does not mean that the government is free to disregard the law.

Honourable senators, there has been a similar concern, for example, with Bill C-288 that Senator Murray raised today, the private member's bill from the other place concerning the Kyoto commitments.

When that bill passed the other place, many expressed concern that the government might ignore the law if it should pass in the Senate. However, with speculation and concern rising, the Prime Minister, sensibly, made a public statement to the contrary on February 15. In the other place, the Prime Minister made a clear and unambiguous statement that his government would respect the bill, should it be passed into law.

Honourable senators, the Prime Minister's statement was a welcome reassurance that the government does not put itself above the law. However I am concerned that this important principle is not being respected in the area of Senate appointments.

The obligation in section 24 of the Constitution Act, 1867, does not establish specific time frames for filling vacancies. However, the obligation in section 32 to fill vacancies is clear. It says that "when a Vacancy happens. . . the Governor General shall by Summons. . . fill the Vacancy."

Now, honourable senators, the word "when" means what we all know it to mean. When is a trigger when it is used as a conjunction. It does not mean "some other time," "sometime later," or "if we get around to it." It means "when." It means "upon the occasion that" a vacancy happens.

I asked people who know better than I, to check the Interpretation Act and other references of Parliament to find out whether there was anywhere a definition of "when" other than the one that we all commonly understand and there is not, so I will revert to the *Oxford English Dictionary*, which gives four definitions of "when," used as a conjunction as it is in this case: one, At the or any time that; two, On the or any occasion that; three, At whatever time; and four, As soon as.

In other words, "when" means what we all understand it to mean. That implies a time certain. It conveys a sense of immediacy, if not urgency, and at some point a failure to observe that clear direction in section 32 constitutes a breach of the law. I believe that we have reached that point.

Let me outline the extent to which vacancies have been neglected. The current government has made only one appointment since it took office; the Minister of Public Works who was appointed to the Senate on February 27, 2006. It was made clear by that very welcome appointment that the Prime Minister is not opposed on the basis of principle to the appointment of senators.

By my count, there were six vacancies when Mr. Harper took office, one of which took place during the preceding election period and one of which took place after the transition of the new government. Since that time there has been one appointment and seven additional vacancies: two deaths, three retirements and two resignations.

There are now, in this place, 12 vacancies and there will be no more retirements, at least this year.

Many of these seats have been vacant for well over a year. In one case, the seat left vacant by the retirement of our former colleague from Prince Edward Island, the late Senator Rossiter, has gone unfulfilled since August 15, 2004. That is more than 2.5 years ago.

Proportionately, a deficit of 12 senators is like having 35 vacancies in the House of Commons. Such a state of affairs in the other place would be intolerable if it went on indefinitely.

Honourable senators may wonder why the government is abstaining from making appointments, as the Constitution requires it to do. By his own account, the Prime Minister says he is waiting for reform proposals, Bill S-4 and Bill C-43, to pass.

Although in the matter of Bill C-288, the government stated its intention to follow the law, in the matter of Senate appointments it has categorically stated that it intends to do the opposite. I will quote from the Prime Minister when he appeared in the Special Senate Committee on Senate Reform, on September 7, 2006:

I do not intend to appoint senators, unless necessary. But I can tell you that the government intends to table a legislation to create an elected Senate.

Later in the same meeting he said:

The government prefers not to appoint senators unless it has the necessary reasons to do so. I mentioned one of these reasons in the case of Senator Fortier... At this time, I prefer to have an election process where we can consult the population rather than to appoint senators traditionally.

The Prime Minister has made an unambiguous statement that the government intends to make no appointments until after Bill C-43 passes or until there are so few Conservatives in the Senate that the government cannot function at all. He has openly declared his determination not to fulfil his obligations under section 24 and section 32.

Honourable senators should note that Bill C-43, which is the Senate elections act, was introduced in the other place last December. It has never been called for debate and continues to stagnate in that place at first reading. As was said this week in the last house business statement of the Leader of the Government of the House of Commons: Second reading is not planned at any time soon.

Even if Bill C-43 were brought forward in the coming weeks, it is not clear, especially in a minority Parliament, whether it would pass before an election is called. In fact, the government has suspended indefinitely its conformity to sections 24 and 32 of the Constitution Act, 1867, pending the fate of a bill in Parliament, a bill that it has allowed to languish on the Order Paper for several months.

Honourable senators, apart from the government's choosing to ignore, if not to defy, the rule of law, I would like to outline other consequences of failure to make appointments.

With 12 vacancies and counting, regions and provinces are constitutionally under-represented. Seven of the 10 provinces have vacancies and are not properly represented in this place. Nova Scotia has the most with three vacancies. The Yukon, with only one, has been completely unrepresented since January 1 of this year. Almost half the vacancies are in one senatorial division: the maritime division is down five seats, or more than 20 per cent of the representation to which it is entitled under the Constitution. Atlantic Canadians are being denied their constitutional rights to representation in Parliament.

• (1900)

In this case, the failure to fill vacancies is also creating an inequality that infringes on section 32, which is the section of the Constitution Act that guarantees the equality of representation for the four senatorial divisions. The large number of vacancies also impairs the proper functioning of the Senate by depriving it of sufficient numbers of members to staff its committees.

There is a more subtle effect of abstaining from appointments in the way that the government is doing. One of the important characteristics of the Senate is its gradual and constant turnover and renewal. That gradual renewal complements the sometimes sudden and dramatic turnovers that happen in the House of Commons and helps to explain the very different natures and cultures of our two Houses of Parliament. A long period without appointments, followed by a wholesale filling of seats, would only serve to undermine that important difference. Failure to make appointments, as required by section 32 to replace vacancies, is a failure to ensure the proper functioning of Parliament.

Imagine if the government did that in the Supreme Court, allowing vacancies to exist for over two and a half years, and if that court had to cope with its caseload with six or seven justices. Imagine the backlog of cases if the Immigration and Refugee Board or the CRTC were similarly short.

I am sure you will agree, honourable senators, that failure to exercise the duty to appoint is a serious dereliction of duty. It is both a failure to fulfill the legal obligation of the government — or at least the conventional obligation of the government — to conform to the Constitution, and a failure to fulfill its moral obligation to ensure the proper functioning of Parliament and, therefore, of the government.

In the case of the Senate, the government's own clear and unambiguous statements indicate that its failure to appoint is intentional. That wilful disregard, particularly of section 32 of the Constitution Act, 1867, constitutes a breach of the law and weakens respect for the rule of law in our society.

Honourable senators, regardless of the merits of the Prime Minister's legislative initiatives for Senate reform, or others that we might all want to undertake, he cannot — and we cannot — simply suspend the Constitution of Canada while we wait for those reforms to pass. The government has a duty. The Prime Minister has a duty to fill vacancies in the Senate by, I assume, members of the Conservative Party, to ensure the proper

operation of Parliament. It is my hope that by drawing attention to this serious problem, we may persuade him to do so.

[*Translation*]

I want to make clear that I am talking about the conventional obligation of the Prime Minister. Senator Murray referred to it this afternoon. Taking the legal provisions of the Constitution by themselves, the Prime Minister is not named in this section of the Constitution. The Prime Minister is not named, or his office is not named, in section 24 or 32. They both say that “the Governor General shall . . .” By convention, that is always on the advice of the Prime Minister. However, if this case were ever to be adjudicated in a court, it is entirely possible that courts, who are obliged to rule according to the law and not to convention, might find that the Governor General has, per se, an obligation.

I wanted to make clear that what I am talking about is a conventional obligation of the Prime Minister, even though it is not set out by his name in the Constitution. I hope that honourable senators will consider this and further this inquiry in order that we can have a more properly operating institution here in the institution that we love so much.

On motion of Senator Tkachuk, debate adjourned.

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF CONTAINERIZED FREIGHT TRAFFIC

Hon. Lise Bacon, pursuant to notice of March 20, 2007, moved:

That, notwithstanding the Order of the Senate adopted on Thursday, May 11, 2006, the Standing Senate Committee on Transport and Communications, which was authorized to examine and report on containerized freight traffic in Canada's ports, be empowered to extend the date of presenting its final report from March 31, 2007, to October 31, 2007.

Motion adopted.

The Senate adjourned until Wednesday, March 28, 2007 at 1:30 p.m.

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