CANADA

Debates of the Senate

2nd SESSION • 39th PARLIAMENT • VOLUME 144 • NUMBER 31

OFFICIAL REPORT
(HANSARD)

Thursday, February 7, 2008

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

CONTENTS

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

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

THE SENATE

Thursday, February 7, 2008

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

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE MARCEL PRUD'HOMME, P.C.

CONGRATULATIONS ON FORTY-FOURTH ANNIVERSARY AS MEMBER OF PARLIAMENT

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, I am pleased to say a few words today in honour of a special occasion in the life of one of our colleagues. This coming Sunday, February 10, will mark the forty-fourth anniversary of the Honourable Marcel Prud'homme's first election to the House of Commons.

Hon. Senators: Hear, hear!

Senator LeBreton: It was on that date in 1964 when he was elected by the people of Saint-Denis to be their representative in the other place, and thus began a remarkable political career. I dare say, honourable senators, there are not many of us who can say they were around when that day happened, but I happen to be one of them.

Senator Prud'homme was re-elected no less than eight times. Such longevity in electoral politics is quite an achievement and speaks to the great confidence the people of his riding had in his ability to defend them and their interests in Ottawa.

Marcel was named to the Privy Council on July 1, 1992 — Canada's one hundred and twenty-fifth birthday — in recognition of his loyal service to his country and constituents. In May 1993, Marcel Prud'homme was summoned to the Senate of Canada on the recommendation of Prime Minister Mulroney to represent the senatorial district of La Salle, Quebec.

• (1335)

I personally have many wonderful recollections about that particular phone call and some day, honourable senators, we will tell the story.

Since that time, Senator Prud'homme, the Dean of Parliament, has contributed greatly to the debates and activities in the Senate. In November, as all honourable senators are aware, he was awarded the Order of Friendship of the Russian Federation. This honour, which was given to him by His Excellency, the Prime Minister of Russia, was in recognition of his work in bringing our countries closer together.

As I mentioned earlier, I have known Senator Prud'homme for a long time and he has always been, and always will be, a proud champion of our country and a man willing and able to defend his passions. He is a delight to know and has been a great asset to the Senate. On behalf of all Conservative senators, I wish to extend a very heartfelt happy anniversary.

Hon. Rod A. A. Zimmer: Honourable senators, founder, humanitarian, philanthropist, diplomat, champion, warrior, risk-taker, priest, confessor, adventurer, romantic, charmer, witty, graceful, respectful, humble, honourable, gentle man and a gentleman — those adjectives may be too combustible for most, but when describing Senator Prud'homme they become magical!

Honourable senators, I would like to recognize our dear colleague and friend celebrating his forty-fourth anniversary serving Canadians in the Parliament of Canada.

I consider him the "Dean of Parliament." He was elected for the first time in 1964 in the riding of Saint-Denis and was elected eight consecutive times until he was appointed to the Senate in 1993. During those years, Senator Prud'homme served on numerous committees and delegations. He worked tirelessly to facilitate a better understanding among people all over the world. Diplomacy and human rights are complex concepts which he is able to combine with distinctive hard work, grace, wit and charm!

Honourable senators, Senator Prud'homme has religiously taken the high road as he continues to treasure his convictions regarding human rights and social justice. He has fought against injustice. He targets genocide throughout the world, without borders. He is a warrior and a champion for all!

In 1970, he was delegated by the Right Honourable Pierre Elliott Trudeau to the inauguration of the Suez Canal. Due to his commitment to peace, he was invited to attend the delegation to the United Nations Conference on Disarmament in 1978 and 1982.

Honourable senators, his humanitarian record is recognized internationally, and he is the only sitting parliamentarian appointed to the Privy Council by Her Majesty, Queen Elizabeth II, who did so in 1992. Last November, I was humbled and privileged to witness the ceremony where he was awarded the Order of Friendship of the Russian Federation by the Russian Prime Minister.

Senator Prud'homme continues to exemplify a model of ambassadorship both to Parliament and Canada, and to the world. We treasure his dedication to Parliament, service to Canadians, institutional memory and most of all, we cherish his friendship, his humble spirit.

Honourable senators, in conclusion, I wish to paraphrase an Irish poem. Senator Prud'homme, may the road rise up to meet you. May the rain fall gently upon your shoulders. May the wind be always at your back. May the sun shine brightly on your beautiful face, and may the love and friendship that is in this historic chamber today be with you forever!

[*Translation*]

Hon. Lucie Pépin: Honourable senators, as Senators LeBreton and Zimmer have pointed out, Sunday, February 10, is the forty-fourth anniversary of parliamentary life for our colleague, Senator Marcel Prud'homme.

He was first elected in 1964, was re-elected in eight general elections and appointed to the Senate in 1993. Since then he has become indispensable as the dean of Parliament Hill.

Obviously, as time passes, he has become a fixture in these buildings, so much so that after all these years he blends in with the walls and curtains. It is even said that the ghosts of Parliament consider him one of their own.

Fortunately, his stature and his eloquence remind us of his presence among us.

• (1340)

Our esteemed colleague's father, Dr. Prud'homme, who brought into the world half the people in the riding Senator Prud'homme represented, advised him to believe in the universality of human rights or remain silent. Marcel chose not to remain silent. Fortunately for us, Marcel chose to speak up loud and clear to strengthen peace in the world. Everyone who deals with him acknowledges his courage, his sharp mind and his tireless dedication to humanitarian causes of all kinds.

Our distinguished colleague does not like conventionality. It bores him. He can nonetheless be proud of the path he has taken so far.

He has used these 44 years to emphasize the role of parliamentary diplomacy in creating a fair and equitable world order. We have to spend time together to get to know one another and listen to one another to understand each other. This rule is just as valid for individuals as it is for peoples. Senator Prud'homme's belief in the virtue of dialogue and communication has always put him ahead of the rest. Next thing we know, the Western world will be communicating with us, North Korea or even Iran. Right, Senator Prud'homme?

The recent award received from the Government of Russia is more proof that he was right, in difficult times, to stand up for his ideas. We all know that Senator Prud'homme is a warm and sensitive man who will do anything to be of service with the utmost discretion and good humour. He is always available for light conversation or a serious debate, and he has dedicated himself to building bridges. Marcel speaks with ease to politicians of all stripes and even tries to gather them around the same table. His people skills are legendary, and there is no one too lowly to deserve his interest, attention and assistance. In fact, Marcel, the senator, has all the major requirements of a good confessor. I know something about it because I sat beside him in 1984.

After 44 years, the senator has lost none of his fighting spirit for the causes dear to him. It is quite certain that will be the case for a long time to come. We wish him good health to keep alive the passion that has burned within him from the beginning.

[*English*]

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to pay tribute today to Senator Marcel Prud'homme, a parliamentarian and a friend who celebrates an impressive 44 years of service in the Canadian Parliament this year.

Marcel, with close to 30 years in the House and 15 years in the Senate, this is an unprecedented and incredible record of service. Since your entry into Parliament back in 1964, you have lived your career by advice that your father imparted to you.

To quote Martin Luther King, "Our lives begin to end the day we become silent about things that matter."

You are just as passionate today and ready to fight for causes as the very first day you set foot on Parliament Hill back in 1964. The work you have done in many areas has often pushed the envelope and pressed successive governments out of their comfort zones to make policy and decisions in complex areas where they may not necessarily have wanted to venture.

Throughout your career, you have been a bridge between Canada and many countries. I greatly admire and respect you for your vigilance and dedication. You are one of the most principled people I have come to know during my work here in the Senate.

It is no surprise that on your forty-fourth anniversary serving Canadians that I wish to pay homage to you for what I will remember about you most, long after the light of your parliamentary career is distinguished. Your thoughtfulness and intelligence has added so much to the quality of debate that occurs in this chamber and I simply would like to take this opportunity to thank you.

[*Later*]

Hon. Nancy Ruth: Senator Prud'homme, last night I read through a stack of your press clippings telling of praise, controversy, vehement disagreements, reconciliations with some and with those who do not let you reach out and reconcile with them. Such is the joy and the sadness of life.

I read the Senators' Statements from your fortieth anniversary, full of your accomplishments and your commitments to Canada. In life, we repeat our beliefs over and over again, and those beliefs are what we teach. Marcel, you have taught me the meaning of four words: Reconcile, laugh, love, and reach out. For these words, their actions and you; merci, mon ami.

CANADIAN CENTRE FOR CHILD PROTECTION

Hon. Ethel Cochrane: Honourable senators, I think we can all agree that our children are the most precious resource we have, and governments have a great responsibility to provide protection for all of them.

Children embody Canada's hopes and represent the future. We owe them love, protection and the chance to grow up in a country where they are valued and encouraged to become good citizens.

• (1345)

Last week, Minister Day announced $2 million for the Canadian Centre for Child Protection. This is one of the biggest investments ever by the federal government to a national charitable organization. The money will go directly to the centre to raise public awareness to better protect children. It will help the centre to handle more leads from the public about suspected online exploitation of children, and to develop educational materials on issues related to child exploitation.

According to RCMP Superintendent Earla-Kim McColl, Officer in Charge of the National Child Exploitation Coordination Centre, partnerships between law enforcement, government, industry and organizations, such as the Canadian Centre for Child Protection, are critical to help them to advance their investigations and to rescue children who are being sexually abused. Our government is serious about protecting children and has strong partners who share this commitment to our young.

Honourable senators, last week's funding announcement follows an additional $6 million per year to the RCMP to protect children from sexual exploitation and trafficking. These are worthwhile investments, but we must do more, and we can do more. We all have a role to play in the protection of children, and as parliamentarians, we have the unique ability to do more by supporting Bill C-2, the proposed tackling violent crimes act. This bill, which seeks to raise the age of consent to protect our young people from sexual predators, is now before the Senate. I hope that all honourable senators will reflect on the value of this proposed legislation and take meaningful action to make a positive difference for Canada's children.

[*Translation*]

ROUTINE PROCEEDINGS

INDEPENDENT PANEL ON CANADA'S FUTURE ROLE IN AFGHANISTAN

REPORT TABLED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the report of the Independent Panel on Canada's Future Role in Afghanistan.

INDUSTRY

USER FEE PROPOSAL FOR SPECTRUM LICENCE FEE— REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE PRESENTED

Hon. Lise Bacon, Chair of the Transport and Communications Committee, presented the following report:

Thursday, February 7, 2008

The Standing Senate Committee on Transport and Communications has the honour to present its

THIRD REPORT

Your Committee, to which was referred the document "Department of Industry User Fee Proposal for a Spectrum Licence Fee for Broadband Public Safety Communications in the Frequency Band 4940-4990 MHz" has, in obedience to the Order of Reference of Wednesday, January 30, 2008, examined the proposed new user fee and, in accordance with section 5 of the User Fees Act, recommends that it be approved. Your Committee appends to this report certain observations relating to the proposal.

Respectfully submitted,

LISE BACON
Chair

Observations
Appended to the Third Report
of the Standing Senate Committee
on Transport and Communications

Your Committee supports the philosophy behind the proposal, namely that the radio spectrum is a valuable asset that should be well-managed for the benefit of all Canadians. The proposed fee, chosen to reflect the economic value of the spectrum band, is an attempt to use the price system for the efficient allocation of a scarce resource. This is commendable, but your committee has several concerns with the proposal.

Your committee's first concern is that the users of this spectrum band are public safety entities (police departments, fire departments, ambulance services, etc.). These are generally non-commercial entities, often financed by some level of government and often engaged in emergency services. Many would argue that public safety entities should not pay fees that reflect the alternative use of spectrum by commercial users.

Your committee's second concern is that the fee proposed is, at best, an imprecise reflection of the economic value of the 4940-4990 MHz spectrum band. Industry Canada looked at other countries but did not find a useful model, so they took fees for commercial (and exclusive) use of spectrum in Canada and adjusted downward because the public safety spectrum would be shared. In practice, the department chose the lower end of the range for commercial-use fees and divided by four. The proposed fee is thus based on several subjective elements.

Your committee's third concern is that the quest for a fee that reflected "economic value" led the department to reject a fee based on cost recovery. In the U.S. fees for the 4940-4990 MHz spectrum band will not be chosen to reflect economic value; non-auctioned spectrum in the U.S. may only reflect the cost recovery for the management of the spectrum.

Your committee accepts the current proposal but urges Industry Canada to revisit its policy for the pricing of spectrum to be used by public safety entities. In particular, the department should consider the efficiency issues associated with fees based on cost recovery.

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

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

• (1350)

[*English*]

FISHERIES AND OCEANS

BUDGET—STUDY ON ISSUES RELATING TO NEW AND EVOLVING POLICY FRAMEWORK FOR MANAGING FISHERIES AND OCEANS— REPORT OF COMMITTEE PRESENTED

Hon. Bill Rompkey, Chair of the Standing Senate Committee on Fisheries and Oceans, presented the following report:

Thursday, February 7, 2008

The Standing Senate Committee on Fisheries and Oceans has the honour to present its

SECOND REPORT

Your Committee which was authorized by the Senate on Wednesday, November 21, 2007 to examine and report on issues relating to the federal government's current and evolving policy framework for managing Canada's fisheries and oceans, respectfully requests the approval of funds for the fiscal year ending March 31, 2008.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules,* the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

WILLIAM ROMPKEY
Chair

(*For text of budget, see today's* Journals of the Senate*, Appendix A, p. 500*.)

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

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

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON STATE OF EARLY LEARNING AND CHILD CARE— REPORT OF COMMITTEE PRESENTED

Hon. Art Eggleton, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, February 7, 2008

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

FIFTH REPORT

Your committee, which was authorized by the Senate on November 20, 2007, to examine and report on early learning and child care, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules,* the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

ART EGGLETON
Chair

(*For text of budget, see today's* Journals of the Senate*, Appendix B, p. 506*.)

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

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

BUDGET—STUDY ON GOVERNMENT SCIENCE AND TECHNOLOGY STRATEGY— REPORT OF COMMITTEE PRESENTED

Hon. Art Eggleton, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, February 7, 2008

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

SIXTH REPORT

Your committee, which was authorized by the Senate on November 29, 2007, to examine issues relating to the federal government's new Science and Technology (S&T) Strategy — *Mobilizing Science and Technology to Canada's Advantage*, respectfully requests the approval of funds for the fiscal year ending March 31, 2008.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

ART EGGLETON
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix C, p. 512.*)

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

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

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

BUDGET—STUDY ON CANADIAN ENVIRONMENTAL PROTECTION ACT—
REPORT OF COMMITTEE PRESENTED

Hon. Tommy Banks, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, February 7, 2008

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

FOURTH REPORT

Your Committee, which was authorized by the Senate on Wednesday, December 12, 2007, to undertake a review and report on the *Canadian Environmental Protection Act* (1999, c. 33) pursuant to Section 343(1) of the said Act, respectfully requests funds for the fiscal year ending March 31, 2008.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

TOMMY BANKS
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix D, p. 517.*)

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

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

[*Translation*]

OFFICIAL LANGUAGES

BUDGET AND AUTHORIZATION
TO ENGAGE SERVICES AND TRAVEL—
STUDY ON OFFICIAL LANGUAGES ACT—
REPORT OF COMMITTEE PRESENTED

Hon. Maria Chaput, Chair of the Standing Senate Committee on Official Languages, presented the following report:

Thursday, February 7, 2008

The Standing Senate Committee on Official Languages has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on Tuesday, November 20, 2007 to study and to report from time to time on the application of the *Official Languages Act* and of the regulations and directives made under it, within those institutions subject to the Act, respectfully requests for the purpose of this study that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary and to adjourn from place to place within Canada for the purpose of its study for fiscal year ending March 31, 2008.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

MARIA CHAPUT
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix E, p. 523.*)

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

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

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRD REPORT OF COMMITTEE PRESENTED

Hon. George J. Furey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, February 7, 2008

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

THIRD REPORT

Your Committee recommends that the following funds be released for fiscal year 2007-2008.

Special Committee on Anti-terrorism (Legislation)

Professional and Other Services	$ 5,000
Transportation and Communications	$ 0
All Other Expenditures	$ 1,000
Total	**$ 6,000**

Legal and Constitutional Affairs (Legislation)

Professional and Other Services	$ 26,000
Transportation and Communications	$ 21,070
All Other Expenditures	$ 4,000
Total	**$ 51,070**

Social Affairs, Science and Technology (Legislation)

Professional and Other Services	$ 6,000
Transportation and Communications	$ 0
All Other Expenditures	$ 1,000
Total	**$ 7,000**

Respectfully submitted,

GEORGE J. FUREY
Chair

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

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

• (1355)

BILL RESPECTING PAYMENTS TO A TRUST ESTABLISHED TO PROVIDE PROVINCES AND TERRITORIES WITH FUNDING FOR COMMUNITY DEVELOPMENT

REPORT OF COMMITTEE PRESENTED

Hon. Joseph A. Day, Chair of the Standing Senate Committee on National Finance, presented the following report:

Thursday, February 7, 2008

The Standing Senate Committee on National Finance has the honour to present its

FIFTH REPORT

Your Committee, to which was referred Bill C-41, An Act respecting payments to a trust established to provide provinces and territories with funding for community development has, in obedience to the Order of Reference of Tuesday, February 5, 2008, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOSEPH A. DAY
Chair

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): With leave of the Senate and notwithstanding rule 58(1)(b), I move that the bill be read the third time later this day.

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

Hon. Senators: Agreed.

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

On motion of Senator Comeau, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for third reading later this day.

THE SENATE

MOTION TO SUSPEND SITTING ADOPTED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, in order to avoid the situation I had to go through yesterday, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

> That, at the end of the Orders of the Day, Inquiries and Motions today, the sitting be suspended to the call of the Chair, if either the Leader or Deputy Leader of the Government in the Senate so requests, with the bells to ring for five minutes prior to the sitting resuming.

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, are we waiting for bills from the House of Commons? Is there some reason for this request?

Senator Comeau: Honourable senators, if all goes well, we will go through the Orders of the Day fairly quickly. If there is a bill that might receive Royal Assent, that gives us the chance to suspend the sitting until we receive the document bearing the Governor General's signature, indicating that she has granted Royal Assent.

Motion agreed to.

[*English*]

LEGAL AND CONSTITUTIONAL AFFAIRS

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

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

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to sit at any time for the purposes of studying Bill C-2, An Act to amend the Criminal Code and to make consequential amendments to other acts (*Tackling Violent Crime Act*) even though the Senate may then be sitting, and that the application of Rule 95(4) be suspended in relation thereto.

• (1400)

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

NATIONAL CONFERENCE OF STATE LEGISLATURES MEETING, AUGUST 5-9, 2007—REPORT TABLED

Hon. Jerahmiel S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation to the National Conference of State Legislatures, entitled "Strong States, Strong Nation Legislative Summit: 2007 Annual Meeting," held in Boston, Massachusetts, United States of America, from August 5 to 9, 2007.

SOUTHERN GOVERNORS' ASSOCIATION MEETING, AUGUST 25-27, 2007—REPORT TABLED

Hon. Jerahmiel S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation to the Southern Governors' Association Seventy-third Annual Meeting, held in Biloxi, Mississippi, United States of America, from August 25 to 27, 2007.

• (1405)

QUESTION PERIOD

NATIONAL CAPITAL COMMISSION

GATINEAU PARK—HOUSING DEVELOPMENT

Hon. Tommy Banks: Honourable senators, my question is to the Leader of the Government in the Senate regarding the subject raised and brought to our attention yesterday by Senator De Bané. It has to do with Gatineau Park, which is, as Senator De Bané pointed out, a jewel in the crown of the nation's capital region.

In respect of Gatineau Park, in response to a question I raised in this house on December 4, the Leader of the Government in the Senate said that the government is,: ". . . committed to ensuring the long-term protection of Gatineau Park." The government has also said the park is to be managed with the utmost care and that it intended to further strengthen the protection afforded to Gatineau Park.

However, according to an article in the *Ottawa Citizen* of January 25, which I hold in my hand, an 18-unit residential project, a development, is to be built inside Gatineau Park — not on the edge, not near the park, not adjoining the park, but inside Gatineau Park, inside the boundaries as presently constituted.

I remind honourable senators that every master plan ever written about Gatineau Park clearly says that residential development — new residential development — is contrary to the park's mandate, vocation, purpose, intent and existence as a park. The latest master plan categorically states that the park is to be managed first and foremost for the purposes of conservation.

How does allowing a residential development inside the park square with its primary vocation as a conservation area? What will the government do to put a stop to this development? Will the government and the minister commit today to urging that the government stop this project?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. I am not aware of the article that appeared in the *Ottawa Citizen*. I answered the honourable senator's questions on Gatineau Park before we broke for the Christmas season. We had also provided a delayed answer.

I have not seen this article, so I do not know if it is based on speculation or unnamed sources. I would have to read the article and refer it to the minister. Since I do not have direct knowledge of the article and have not heard about this project, I will have to take the question as notice and provide a delayed answer.

Senator Banks: If the leader is agreeable, I will send her some information, which goes beyond the newspaper article. I have done some work on this issue. It requires that we ask questions of the National Capital Commission, because a project of this kind is ostensibly under its purview. To allow this to go ahead would undermine the credibility of the National Capital Commission and its stated undertakings with respect to the park.

I will happily give the Leader of the Government in the Senate the information I have, which I hope will be of use to her, and I look forward to the answer and the government acting forthwith to stop this development. Thank you very much, leader.

Senator LeBreton: Honourable senators, one good thing with regard to the National Capital Commission is that under the new chairship of Russell Mills it has been conducting its business in a more open and transparent way. In this particular case I will be happy to get the information for the honourable senator.

• (1410)

NATURAL RESOURCES

STRATEGIC PETROLEUM RESERVE

Hon. Yoine Goldstein: Honourable senators, my question is for the Leader of the Government in the Senate.

Canada is one of very few industrialized countries in the world without a strategic petroleum reserve. The U.S., for instance, has a strategic petroleum reserve of over 1 billion barrels of oil, and that does not include the petroleum and oil which is in the oil reserve of the U.S. northeast, to the extent of 2 million barrels, because of the dependence of the northeast on oil for heating purposes in the winter. That is equivalent, for the Northeast, to

10 days' supply. This reserve for the Northeast exists in rented oil tanks in various locales in New Jersey, Connecticut and elsewhere.

International guidelines would call for strategic petroleum reserves of 90 days' supply of oil, which for Canada would mean 76 million barrels. Although we are a net exporter of oil, we are not oil self-sufficient. The West is oil self-sufficient and exports from North to the South.

The east, however, is almost entirely dependent on imports from the United States, South to the North. The result is if there were to be an international crisis, the East would have virtually no oil, no petroleum and no ability to get it for a lengthy period of time. An additional element in the constellation of this problem is the fact that NAFTA requires that, in the event of a crisis, Canada not reduce its oil exports to the United States.

The net result, therefore, if there is a serious crisis — a revolution in Saudi Arabia, which is bound to happen sooner or later, a blockade of the Strait of Tiran by Iran, which is as likely as not to happen, some other kind of upsetting political experience in the Middle East, some sort of African oil problem, or something in Venezuela — Canada would be terribly vulnerable to a tremendous crisis and would find itself with a disastrous and highly disproportionate shortage of oil and other petroleum products.

My question to the Leader of the Government in the Senate, and it is not a political question, is: Is the government considering the creation of a strategic petroleum reserve? If it is not, could the leader, on our behalf, advise the government to start considering such a reserve at this time?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. The honourable senator lays out several alarming scenarios which, as he points out, are considerations that governments would have to make. They are all within the realm of possibility. We hope they will never come to pass.

The question is one that I take seriously, honourable senators. I would be happy to refer this matter to the various ministers because there would be several involved in this matter, namely, the Ministers of Natural Resources, Public Safety, Foreign Affairs and even Defence. I will be happy to ascertain what policies we have in this regard, and, if there are no clearly defined policies, whether, in fact, we will be developing policies.

Senator Goldstein: May I ask the leader to report by way of a delayed answer when she has completed her investigation?

Senator LeBreton: Absolutely, and I will ask that it be replied to as quickly as possible, honourable senators.

Hon. Lowell Murray: Honourable senators, would the Leader of the Government in the Senate dig deep into the archives of the government, perhaps even into her own personal files, and obtain a copy of the Borden Royal Commission report of the 1950s? The Borden commission, appointed by Prime Minister Diefenbaker, reported on this very matter and established the Ottawa Valley line, to the east of which was to be supplied by imported oil and the west by western supplies.

• (1415)

My recollection from the time is that the Westerners would have been delighted to supply Eastern Canada, but the Eastern Canadians wanted the cheaper imported oil. Now they are complaining.

Senator LeBreton: I thank Senator Murray for that very valuable history lesson. It is one of many history lessons I have received from him over the years.

I know that what the honourable senator has stated is true. There were receiving tanks for the pipelines near where I was raised. I am very familiar with that, as at one time our well became contaminated.

It is a serious matter that requires an update, which I will be happy to provide.

Hon. Tommy Banks: Honourable senators, the intervention of the Honourable Senator Murray is an excellent argument against term limits in the Senate.

Senator LeBreton: As Senator Murray is a former boss of mine, far be it from me to question anything he has done in his entire life. Honourable senators can be sure that I will hear about it if I do so.

HERITAGE

NEWFOUNDLAND AND LABRADOR— FOUR HUNDREDTH ANNIVERSARY CELEBRATIONS OF CUPIDS—REQUEST FOR FUNDING

Hon. Bill Rompkey: Honourable senators, my question is for the Leader of the Government in the Senate as well. I appreciate that Senator Murray brought up history, because my question is on the subject.

At the outset, I want to congratulate Quebec City on their four hundredth anniversary. This is a significant Canadian event, and I am sure that all senators join in the congratulations.

As a Canadian since the age of 13, I and all of my people, who have been around for hundreds of years, deeply appreciate the significance of this anniversary.

I wish to point out to the minister that the oldest English-speaking settlement in what is now Canada is located at Cupids on Conception Bay, Newfoundland, which, in 2010, will be celebrating its four hundredth anniversary. This is amply substantiated by both archaeological and documentary evidence, and I know submissions have been made to the Government of Canada.

I did not want this occasion to fall between the cracks. I know that Minister Verner has it on her list, but I thought I would raise it at this time in order to forestall any unforeseen circumstances and ensure that both the English-speaking and the French-speaking communities of Canada are suitably recognized.

If the minister would raise this matter with Minister Verner, the people of the province would be very appreciative.

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, I will certainly do as Senator Rompkey has asked. It is fitting that he is making this representation on behalf of Cupids rather than the premier.

Hon. Hugh Segal: Honourable senators, my question is directed to the Leader of the Government in the Senate. When making the inquiry on behalf of Senator Rompkey, in order that we have the history precisely correct, could the leader determine whether Cupids was named before Conception Bay or Conception Bay was named before Cupids, and whether there is any relation between the two names as a matter of form or substance?

Senator LeBreton: That is a very appropriate question coming, as it does, a week before Valentine's Day.

THE SENATE

DELAYED ANSWERS—REQUEST FOR ANSWERS

Hon. Lorna Milne: Honourable senators, I will take everyone by surprise today. I will begin by thanking the Leader of the Government in the Senate for her diligent efforts on behalf of all honourable senators. Being responsible for all government files is challenging, to say the least, and I appreciate the occasions on which she is compelled to take a question as notice and promise to get back to us at a later date.

That being said, there have been a few instances on which the leader has taken my questions as notice and I have yet to receive a response.

• (1420)

For example, on November 22, 2006, I asked for details regarding an announcement made by the Minister of Heritage about an Aboriginal languages initiative. One year ago today, I inquired into the estimated cost of re-hiring the dozens of energy auditors and advisors who had worked for the EnerGuide program. I asked a question on the cost of the re-hiring pertaining to the announcement of the replacement EcoENERGY program.

I want to remind honourable senators that these examples are exceptions rather than the rule. During the past year, I have had the opportunity to present 24 various questions to the Leader of the Government in the Senate. The vast majority of these have been answered in a prompt manner, and I thank the leader for her work. However, if I could receive the information on these two long-overdue examples, I would appreciate it very much.

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for her questions. We had a similar question last week on the topic of delayed answers.

Unfortunately, I believe the honourable senator's questions fell off the table with the prorogation of Parliament. By virtue of the honourable senator asking the questions today, they will be addressed and I hope to get answers for her as quickly as possible.

THE ENVIRONMENT

CARBON EMISSIONS TRADING MARKETS—GREENHOUSE GAS EMISSIONS REGULATIONS

Hon. Grant Mitchell: Honourable senators, if any single thing defines this government, it is that you pretty much cannot believe anything it says. Most recently, the government was dishonest about Afghan detainees. Now, as this kind of behaviour has been building, I am beginning to worry that we might have been misled on certain elements of the Speech from the Throne.

I wonder if the Leader of the Government in the Senate would tell us when the government is planning on setting up the carbon emissions trading markets committed to in the Throne Speech, or is that just so much spin?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, with regard to the Taliban prisoners, the position of the government has never changed. Furthermore, we strengthened an agreement made by the previous government with regard to the exchange of prisoners.

In answer to the honourable senator's question with regard to carbon emissions trading, as the honourable senator knows, the Speech from the Throne stated that our government will establish a carbon emissions trading market that will give businesses incentive to run cleaner and greener operations. Minister Baird has stated the government wants to use the UN Clean Development Mechanism to allow industry access to selected credits. As I have said before, our government is mindful of the need to balance environmental protection with economic growth.

With regard to the specific timing of the announcement of carbon emissions trading, we will do so at the appropriate time.

Senator Mitchell: Nowhere would it be more appropriate for the government to combine economic development possibilities and environmental conservation, positive environmental policy, than in the agricultural industry.

I wonder if the Leader of the Government in the Senate could confirm for the house that when these carbon emissions trading markets are established, whenever that might be, whether agriculturally-based and driven carbon trading credits would be part of that market?

Senator LeBreton: I thank the honourable senator for the question. I will take it as notice.

Senator Mitchell: The Throne Speech also outlined that the government will be implementing binding national regulations determining greenhouse gas emissions for industry.

Could the minister give us a clear indication of whether the government is still committed to that promise and not misleading us? Could the minister give this house some indication of a date as to when these binding emission regulations will be implemented?

Senator LeBreton: Honourable senators, as the honourable senator knows, the Minister of the Environment has been working very hard on all of these files. This government takes the whole question of the environment, greenhouse gas emissions and air pollution very seriously.

In terms of a timetable, I will be happy to seek advice from the Minister of the Environment as to when he plans to roll out further initiatives. As the honourable senator knows, there have been quite a number already announced.

• (1425)

Senator Mitchell: If talking and spinning is hard work, I would have to agree, the Minister of the Environment has been working hard. We would like to see some positive, rather than negative consequences.

Could the Leader of the Government in the Senate tell us why it is that her government discontinued funding of about $2.5 million per year to the BIOCAP Canada Foundation? It is a national network of researchers working with agricultural enterprises and farmers to find ways to enhance the carbon sink capacity of agricultural products in this country. Their products would make farming more efficient, would capture carbon more efficiently and would enable farmers to sell credits for real money on real markets.

Senator LeBreton: As the honourable senator knows, BIOCAP's federal funding ended a little over a month after we formed government. Transitional funding was provided to give BIOCAP time to secure other sources of long-term funding, but they have been unable to do so.

Senator Mitchell: I want to point out that sometimes the leader forgets she is actually in government and the government would have the power to extend that funding. It is no excuse to say the funding was to run out. It was a good program and the government could have extended it. Take the responsibility and do what government is supposed to do.

The National Round Table on the Environment and the Economy called for urgent and aggressive action to meet the climate change crisis. Would the Leader of the Government in the Senate tell us what the government's response was to the National Round Table's recommendation that this government put a price on carbon?

Senator LeBreton: Honourable senators, this is another example of our government approaching the issue of the environment in a forward, positive way. We are not following, and will not follow, the practices of the previous government who, as I have said before, talked often about the environment and did nothing.

With regard to the National Round Table on the Environment and the Economy, Minister Baird has agreed with many of the actions recommended in the recent report and we agree that we must work in concert with the world. That is clear. They also made clear that policy beyond the short term is essential and technology is important in that approach. An integrated approach to climate change and air pollution should be pursued. We are already in agreement on this and we are also realistic in realizing that we are in the world on these matters.

Our government is the first to require mandatory reductions in greenhouse gas emissions and air pollution from industry. In December, we formally advised industry of new requirements to submit air emission standards to the government within the next six months and we continue the process of setting out regulations.

As we continue the process, we are taking into account the recommendations of the National Round Table on the Environment and the Economy. Their report also recognized, and I think this bears repeating, that unless countries like China, India, the United States, Brazil and Russia make medium- to long-term commitments towards reducing their emissions, there is a greater economic risk to Canada. This message came from the round table, not the government. I was very pleased that the national round table recognized that.

Senator Mitchell: Honourable senators, in the Speech from the Throne, it was said that the world is moving to address climate change and the environment and Canada intends to help lead the effort abroad. Could the Leader of the Government in the Senate give us one case, one action or one success where this government has actually led countries abroad — the U.S., China or India, for example — to do something on the environment that they have not already done or were not already doing and probably never will do if it is up to government's leadership? Could the honourable senator indicate one case where there has been success?

Senator LeBreton: When the Prime Minister went to the G8, when he went to APEC and various meetings he attended, he led the discussion and secured the agreement of other world leaders about where we should be going regarding the environment. Minister Baird, when he was in Bali, is another example.

• (1430)

I have answered Senator Mitchell's question before. Australia also agreed with Canada. We are working with other countries mentioned in the National Round Table on the Environment and the Economy report, as I just said. This is not a problem that we will solve by crying over spilled milk or worrying about things that were not done in the past. This will require a significant amount of work with nations around the world. In our case, it will particularly involve the United States and Mexico because we share a continent.

I will be happy to provide the honourable senator with a long list of initiatives that Minister Baird, in particular, has undertaken to advance the environment file over the last few months.

Hon. Elaine McCoy: Honourable senators, this issue transcends all party lines. We have not yet had a government that has achieved any appreciable forward movement.

Is the Leader of the Government in the Senate aware of the National Round Table on the Environment and the Economy's September 2007 report? It said that the government's plan likely overestimates the results that it has projected on the basis of its 2006 or 2007 climate change response.

Senator LeBreton: I thank the honourable senator for her question.

She is quite right. It was pointed out today in one of the newspaper columns I read that the previous government — and many governments — when they are confronted with the issue of the environment have great hopes, expectations and

plans. However, when they get there and realize how difficult the problem is, they end up doing nothing. That happened with the previous government.

Since the honourable senator asked what we have done about the environment, I should outline some of the things we have done that deserve repeating.

In Budget 2007 alone, we invested $4.5 billion on the environment. This includes funding for a national water strategy, land conservation, improved environmental protection enforcement, clean air, the Canada ecoTrust fund and cleaner transportation. We are investing in clean energy technology such as carbon capture and storage, hydrogen and tidal power.

Our government is introducing tough mandatory regulations for industry to reduce emissions by 20 per cent by 2020 and between 60 to 70 per cent by 2050. Minister Baird has formally advised industry of new requirements to submit air emissions data to the government in the next six months. That is a critical step towards reaching our goals as set out in our "Turning the Corner" plan. I recommend that honourable senators read that plan.

In the area of conservation, the government has announced the following initiatives: The massive expansion of Nahanni National Park Reserve, the creation of a Lake Superior National Marine Conservation Area, $30 million to protect the Great Bear Rainforest in British Columbia, $3 million to restore Vancouver's Stanley Park and Point Pleasant Park in Halifax, and $225 million for the Nature Conservancy of Canada.

Senator McCoy: I am not attempting to make this a partisan issue. I am saying that no government in this country has yet managed to come up with a plan that will achieve significant reductions in greenhouse gases in our country. I am pleased, for example, at the commitment to carbon capture and storage, but that is a multi-billion dollar effort. The latest industry report has requested $2 billion. That report has only been out a few days. Therefore, I do not think the government has responded yet.

As a further supplementary question, and without demanding an answer to my last question: Is the Leader of the Government in the Senate aware that, last summer, the C.D. Howe Institute also examined the current Canadian climate change plan? They ably demonstrated that it falls far short of the claims it makes in reductions, both by 2020 and by 2050.

If so, what response would the Leader of the Government in the Senate say the government is cogitating to bridge the gap?

Senator LeBreton: The C.D. Howe Institute and many other think-tanks all have views on where we go on the environmental front. We have developed a framework for a 20 per cent reduction of emissions by 2020. This is the goal we are working towards.

However, if honourable senators want to understand the complexity of this problem, I would refer the honourable senator to testimony given yesterday to a House of Commons committee by Tom d'Aquino. He talked about the necessity for governments, including the provinces, to take action. It was a very good submission. The overall thrust of his testimony was that everyone must be part of the solution: consumers, the federal government, provincial governments, the opposition and also the countries that we work with around the world. This particularly includes the United States, a country to which we are particularly vulnerable. However, the U.S. had a better record in this area than the previous government, even though they did not sign on to the Kyoto accord.

The honourable senator is quite right. We have our plan. Other think-tanks may decide that is not enough. However, at least we have a plan.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour of presenting a delayed answer to a question raised by Senator Dallaire on November 20, 2007, concerning National Defence—Afghanistan—Treatment of Juvenile Detainees.

NATIONAL DEFENCE

AFGHANISTAN— TREATMENT OF JUVENILE DETAINEES

(*Response to question raised by Hon. Roméo Antonius Dallaire on November 20, 2007*)

Canada takes its international legal obligations very seriously. Canada's approach to detainee issues in Afghanistan is in full compliance with those obligations. The Canadian Forces in Afghanistan are fully trained and have clear instructions on all matters related to detainees, including the factors for determining their release or transfer.

The Canadian Forces in Afghanistan have clear instructions to treat detained persons who appear to be less than 18 years of age with particular care. For example, any juveniles detained by the Canadian Forces are held separately from any detained adults.

The primary responsibility for ensuring the rights of detained persons transferred to Afghan authorities are respected rests with the Afghan government, with the Afghanistan Independent Human Rights Commission in a monitoring and investigative role. This holds true with respect to those who appear to be less than 18 years of age. Under Afghan law, juvenile prisoners are the responsibility of the Ministry of Justice.

Like our NATO allies, Canada believes that the best approach is to recognize the responsibility of the Afghan authorities for the treatment of detainees and help build their capacity in this area. Canada has been, and continues to be, in regular dialogue with our NATO and ISAF allies on all aspects of ISAF's mission, including the treatment of detainees transferred by allied forces. Canadian officials have underscored the need for Afghan authorities to treat detainees humanely and in accordance with Afghanistan's international obligations. Canada continues to work closely

with the Government of Afghanistan and the Afghanistan Independent Human Rights Commission to strengthen their capacity regarding the treatment of detainees.

For operational security reasons, we do not publicly provide information that offers a detailed understanding of how the Canadian Forces processes detainees, including the details on capture, transportation, supervision, confinement, and location. This could be used against the Canadian Forces by an enemy able to adapt its practices and instruct its fighters on how to better execute operations against Canadian soldiers, Afghan security forces and allies.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, pursuant to rule 27(1), I wish to inform the Senate that, when we proceed to Government Business, the Senate will address the items beginning with the third reading of Bill C-41, followed by Bill C-3, and will then continue with the other items as they appear on the *Order Paper and Notice Paper*.

[*English*]

BILL RESPECTING PAYMENTS TO A TRUST ESTABLISHED TO PROVIDE PROVINCES AND TERRITORIES WITH FUNDING FOR COMMUNITY DEVELOPMENT

THIRD READING

Hon. Gerald J. Comeau (Deputy Leader of the Government), moved third reading of Bill C-41, An Act respecting payments to a trust established to provide provinces and territories with funding for community development.

Hon. Lowell Murray: Honourable senators, I repeat for the record in this place today what I said last night at the committee when this bill was being studied: Bill C-41's passage through the House of Commons on February 5 was a travesty of Parliamentary democracy.

A bill appropriating $1 billion of taxpayers' money passed through that House on that day in something like 11 minutes. Let me explain how that happened. The government brought the bill in for first reading and, by agreement, the bill was deemed read the second time and referred to a Committee of the Whole. It was then deemed reported without amendment, deemed concurred in at report stage, deemed read the third time and passed.

That is how it proceeded in the House of Commons, the institution which historically has had as its primary purpose the guardianship of the public purse. Senator Day says abolish the House of Commons. I said the same last night without response from our principle witness, Minister Flaherty, the Minister of Finance.

What has happened to Her Majesty's Loyal Opposition in the other place? It is bad enough for the government to do this but for the other parties to be complicit in it compounds the felony, in my humble opinion.

• (1440)

What was the supposed urgency of the House of Commons to pass this bill so quickly? What is the urgency of the Senate to rush it through in three days? It is as if the bill needs Royal Assent today so that the money could start flowing this weekend.

Honourable senators, this is ludicrous. Of course, the bill must be passed and have Royal Assent but the money will go into a trust, and the trust has not been set up. As the bill points out and as we were told last night by the Deputy Minister of Intergovernmental Affairs when he appeared before the Finance Committee, the trust will be set up according to the terms of a trust indenture, which is still being drafted. The indenture will contain the distribution of funds as among the provinces and territories, and it will contain a description of the obligations of the trustee in respect of these monies. The trust indenture is still being drawn up and the trustee has not been appointed. When will they appoint the trustee? Will they appoint a trustee? Well, no. With this mania for ersatz accountability and transparency, they will call for competitive bids, as if there were that many to choose from among the major financial institutions of this country.

My point, honourable senators, is that the tulips will be blooming on Parliament Hill before much of this money gets into the hands of its putative beneficiaries. To suggest that there is an all-fired urgency is truly far-fetched.

In addition, without being unduly partisan, I want to remind the house that the government has been playing games with this initiative for some weeks. In its first iteration, the government said that the availability of the funds would depend on the budget — no money until the next budget is passed. There was an outcry from some of the provinces, and the government relented. At the same time, the government realized that it had inadvertently given the opposition parties a plausible reason for voting for the budget and it does not want to give the opposition parties a plausible reason for voting for the budget because the government is spoiling for an election and would prefer to be defeated on the budget.

It was bad enough that it went through in 11 minutes, as I count them, in the House of Commons.

Senator Segal: They were tense minutes.

Senator Murray: Honourable senators, Senator Segal says "they were tense minutes" — tense minutes indeed. What honourable senators read, if they read Hansard, was spokespersons for the Liberals, the New Democrats and the Bloc Québécois rising to say, "me too" or "moi aussi," in all three cases.

The bill is so vague and so lacking in detail that I gave some thought to drafting amendments at committee but, frankly, I could not get my mind around an amendment that would be in order and that would make much difference. The bill is beyond improvement and I do not mean that as a compliment.

Some of my friends, in particular Senator Ringuette and Senator De Bané, object to the fact that $891 million of this money would be distributed among the provinces and territories on a per capita basis. I understand their argument well and I sympathize with it but I will not follow them along that line because I do not have an alternative. If the alternative were to be that the federal government should pick the communities into which this money should flow or pick the projects that this money will fund, then I could not support that alternative. The provinces do know best what the needs are. I will come back to that point shortly.

The bill is consistent with what Mr. Pearson used to call "cooperative federalism" and Mr. Harper now calls "open federalism" and is consistent with the approach that Mr. Harper took in his speech in Quebec City just before the 2006 election and in Montreal just after the election. There is a great deal of asymmetry permitted in that provinces will be able to tailor the funding to the particular needs and situations. They were drafted in much the same way as Mr. Dryden's child care agreements were drafted.

It probably goes too far in the direction of flexibility, which is a point that I might demonstrate by brief reference to the backgrounder put out by the federal government. I should interject here to say that there will be no written agreements between the federal government and the provinces. As Deputy Minister of Intergovernmental Affairs Louis Lévesque told the committee last evening, there will be a political commitment on the part of the provinces to use the fund in general for the purposes intended. That political agreement will find its way into press releases or announcements, as was the case with New Brunswick and Saskatchewan. That is all there is — no written agreement at all.

Honourable senators, the federal backgrounder begins by saying:

> Some communities are vulnerable because of their dependence on a single employer or a sector under pressure due to exchange rate fluctuations, declining demand, notably in the U.S, or other factors.

It then gives a list of expected uses of the Community Development Trust, which include job training funds and skills development; measures to assist workers in unique circumstances facing adjustment challenges; funding to develop transition plans in support of economic development and diversification; infrastructure initiatives that support the diversification of local economies; and other economic development and diversification initiatives aimed at helping communities manage transition and adjustment. These include public utilities projects, industrial park development, science and technology development, access to broadband technology, downtown revitalization, and communication and transportation services.

I thought, and was led to believe, that the idea was to have a fund that the federal government would transfer to the provinces to help hard-hit workers and communities that were severely affected by closures and layoffs. This bill covers a multitude of sins. The proof of that can be seen by reading the two joint press releases put out in Fredericton, New Brunswick, on January 10 and in Prince Albert, Saskatchewan, on January 17, by Prime Minister Harper and Premier Graham, of New Brunswick, and Premier Wall, of Saskatchewan.

New Brunswick identified several measures that will help the province: supporting economic adjustment in hard-pressed communities, such as Dalhousie, Bathurst, Miramichi and others; funding research and development related to innovative uses of engineered wood, biofuels and energy efficiency; analyzing the New Brunswick forest industry's competitive position in world markets; examining opportunities for supplying natural gas to northern communities in order to lower industry energy costs; and accelerating opportunities in the mining sector.

Saskatchewan identified several funding priorities: biofuels and sustainable energy development; infrastructure; and support for communities affected by layoffs in the forestry sector, which is what we were led to believe the fund was all about in the first place.

Honourable senators, there are dozens of federal programs and joint federal-provincial programs in most of the areas mentioned in those communiqués and press releases.

• (1450)

I cannot understand why it was impossible for the government to craft a program that would concentrate on hard-hit communities and hard-hit employees where there have been layoffs and closures, and bring relief to those people rather than these general initiatives, which amount to duplication for programs that are already in existence and I think are just too open-ended.

I like to imagine what some former premiers that I have known would do with a fund as open-ended as this one. The only limits would be on the premier's imagination.

This is not a focused initiative, as it should be. This fund bids fair to become a slush fund. You might as well call it what it is, a slush fund in the hands of the provinces.

If the purpose of the fund was to help the workers affected and to help one industry town affected by closures and layoffs, I am sure there must have been a better way to provide focus on that objective. I would have said it could be done in formal federal-provincial agreements, and without interfering with provincial responsibilities and prerogatives.

A program could be drafted that is sufficiently focused to ensure that the money would go to those people who are most affected by layoffs and closures. This is far too broadly based and open-ended. This has all the earmarks of turning into a slush fund.

The sound you hear from me is half a hand clapping in favour of this bill.

Hon. Pierrette Ringuette: Honourable senators, for the purpose of process, I also want to speak at third reading of this bill.

Honourable senators, I certainly want to voice my support in regard to what Senator Murray has just said. This bill is not focused. There is no real attempt to target the people who need it

most. Actually, this bill accentuates the difficulties that exist right now from community to community, province to province, in regard to economic development.

I wish to remind honourable senators that in February 2006, the past federal government had already identified the seriousness and the crisis in the forestry industry and had put $1.5 billion in its November 2005 budget. When the current government came into power in February 2006, it cancelled that program.

Again, to increase the difficulties of the forestry sector, they negotiated — without having received from the voting process in the January election support to negotiate — a new deal with the U.S. The platform of this government in regard to softwood lumber was to maintain support through the court process for the Canadian forestry industry. Instead, a deal was negotiated on quota that removed our ability to help Canadian forestry manufacturers.

I have said that. I said that in April, May and June 2006. In this chamber, I have said exactly what we are facing now. However, the current government did not believe me. They did not follow the promise they had made as part of their political platform to the Canadians who depend on the forest industry for their livelihood. They left $1 billion in the hands of American foresters; and that $1 billion was not government funds — that was money coming directly from our manufacturing forestry sector.

It is now $2.5 billion later and we have a proposal that has no concept. It is a cop-out to deal with the problem that the government had promised to deal with in January 2006. This is a cop-out. The federal government has all the means — through Statistics Canada and Employment Insurance — to know, community by community and almost street by street in those communities, the workers who are being affected.

Instead, last night, the Minister of Finance said that it was too long a process to have a back and forth discussion between officials from the federal and provincial government to establish which communities were affected, and how many.

Honourable senators, my area of New Brunswick has an unemployment rate of over 17 per cent. Most of northern New Brunswick is at that same rate. Alberta has probably 4.5 or 4.6 per cent unemployment, and Alberta will be getting $104.3 million.

I wish to reiterate the fact that the growing crisis that has been accentuated by the current government in the forest industry by their different policies and actions is being treated very differently in regard to crises that could have — not even have, but could have — happened in different industries.

For instance, almost $754 million was granted to the auto industry in order to ensure that there would be no problem. The auto industry is not a national industry; it is a specifically regional industry, just like the aerospace industry is also very local in operation. For the textile industry, there are some companies here and there across the country, but they are very limited in comparison to what is happening in Montreal. The federal government, in order to deal with the crisis that was happening in the textile industry, put together a program for that industry — to help the workers and investors in that industry become more competitive.

• (1500)

Honourable senators, we were all supportive of the beef industry in Western Canada when they were facing the BSE crisis. We were supportive of Toronto when they were facing the SARS crisis. We also witnessed, in the last budget, millions of dollars invested for public transit. There is no public transit in the small, rural forestry communities. They did not get one penny from that program either.

As we are talking about the forestry industry and small towns, we will develop a national program where the biggest economic growth province, Alberta, will get $104 million, and British Columbia, which we are helping with the Olympics, will also get help with the seaport. Come on. When it is time to look at people living in Northern Ontario and northern Quebec and northern and rural New Brunswick, and a little bit in rural Western Canada, we need a national program because we do not know where these people are. We cannot find them, and it would take too much time for the provincial and federal officials to see where they are. By golly, honourable senators, give any committee of the Senate a week, and we can identify all of them.

I am not happy because of the policy direction, the lack of concept and the lack of target when it comes to certain Canadians in comparison to others. As a francophone from New Brunswick, I can certainly detect when those kinds of policies are on the horizon. We have witnessed them for a long time on many other issues.

Honourable senators, we have a phantom of a concept in this bill. There is no container, per se, because there is no trustee set up. Nothing is set up. The content is $1 billion and a spin from a government that says it is supposed to target the affected communities and workers, but the reality is that it is not addressing that.

Senator Murray says this is a slush fund, and I agree with him that it may be a slush fund for the provincial premiers because there is no concept and no real target. Most importantly, Canadians were depending on this for a future for them, their community and their industry. Bill C-41 does not provide any kind of hope for those communities.

Actually, I should correct that. It does provide hope. The hope it provides is hope for the current Prime Minister, Mr. Harper. In the next few months, he is hopeful of entering into an election campaign and into different provinces and communities and he will say to all of them, "Hey, we just allocated $1 billion, and one community will get infrastructure, and another community will get job training, and another community will get biofuels. Just ask your provincial premier because we gave them the money."

That is the way the Canadian federation has been run for the last two years. Hopefully Canadians will see through that.

Hon. Tommy Banks: Honourable senators, I have the temerity to admonish all of us, in this or any other considerations, to not cast one part of the country or one province of the country against another. It is unwise to do that.

Senator Segal: Hear, hear.

Senator Banks: Industrial Ontario and beautiful British Columbia and supposedly rich Alberta are not monolithic. They are large provinces in which there are many segments of industry and many segments of different population to which the stereotypical monolithic understandings and descriptions simply do not apply. What goes around, comes around, honourable senators. That has always been the case in this country. It happens to be someone's turn at the moment, but those turns change. The nature of this country changes. The fundamental nature of this country, in this of all places, should take that very much into account.

With respect to the bill before us, the only word I can think of that would apply to the situation that Senator Murray has described is dismay. I do not know how it is possible that the House of Commons and all of the parties, including members of my party and others in the House of Commons, have agreed to the procedure that Senator Murray described, which appears to have happened.

Speaking personally, I can only tell honourable senators that I think the worst thing that the Government of Canada ever did and that Parliament agreed to was the removal of the strings attached to transfer payments and the making of block payments, never mind what they will be spent for, to the provinces. It caused us problems that have come back to us and will continue to do so as long as we are here dealing with questions, most importantly, with the health care system. When we removed those strings, those circumscriptions of the transfer payments, we wrote into the business of Confederation a problem that will survive all of us because it will never be solved. This is a perpetuation of the same problem.

I hate to give political advice, something I am not qualified to do in any event, to anyone, let alone to the present government, but this is a poison pill. Expectations have been raised by workers and in segments of the economy of this country that assistance will get to them. In the descriptions that have been read into the record by Senator Murray and were given in the examples of the press releases from the two provinces which have so far concluded — if it can be called that — an agreement under this bill, it is a sieve. It is, as Senator Murray correctly characterized it, a slush fund.

One can only hope that the good sense and good offices and basic morality of the provinces will apply the money where it ought to go, but that is a pretty forlorn hope. I would hope that the government, in the time between now, if we pass this bill, or when we do, and the time it actually comes into place and when the trust instrument is established and the trustee is named, will have second thoughts about this and put some strings on this money and will insist upon some kind of assurance from the provinces that they will put the money where the Canadian people expect it to be put. If they fail to do that, they will have handed us a very handy instrument in the coming election.

• (1510)

The Hon. the Speaker *pro tempore*: Do any other senators wish to speak before I recognize the sponsor of the bill? Senator Brown, do you wish to speak?

Hon. Bert Brown: Yes, Your Honour.

Honourable senators, I would like to point out that the strings that have been referred to that used to be tied to funds from the federal government were what brought this country very close to the brink of separation.

Hon. Joseph A. Day: Honourable senators, as Chair of the Standing Senate Committee on National Finance to which the bill was referred, and which reported the bill back without amendment, I thought I would take some time to explain some of the information that we obtained last evening. I will take this time especially since this bill arrived here only yesterday, after no debate in the other place. This bill arrived with very little information for us, before we began hearing the witnesses last evening.

Certain documents were produced that gave us somewhat of a better understanding of the initiative that is undertaken. This information is reflected in the news releases and in Bill C-41. With honourable senators' permission, I would like to provide you with two documents that have been referred to in debate. It is difficult in such a short time — in particular, since you have not had them beforehand — for you to understand. With the permission of honourable senators, I would ask the pages to pass out these two documents that were produced to the Finance Committee last evening during the hearing.

The Hon. the Speaker *pro tempore*: Do you agree, honourable senators?

Hon. Senators: Agreed.

Senator Day: Thank you, honourable senators. I will begin as the documents are being passed out because I will not deal with the documents immediately.

The first bit of information I should like to give you is that this initiative started on January 10, based on a letter from the Prime Minister to each of the premiers of the provinces and territories explaining the initiative that he was about to undertake in relation to the Community Development Trust. That gives us the first bit of background.

Honourable senators, from the very beginning there was discussion of an effort to assist communities most affected by changes in the global economy. Senator Murray referred to that backgrounder earlier and noted that a trust would be created aimed at single industry towns facing major downturns or regions hit by layoffs across a range of sectors.

It is very difficult — in fact it would be foolhardy for any of us not to support that general basic strategy and purpose. The background document refers to towns that are heavily reliant upon one employer and notes that it is not uncommon to find that kind of situation in many Canadian towns. That is very true. We can find that situation throughout Canada in provinces like Alberta and Saskatchewan and in Prince George, British Columbia, which has been hit terribly by the pine beetle and by a downturn in the industry. Many people in British Columbia are out of work.

Honourable senators, as we go on in the documentation, and if you look at the bill itself, you will find that there are no restrictions or parameters as to where this money will go. That

was our concern and we asked about the agreement with the provinces. We asked how far does the funding flow? We received the information just last evening in committee.

Let me read some of the words contained in Bill C-41, because I think it is important for you to understand the wording of it. You should now have the bill before you. It states in part that ". . . at the times and in the manner that the Minister of Finance considers appropriate." may transfer the money. That money would be transferred to a trustee. That is a commercial company. There are a few commercial companies that would administer this money according to an agreement between the federal government and that trustee. Last night, at the committee hearing, we asked to see the document and we were told that the document had not been prepared. We were told that they had not gone to tender yet. I then inquired as to the terms that would be included in the document and the committee heard that the terms would be the same terms found in the news releases.

Honourable senators, as Senator Murray pointed out; the news releases are extremely circumspect and very broadly worded. The first step is that the money goes from the federal purse and it has to be committed, or booked, before the end of March in order to be part of the surplus for this year. We understand that step; however, the Auditor General has also pointed out that once it is booked, the federal government thereafter has no control over that money. This is supposedly a three-year program. Who will provide the parameters as to how this money will be used? How do we know it will go to the communities that actually need it? You try to follow through on this and they say, "According to the trust agreement," which they cannot show us yet, that will be reflective of some news releases that are completely general.

The minister then directed the committee to the news release from Saskatchewan that he had just given us. I asked the mister about the contract. As asked, how would we know that the money would go to communities in need? I asked about the economic factors. How do we know Prince George will get this money and not downtown Vancouver or Victoria? It might be nice to transfer some money to British Columbia, in an unrestricted way, and say that this is the equalization, this is the money that we would like you to have, use it to raise the general standard of the people in your province.

Honourable senators that is not how this program has been sold. This bill is not part of equalization. This is supposed to be a program directed toward communities that are hard hit by the downturn in the international economy.

As I said earlier, I acknowledge that there are small communities throughout this entire country in that situation. I have given you the news release of January 17, which refers to Saskatchewan. This news release is the contract. I asked the minister about the contract and he said that the news release is a binding document that will define the relationship. Have not we heard this government say that news releases do not define any relationships? However, in this case, a news release is a binding document, we are told.

If you now look at the contract with Saskatchewan, just before the bullets, it says "Including." In any contract when you use the word "including", it means, "not excluding other things." Those "other things" are not here, so they could be any one of a number of things. These are just some of the areas where the Government of Saskatchewan may like to spend the funds. There is a quote from the premier that states:

> "While the Saskatchewan economy is strong, there are sectors and regions that can definitely benefit from strategic investment from the federal government," said Premier Wall. "We want to see the current economic boom being experienced in this province turned into long-term prosperity and growth for all Saskatchewan people."

• (1520)

That is absolutely wonderful politics and a wonderful statement.

The Minister of Finance talked about his father working in a plant in Dalhousie, New Brunswick, when he was growing up. That plant is now closed. Over 1,000 workers who live in a community with no other business than that paper mill are out of work.

We would love to see Saskatchewan's current boom enhanced, but this program was not sold on enhancing current booms. This program was sold to the people of Canada to help those communities in dire straits. In Dalhousie, Campbellton — I am just on the north shore of New Brunswick — Bathurst, Miramichi, 17 sawmills are all closed, as are the paper mills I named earlier, closed in the last two years. New Brunswick the province with which I am most familiar.

We are not looking to enhance the boom. We are worried about people who do not have enough to eat. That is how this program was sold to the Canadian people. That is not what is taking place with the documentation that is before honourable senators.

Honourable senators, look at this bill. Look at the preamble. The preamble, as honourable senators know, does not have the force of law. It really should not even be here. This is like a resolution. It reads "Whereas. . . Now, therefore. . ." It is a resolution rather than a law that is put in the form of a bill. Looking at clause 1, the Minister of Finance can transfer funds in a manner and at times that he considers desirable under the terms of a trust indenture, establishing the trust, which we are told will look something like a news release that we have not seen.

We have had exposed to us now part of what will be in the trust indenture. It will be this document or a reflection of the document that I had produced last evening, and I have submitted that. As Senator Stratton said, in answering questions yesterday, that document provides for $10 million for each province and $3 million for each territory, the amount of $109 million; $10 million per province is without looking at the figure per capita. Then you look at the per capita transfer. This is the same debate that we have had previously when we were looking at health transfer and social transfer, moving to per capita based on this government's policy and how it will impact on the have-not areas of Canada.

With respect to the areas suffering the most in Canada with respect to a downturn in the economy, let us say that there are three communities in Northern Ontario that are hit hard. That province will do really well because those three communities happen to be in the same province as Toronto and Hamilton. On a per capita basis for the whole province a tremendous amount of money will be transferred, even though the same number of communities might be affected. Surely there must be a way, when

we are trying to direct this help to the areas that need it, that we could define on a per capita basis, if that is the government policy, the region and the population of the region as opposed to looking at the population of the province and then saying, "Province, you get this money because of the size of your province, irrespective," like Saskatchewan, "of how much you are in dire straits and how much you can afford provincially, because of the resources you might have, to handle a downturn in one particular industry. If you cannot handle it, we are pleased to be there to help, and that is the Canadian way."

We are getting away from the Canadian way, and we are getting into the federal government's ability to transfer funds, but transferring them on a per capita basis rather than looking at need — but we are talking need. We are pretending that we are doing this based on need, but we are not following through with that in this legislation.

I want honourable senators to understand that the effect of this particular bill is basically a per capita transfer using spending powers by the federal government. There are no economic criteria for the provinces. They can use it for whatever they want and they do not have to look at communities that are in dire need. The effect of this is just a straight, unobligated transfer on a per capita basis of the money.

Hon. Terry Stratton: Honourable senators, Senator Day was very selective in his comments. For example, there was a similar press release for the Province of New Brunswick that he did not read. I think Senator Day has a very selective memory.

Let us go to the fundamental principle of this bill. The bill is identified to help the consequences of the downturn in the economy, particularly from the United States, to those areas affected. There are many areas that are affected, not just in New Brunswick and parts of Saskatchewan, although Saskatchewan was hit in the cattle industry as well, as has Alberta. Alberta has the problem with forestry, as does Saskatchewan and British Columbia, and Manitoba has the problem with forestry as well as that of too many cattle and hogs. Hog plants are being shut down all over Manitoba. There are too many cattle in the Western provinces and in the country, and the ranchers are in trouble.

How does one specifically identify when there are such different problems across the country? There is the problem of manufacturing in Ontario and Quebec, and the forestry industry in New Brunswick. Look across the country. How does one narrowly define and help those areas, without being in conflict with the World Trade Organization and NAFTA? Remember those organizations, they are fundamental to this discussion. The government's approach was to help each province or region to develop ways and means of improving the economy for the future. That is really what this bill is all about. If honourable senators read the press releases of those two provinces, it is clear that is the essence of what this bill is.

I am glad Senator Day gave the formula for distribution of funds, whereby each province received $10 million and each territory $3 million, and the balance on a per capita basis distributed over three years, because it is fairly simple and lays it out in such a fashion that we can move ahead without getting too specific, because of the problems unique to each province and each region in the country.

The honourable senator says the agreement is by press release and there is no accountability, but the agreement was explained by the minister and deputy minister that the accountability for the funds flowing to the provinces is through the provincial legislatures and by the voters in that province. That is the accountability. The government of each province must account for how that money will be spent.

• (1530)

Therefore, it is quite clear how this money flows and why it flows. The other aspect is the sense of urgency. We need to remember that. This money needs to flow quickly. Delaying this bill delays the flow of the money. The urgency is there to address this matter now, not next week, not the week after, but now, so that the money flows. There are two agreements already: Saskatchewan and New Brunswick. Why then would we not want that money to flow?

I remind the Honourable Senator Banks that the country is not monolithic. It is unique in each region, and each region has its own specific problems. That is what this bill tries to address. I urge the passage of this bill.

The Hon. the Speaker *pro tempore***:** Will Senator Stratton accept a question?

Senator Stratton: No, thank you, not today.

Senator Banks: On a point of order**,** honourable senators, just by way of information, Senator Stratton has referred to a document, namely, a release from the Province of New Brunswick. When he was speaking, he referred to a document, a press release from New Brunswick. Would it be possible, since he has referred to it, for it to be copied and distributed to us?

Senator Stratton: I am sure Senator Day has it there.

Senator Banks: It has been referred to in debate. I would think it would be appropriate that we should look at it.

Senator Stratton: Ask Senator Day; he is sitting right next to you.

The Hon. the Speaker *pro tempore***:** Is the house ready for the question?

Hon. Senators: Question!

Senator Banks: I did raise a point of order. Has Your Honour ruled on it?

The Hon. the Speaker *pro tempore***:** Is the honourable senator asking for the document? Is that the point of order?

Senator Banks: I may be wrong, but I recollect that when documents are referred to in debate, it is normal or conventional or something that they be distributed for members to see. Maybe that is wrong, in which case Your Honour can tell me.

Senator Stratton: For clarification, I said that Senator Day chose not to submit that document, and I found it curious that he did not.

The Hon. the Speaker *pro tempore*: Honourable senators know that we need leave to have a document tabled in the chamber and Senator Day did ask for leave for that document, but there is no one who asked leave for the other document that Senator Stratton mentioned in his speech.

Senator Day: Perhaps I could clarify, since my honourable colleague, Senator Stratton, found it curious. What I tried to do — and I of course had to ask for permission — was give documents that had been referred to in speeches before mine and then I used them. If all honourable senators would like to have the other documents that were produced last evening, including a draft and a background document and a draft letter that went out to each of the premiers, and the press release-come-contract for New Brunswick, I would be pleased to have those distributed for honourable senators' future reference. If honourable senators wish to delay the vote until we had those I would be pleased to do that.

The Hon. the Speaker *pro tempore*: What is the wish of the house; to delay the vote?

Hon. Senators: No.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Has there been a motion to move third reading? Has it been moved?

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

Motion agreed to and bill read third time and passed, on division.

IMMIGRATION AND REFUGEE PROTECTION ACT

BILL TO AMEND—SECOND READING

Hon. David Tkachuk moved second reading of Bill C-3, An Act to amend the Immigration and Refugee Protection Act (certificate and special advocate) and to make a consequential amendment to another Act.

He said: Honourable senators, I want to first thank all members for giving leave yesterday to move Bill C-3 forward. I know that some senators had some problems with the fact that we would like reasonably speedy passage of this bill to meet the deadline of February 23. That is something over which we do not have much control in the Senate, and often, when I was in opposition, I used to complain of the same things, but sometimes we have to roll up our sleeves and get to work and meet some deadlines.

Honourable senators, Bill C-3 is proposed to amend the Immigration and Refugee Protection Act, and it will have a direct impact on our ability to continue protecting Canadians from a very specific threat, that of persons who are inadmissible to Canada on grounds of security, serious or organized crime, human rights abuses, or spying. This is a pressing matter, and the decisions taken on this bill will greatly determine how we are able to meet with threats to our national security as we go forward.

Bill C-3 is part of our effort to build a strong and resilient Canada founded upon the core values of freedom, democracy, human rights and the rule of law. The vast majority of immigrants who come to our land do so to provide a better life for themselves and their families. Our doors are open to these fine people and we value the phenomenal richness they bring to our society. However, others come to Canada to pursue illegal activities, to recruit others to the cause, to harm Canadians or to escape justice in their country of origin. In specific and rare circumstances, we employ security certificates to deal with these individuals who pose a risk to Canadians.

I will make the case today for security certificates. I hope to help honourable senators better understand the importance of this legislation and encourage them to take expedient action to help pass this proposed legislation through Parliament.

The reason that this matter is pressing is that the Supreme Court issued a decision on security certificates last year and set a deadline for Parliament to modify these measures by February 23, 2008. Bill C-3 was introduced in the House on October 22, 2007 and spent three and a half months there. It has been thoroughly studied and if we in the Senate fail to act in a timely fashion it will have serious implications for Canada's security.

If the deadline expires, upon application, persons subject to a security certificate could have their certificates quashed. This means they could no longer be held in detention and could not be subject to any condition of release. This could be disastrous given the nature of the threats these persons represent.

Certificates have been used sparingly since their inception. Out of the approximately 95 million people who come to Canada every year, including tourists, businesspeople, students and roughly 260,000 new immigrants, and even amongst those who have been deemed inadmissible to Canada since the legislation first came into force, only a small number of people have been subject to security certificates.

These people are inadmissible on the grounds of security, serious crime, or organized crime, terrorism, spying, or violating human rights. It is important to note that these reasons alone do not automatically lead to the use of a security certificate. In fact, they are only used in cases where the inadmissible person poses a threat to the safety of Canadians. As well, the grounds for inadmissibility are based on confidential information that must be protected.

As a first step in a security certificate process, two ministers, the Minister of Public Safety and the Minister of Citizenship and Immigration, must review the case before considering whether or not the certificate should be issued against the person. If a certificate is issued, the case is brought before a federal court judge to see if the certificate is reasonable. If the court determines that the certificate is reasonable, it becomes a removal order. Pending possible removal from Canada, the subject of a certificate may be detained or released on conditions if a judge so orders. If a person asserts that removal from Canada would subject them to harm in their country, they may apply for a review.

This is called a pre-removal risk assessment, or PRRA. This is the current process.

• (1540)

We all know why Bill C-3 has been introduced. The Supreme Court of Canada upheld the security certificate generally but ruled that certain aspects of the process are unconstitutional. However, it is important to be clear about the Supreme Court of Canada's ruling. It recognized that one of the most fundamental responsibilities of a government is to ensure the security of its citizens. The court went on to indicate that protecting Canadians may require acting on confidential information that cannot be disclosed for reasons of national security or public safety.

It is not realistic, in a national security context, that a person subject to a security certificate can be privy to all the evidence against him when his case is presented in court. Even so, decisions to keep information secret are not taken lightly; they are carefully weighed. While secrecy will always be needed to investigate national security matters, it does not mean that we do not have a responsibility towards protecting a person's rights, and this basic premise lies at the heart of Bill C-3.

One of the most important aspects of Bill C-3 is the introduction of a special advocate into the process. This special advocate will have access to all information before the court and will protect the interests of the person subject to a certificate during the closed hearings. This special advocate may challenge the minister's claim to the confidentiality of information, as well as its relevance and weight. He or she should also be able to make written oral submissions to court and cross-examine witnesses.

The special advocate would be able to communicate with the person who is subject to a security certificate without any restrictions before he or she sees the confidential information. At that time, the special advocate would have the benefit of an unclassified summary of the case to discuss with the subject. This will substantially assist the special advocate in preparing for the closed proceedings.

Once the special advocate has seen this confidential information, certain communication restrictions come into play. However, even after having been made privy to the confidential information, the special advocate could apply to the judge for permission to communicate with the subject of the certificate. If the request is granted, the judge could impose conditions, such as to communicate only in writing to avoid the inadvertent disclosure of any information.

In addition to the special advocate, Bill C-3 also proposes a series of other measures that directly address the ruling of the Supreme Court of Canada and recommendations made by parliamentary committees, including the Special Senate Committee on Anti-terrorism. For instance, foreign nationals will now have the same detention review rights as permanent residents: That is to say they will be entitled to an initial 48-hour detention, review by a judge of the Federal Court, and this will be followed by ongoing six-month reviews thereafter. Because of the Supreme Court ruling, this change was effective last winter. Bill C-3 would enact this new practice into the Immigration and Refugee Protection Act.

Furthermore, under the current provisions of the Immigration and Refugee Protection Act, a privative clause exists. The privative clause provides that the decision of the designated judge with respect to the reasonableness of the certificate and the lawfulness of the application for protection — that is to say, the pre-removal risk assessment — may not be appealed or judicially reviewed. Recommendation 33 of the Senate committee reviewing the Anti-terrorism Act suggested repealing the privative clause. This draft bill implements this recommendation subject to a requirement for certification.

Bill C-3 would eliminate the privative clause and allow appeals from the reasonableness determination and from decisions on detention if a judge certifies a serious question of general importance. The requirement for the certification of a question of general importance is consistent with the way other decisions under the Immigration and Refugee Protection Act are appealed.

Another important change introduced by the bill concerns time lines and delays in the process. To streamline the process, the bill would allow for concurrent processing of the reasonableness proceeding before the Federal Court with the risk assessment process. Currently, when a security certificate is issued, it is referred to the Federal Court to determine if the security certificate is reasonable. The individual subject to a certificate can also apply for protection from return to a country where they claim they would face harm, like torture or death. This is called a pre-removal risk assessment. As it currently operates, when a person applies for a pre-removal risk assessment, the court must suspend its hearing on the reasonableness of the certificate. This arrangement has caused delays.

Bill C-3 proposes to do away with the suspension of the reasonableness hearing. It provides that the court may review the reasonableness of the certificate concurrently with an assessment on whether the person can be returned to their country of origin. The court's judicial review of the risk assessment can then take place outside of the certificate process. This approach seeks to limit the potential for significant delays that have resulted from the current arrangements.

Finally, Bill C-3 proposes transitional provisions that would allow for cases in progress under the current legislation to recommence under the new legislative regime if new certificates are signed by ministers. The transitional provisions are designed to ensure appropriate and ordered change from the old legislation to the new and would provide the benefits of the new legislation to individuals subject to a security certificate. If a new certificate is issued, the case would be referred afresh to the court to determine the reasonableness of the certificate, and special advocates would participate in the new court proceeding.

Detained individuals would continue to be detained and would have the right to apply for new detention reviews with the benefit of participation from a special advocate. Similarly, cases before the Immigration and Refugee Board where confidential information is relied upon would also benefit from the special advocate provisions. These measures would support the constitutionality of the process.

The House of Commons Standing Committee on Public Safety and National Security modified Bill C-3 to provide for added protections for persons subject to security certificates. The Standing Senate Committee on National Security and Defense also set out their criteria for the appointment of a special advocate. The individual must be a member in good standing of the bar of the province, must not be employed in the federal

public administration and must not otherwise be associated with the federal public administration in such a way as to impair their ability to protect the interests of the person subject to the security certificate. As well, when a judge appoints a special advocate, he or she will have to consider the preferences of the person subject to the certificate.

When a person subject to a certificate requests that a specific individual be appointed as a special advocate in their case, the judge will have to appoint that person unless satisfied that the appointment would unreasonably delay the proceeding, place the individual in a conflict of interest, or would create a risk of inadvertent disclosure of information or evidence that could harm national security or endanger the safety of any person.

In an effort to make this process as effective as possible, the committee also added an amendment that would require the Minister of Justice to ensure that special advocates are provided with adequate administrative support and resources. Although the bill states that a person subject to a certificate does not enjoy a solicitor-client relationship with the special advocate, an important amendment was made by the committee. The change states that the communication between the two individuals is to be protected as if a solicitor-client privilege existed between them. The amendment also states that the special advocate is not a compellable witness in any proceeding. This change further protects the interests of both individuals.

Finally, the committee added a clause to the bill that specifically excludes from evidence all information that is believed, on reasonable grounds, to have been obtained as a result of torture as defined by the Criminal Code, or cruel, inhuman or degrading treatment or punishment within the meaning of the Convention against Torture.

I strongly believe, honourable senators, that Bill C-3 meets and exceeds the requirements of the Supreme Court of Canada's ruling on security certificates. The government is proceeding in a way that allows for the continued use of this vital national security tool while better protecting the rights of individuals subject to security certificates.

I trust that honourable senators, without undue delay, will carefully study this bill. I hope they will conclude that it is in the best interests of Canadians to see that it becomes law before the existing legislation expires on February 23, 2008.

• (1550)

Hon. George Baker: I will be very brief in responding to the honourable member's address in which he clearly outlined the government's position and what is in this new piece of legislation.

First, I will outline briefly what the Supreme Court of Canada said about this legislation, or the former legislation, and why we need this new legislation. Then, briefly, I will say what the experts say.

Let me preface my remarks by noting that yesterday a foremost authority on this subject, a well-known university professor, said this in the media:

> With luck, C-3's deficiencies will be resolved by the Senate when the bill reaches that chamber, and not left to be fixed in a second round of constitutional litigation.

Let me get back to the bill. It is unfortunate, honourable senators, that we are being inundated in this place with unreasonable demands to rush things through. The chamber of sober second thought is expected to behave like a bunch of not sober but drunk drivers, going over the speed limit to rush through legislation.

We are told today of a resolution in the House of Commons giving us until the end of the month to conclude a piece of legislation that came to this place at the end of November, went through first and second reading in the first two weeks of December, and came back into this house after the Christmas break. Now we are being given until the end of the month.

Not only that but the motion before the House presumes that the opposition members will hold up the legislation and make major amendments. That is the presumption of the motion. The only people who have suggested that on the record were the representatives of the defence lawyers' associations from across Canada who made testimony before the committee this morning and said: Do not pass this bill. Major amendments are needed. Yet, the minister appeared before the committee and said there would be no significant amendment, and that the legislation must be put through before the end of the month.

Allow me to briefly run through why the experts are saying that we should think about doing something with this bill.

First, let us look at the decision of the Supreme Court of Canada made on February 23, 2007. It gave this place, the Parliament of Canada, one year. Eight months passed before the bill was introduced in the House of Commons — eight months of that year. Then the House of Commons had the bill for three and a half months. That is 11 and a half months, and the deadline is 12 months. We have a week in which we are not sitting before the deadline of February 23. Honourable senators, as far as procedural fairness is concerned, that is surely an abuse of process.

However, let us for a moment look at what the Supreme Court of Canada said in a decision rendered by the Chief Justice of the Supreme Court, and this was a unanimous bench. She said this:

> I conclude that the *IRPA* unjustifiably violates s. 7 of the *Charter* by allowing the issuance of a certificate of inadmissibility based on secret material without providing for an independent agent at the stage of judicial review to better protect the named person's interests. I also conclude that some of the time limits in the provisions for continuing detention of a foreign national violate ss. 9 and 10(*c*) because they are arbitrary.

Those are two distinct violations of the Charter of Rights and Freedoms. That was in paragraph 3 of the judgment. Then she goes on to say, at paragraph 4, which the mover of this motion will be interested in:

> Their purpose is to permit the removal of non-citizens living in Canada — permanent residents and foreign nationals — on various grounds, including connection with terrorist activities.

The honourable member has a bill presently before this chamber, and so does Senator Grafstein, involving this very subject, the definition of which has been struck down recently by the Superior Court in Ontario, for which permission has been refused to appeal to the Supreme Court of Canada. Therefore, these bills that the senators wish to introduce are of importance and should be dealt with expeditiously, or as soon as possible.

At paragraph 22 of the Supreme Court decision, the Chief Justice says, in one line:

> The issue is whether the process is fundamentally unfair to the affected person. If so, the deprivation of life, liberty or security of the person simply does not conform to the requirements of s. 7.

Then, at paragraph 43, there is another line:

> The law is clear that the principles of fundamental justice are breached if a judge is reduced to an executive, investigative function.

Then, honourable senators, at paragraph 53 and 54, she decides on one of the main questions. Under the heading: Is the "Case to Meet" Principle Satisfied? she says this:

> . . . a fair hearing requires that the affected person be informed of the case against him or her, and be permitted to respond to that case. This right is well established in immigration law.

Then she goes on to say the following:

> Under the *IRPA*'s certificate scheme, the named person may be deprived of access to some or all of the information put against him or her, which would deny the person the ability to know the case to meet. Without this information, the named person may not be in a position to contradict errors, identify omissions, challenge the credibility of informants or refute false allegations.

Of course, as honourable senators know, this right is firmly entrenched in our domestic law under a decision of the Supreme Court of Canada, called *Stinchcombe*, in which full disclosure must be given to a person charged. The person must know the case that he or she has to meet in order for the case to proceed.

Then, at paragraph 61, the Chief Justice says this:

> Fundamental justice requires substantial compliance with the venerated principle that a person whose liberty is in jeopardy must be given an opportunity to know the case to meet, and an opportunity to meet the case. Yet the imperative of the protection of society may preclude this.

Here is where the Supreme Court of Canada talks about qualifications on section 7, and she says:

> This is a reality of our modern world. If s. 7 is to be satisfied, either the person must be given the necessary information, or a substantial substitute for that information must be found.

Then, the Chief Justice goes on to the conclusion on section 7. She says:

> Yet, the secrecy required by the scheme denies the named person the opportunity to know the case put against him or her, and hence to challenge the government's case. This, in turn, undermines the judge's ability to come to a decision based on all the relevant facts and law. Despite the best efforts of judges of the Federal Court to breathe judicial life into the *IRPA* procedure, it fails to assure the fair hearing that s. 7 of the *Charter* requires before the state deprives a person of life, liberty or security of the person. I therefore conclude that the *IRPA*'s procedure for determining whether a certificate is reasonable does not conform to the principles of fundamental justice as embodied in s. 7 . . .

• (1600)

Justice McLachlin then starts an analysis of whether this violation of a person's rights are justified under section 16 the Charter. This is done quite often, as those honourable senators who read the case law will know. When provincial laws or highway traffic acts are passed in which there is a violation of someone's Charter rights, there is always an examination in the court of whether it will be saved by section 1 of the Charter. I will not go into that. The conclusion is that it is not saved by section 1 of the Charter.

The interesting part of this Supreme Court decision is that Chief Justice McLachlin proceeds, on behalf of the court, to deal with the alternatives. This is the key part of the judgment. A constitutional expert has said that with this new bill we have simply cut and paste from the British system. The Chief Justice references the British system as originating from and being grounded in the Canadian system.

Starting at paragraph 70 of this judgment, she deals with the alternatives, but where does she go? She does not go to foreign jurisdictions; she goes to the law in Canada and examples in Canada. She speaks of one example for several paragraphs. She says:

> The Security Intelligence Review Committee (SIRC) is an independent review body that monitors the activity of . . . CSIS.

She goes on:

> . . . SIRC had the power to vet findings of inadmissibility based on alleged threats to national security; a ministerial certificate could not be issued without a SIRC investigation.

Under the provisions of this proposed law, two ministers of the Crown sign a certificate. Under the original act, the certificate then goes to the Federal Court for the necessary hearings where the information is received and a judgment is made that the court believes is just under the circumstances, without allowing the accused the right to certain information that is determined to be not for public consumption.

About the SIRC procedure the Chief Justice said:

> Empowered to develop its own investigative procedures, SIRC established a formal adversarial process, with "a court-like hearing room" and "procedures that mirrored judicial proceedings as much as possible". The process also included an independent panel of lawyers with security clearances to act as counsel to SIRC.

In other words, there was a mini trial. Cabinet ministers were not allowed to issue the certificates, as they are under the law we are talking about, until there was a mini trial, held in secret, to determine whether the certificate is justified.

The Chief Justice then says, at paragraph 73:

> A SIRC member presiding at a hearing had the discretion to balance national security against procedural fairness in determining how much information could be disclosed to the affected person.

Imagine how important that is in the consideration of this bill. The presiding member had the discretion to balance national security against procedural fairness in the determination of whether the information would be disclosed.

She continues later:

> If the judge concludes that disclosure of the information would be injurious to international relations, national defence or national security, but that the public interest in disclosure outweighs in importance the public interest in non-disclosure, the judge may order the disclosure of all or part of the information, on such conditions as he or she sees fit.

She continues:

> No similar residual discretion exists under the *IRPA*.

The court concludes with this sentence:

> Mechanisms developed in Canada and abroad . . .

— although she only references the United Kingdom, which she says originated from Canada, or they claim it does —

> . . . illustrate that the government can do more to protect the individual while keeping critical information confidential than it has done in the *IRPA*. Precisely what more should be done is a matter for Parliament to decide. But it is clear that more must be done to meet the requirements of a free and democratic society.

Chief Justice McLachlin then gives us a year to draw up this new act.

The new act is as the honourable senator described it when he spoke a few moments ago.

Justice Noel is on the Federal Court of Appeal and deals with matters pertaining to the definition of terrorism activity and matters in connection with the Attorney General being sued or challenged by someone who is the subject of any of the terrorist provisions that we passed.

In the *Arar* decision of July 24, 2007, Justice Noel of the Federal Court used the definition put forward by Professor Craig Forcese for "national security". Professor Forcese said yesterday that the system in this bill is a cut-and-paste job of the special advocate used in the United Kingdom.

He went on to say:

> Thus, there will never be a case in which that person can inform a special advocate that the government's chief witness (say, a secret detainee interrogated by an allied intelligence agency) has a personal animus prompting him to fabricate a story. For this reason, issues of credibility — the meat and potatoes of a fair trial — cannot be effectively raised by advocates. . . .
>
> Indeed, a British parliamentary committee has called the system "Kafkaesque."

That is from Franz Kafka's book *The Trial*, in which he was charged with an offence but was never told what the offence was, and he could get no disclosure from anyone regarding the offence. I realize the Speaker has read that book many times.

Professor Forcese said that two key complaints deserve consideration. He said:

> There are better systems, including one in Canada: the Security Intelligence Review Committee process. SIRC adjudicates complaints against the Canadian Security Intelligence Service . . .

He goes on to explain that and he concludes with this statement, which I quoted at the beginning of my remarks:

> With luck, Bill C-3's deficiencies will be resolved by the Senate when the bill reaches that chamber, and not left to be fixed in a second round of constitutional litigation.

• (1610)

Honourable senators, I think we need to send this off to the committee as soon as possible. We need to ponder hard as to what the solution should be because I do not think we want the country to be left without legislation that performs the function that the government, the Parliament of Canada and the Supreme Court of Canada has adjudicated as being perhaps needed and perhaps fair.

We must be very inventive over the next couple of days in meeting the challenge before us.

Hon. Serge Joyal: Honourable senators, I would like to add a few remarks to those of my two colleagues, Senator Tkachuk and Senator Baker, on this very specific issue of the security certificate.

I want to remind honourable senators that we are dealing with a very sensitive issue here. On one hand, we are trying to maintain the objective of promoting a safe and secure society and, on the other hand, we are trying to protect the safety and freedom of citizens who may be perceived as a security threat.

The bill we are asked to consider today, as the honourable senators have said, in less than four sitting days has lingered for three and a half months in the other place. It is somewhat unfair to this house. It is unfair because for two years, from December 2004 to February 2007, for a full two years, a special committee of our house has been studying this very issue of reviewing the anti-terrorist legislation package we have in Canada and trying to come forward with a way to improve it in order to serve both the objectives of security as well as the rights and freedoms of its citizens.

It is somewhat unfair, honourable senators, because when I look into the report of the committee that I have at hand, that committee sat — I am making a quick and rough calculation here — for two years and held 41 sessions, all of them on Mondays, a day of the week our chamber does not sit.

The committee heard 140 witnesses, and among those witnesses were leading experts from the highest universities of the land — and I do not want to mention names because there would be discrimination implied in the fact that I am naming one instead of another — representatives of the major police forces of the land and all the representatives of these various security agencies. The committee came forward with 40 recommendations in February 2007, a year ago today, according to the calendar on the table.

Of those 40 recommendations, 10 specifically addressed the issue of the security certificate. In fact, 25 pages of our report of 100 pages are devoted to the discussions and rationale underlying those 10 recommendations.

Honourable senators, I mention this because this issue was, during the same time, the object of a trial in the highest court of the land, the very specific decision that my colleagues, Senator Baker and Senator Tkachuk, mentioned, that being the Supreme Court cases with respect to *Charkaoui*, *Harkat* and *Almrei*. The Supreme Court came to its conclusion at the very moment that our committee tabled its conclusions.

Honourable senators, guess what happens when you try to — I will use a carpenter's expression — dovetail the conclusions of those two sources of expertise on that very issue, a unanimous decision of nine justices of the Supreme Court and the nine members of our committee that sat for two years? Honourable senators, there is a similarity of recommendations on our part and a decision on the other part that is surprising.

It is all the more shocking that today, in less than four days, we will be asked to accept this bill because now the clock is ticking. We would have all the capacity of that committee in this chamber, the very same members minus two: Former Senator Lynch-Staunton was the deputy chair of the committee in 2005, at the beginning of the hearings, and former Senator Kelleher, who was the former Solicitor General of Canada and who contributed very directly to our work.

We had developed the expertise to be able to review the essential principles involved in this bill. Senator Baker and Senator Tkachuk have clearly stated which principles are at stake.

The first principle is the right to a fair hearing. If you say to someone, "You are guilty of this, so we will imprison you for an unlimited, indeterminate period of time, forever, without you knowing the reasons you are deemed to be a threat to the security of our land," if you have ever read the Charter, you can see there is something wrong with that statement.

It is impossible in a free and democratic society to take a foreign national who wants to be admitted to Canada — or a permanent resident of Canada — into custody forever without the person being informed of the details and the elements that conclude they are a threat to security.

It appears that as much as we must protect the security of Canada, so too should we be concerned about what is fair to a fair-minded person. That is why the title of our report is *Fundamental Justice in Extraordinary Times*.

Honourable senators, the preoccupation we have and developed is, in my opinion, well understood when you put the issue of security certificates into the right perspective.

Since 1991, 28 certificates have been issued, 19 of which have led to deportation. Three were challenged in court in procedure and found unreasonable. One was reissued.

Presently, as we discuss and debate this bill, there are six persons who are the objects of a security certificate. Three of them are the appellants in the decision of the Supreme Court. The other ones are caught in litigation. Some of them are at the Federal Court and some of them are still at the Supreme Court.

As a matter of fact, and I say this according to the principle of our conflict of interest code, my brother, who happens to be an attorney for the Department of Justice, was in the Supreme Court last week on this very issue of security certificates. I want honourable senators to take that as a declaration of interest, if it is misinterpreted in some people's minds, that I have an interest in intervening on that very issue.

The Hon. the Speaker: Honourable senators, Senator Joyal has made a declaration of private interest regarding Bill C-3. In accordance with rule 32.1, the declaration shall be recorded in the *Journals of the Senate*.

Senator Joyal: The reason I am so convinced about the approach the Senate has taken in relation to this is because the Senate has considered, aside from the issue of the security certificate, 12 other issues related to national security that should be reviewed.

Let me provide honourable senators with some examples that have direct bearing on this legislation. The first one deals with the definition of terrorism.

• (1620)

The second recommendation in the committee's report is to remove from that definition the element of subjectivity that currently exists in the decision for political, religious or ideological motive. We made that recommendation one year ago, and expected at that time that there would be proposed legislation to that effect because it has a direct bearing on the certificate itself. If we find that political, ideological or religious motive should not be an object of investigation to conclude the presence of a security threat, then it should not be part of the certificate itself.

Unfortunately, this bill does not contain a proposal to review the definition of "terrorism." Honourable senators, not only has your committee concluded that but also a Federal Court in Ottawa came to the same conclusion in a decision last year. We did not know what the decision of the court would be because, of course, we were not privy to the deliberations of the judges and we did not intervene in the court to try to plead some position or argue on some basis of fact or motive. We recommended the review of the Canada Evidence Act in four recommendations. In Bill C-3, there is only one change, which is a consequential change and not a substantive change.

Honourable senators, one of the last key recommendations we made was the establishment of a standing committee of the Senate to ensure that we maintain the expertise of senators in reviewing government responsibility in respect of security in Canada. That recommendation was likely the easiest one on which to achieve consensus. The Speaker of the Senate was a sponsor of such a proposal because we know there has to be a monitoring capacity. We know the danger and risk that underlie activities of spying, intelligence, surveillance, denunciation and fabrication of proof, as Senator Baker mentioned, when you rely on foreign intelligence. We do not control how foreign intelligence is done. I do not want to name any countries so as not to be thought of as discriminatory or arbitrary. However, there is no doubt that those are the facts. When you read the names of the six people who are the subject of a security certificate, you can reasonably entertain some doubts.

Honourable senators, this bill does not contain any provision whereby we would improve the capacity of Parliament and the Senate to ensure that the proposals put forward are monitored by the government with the best intentions in the world, and I do not question the intentions. The system put forward might work; there is no question about it. It contains good, sound principles. However, there are other aspects of the bill that need to be identified as potential weaknesses.

Honourable senators, we know that the deadline is February 23, and we do not want to create problems in the court. As I mentioned, many are already in court while we debate those issues. We are aware of the sensitivity of the issue. We do not want to prevent this bill from being adopted but we must remain conscious of the way in which we will express our continued responsibility to maintain the objectives of security and the principles of fairness, rights and freedoms in the way that this chamber has always been able to do.

Honourable senators, the committee will have to reconcile those elements in its quick consideration of the bill. I hope that those senators who have participated in the study of the report that we released last year will be available to put their expertise into service to study this bill, and that we will come back to the house in due time with the proper recommendations that might still meet the target. Be assured that we will do honourable service to the objectives of this chamber and the reputation of all senators.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

[Senator Joyal]

REFERRED TO COMMITTEE

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

On motion of Senator Tkachuk, bill referred to the Special Senate Committee on Anti-terrorism.

NUNAVIK INUIT LAND CLAIMS AGREEMENT BILL

THIRD READING

Hon. Gerald J. Comeau (Deputy Leader of the Government) moved third reading of Bill C-11, An Act to give effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act, as amended.

Hon. Charlie Watt: Honourable senators, I rise at third reading of Bill C-11 on the Nunavik Inuit Land Claims Agreement.

Honourable senators know where I stand regarding Bill C-11 and the Nunavik Inuit Land Claims Agreement. I am not in favour because these instruments cause prejudice to Nunavik. I have explained how they take away and extinguish existing Aboriginal and constitutional rights of Nunavik Inuit, and the consequences of doing that.

As a part of the evidence, I table the Nunavik Inuit Land Claims Agreement. I refer honourable senators to sections 2.29.3 and 2.29.4. The first is saying that Nunavik Inuit will not exercise or assert any Aboriginal or treaty rights other than the rights set out in this agreement. The second provides in substance that if Nunavik Inuit exercise or assert an Aboriginal right that is not in the agreement, they cede, release and surrender such rights.

My first reaction was to send a letter to Makivik Corporation to express my concern. In its response, Makivik Corporation referred to the Negotiation Framework Agreement that I signed in 1993 as President of Makivik Corporation.

Today, we have to be reminded of some of the contents of this negotiation framework agreement. For the record, I table this document. May I ask permission to table those documents?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it agreed, honourable senators, that Senator Watt table those documents?

Hon. Senators: Agreed.

Senator Watt: I quote from the preamble:

> Whereas the Parties intend to conclude a Framework Agreement to govern the conduct of their negotiations, which Agreement is without prejudice to their respective legal positions and is under reserve of all their respective rights and recourses in this regard.

• (1630)

Sections 10 and 14 of the same document:

> 10: Interpretation of this Agreement.

> This Agreement is made on a "without prejudice" basis and nothing in this Agreement is to be interpreted as creating, recognizing or denying rights of the Parties.
>
> 14: Rights of Citizens.
>
> Nothing contained in this Agreement shall prejudice the rights of Inuit of Northern Quebec as Canadian citizens of Quebec, and they shall continue to be entitled to all of the rights and benefits of all other citizens as well as those resulting from any other legislation applicable to them from time to time.

As soon as Bill C-51 and the final text of the agreement were tabled in March 2007, I studied those documents and I discovered the huge difference between the negotiation framework agreement and the final agreement.

I have again expressed my concern and I have raised serious questions, including the fact that Nunavik Inuit are losing their existing Aboriginal rights. Makivik is saying that the rights are not lost and they will be protected by the Constitution. The reality is that existing Aboriginal rights will be delineated in the agreement — if they are in the agreement.

Here is what the legal counsel of Makivik Corporation, Sam Silverstone, said on December 12, 2007, at the committee, page 4.51 of the transcript that I have tabled.

May I have permission to table this, honourable senators?

Hon. Senators: Agreed.

Senator Watt: Mr. Silverstone said:

> There seems to be some misconception that there is a pure, unfettered, natural Aboriginal right in title; and that once you tamper with it, or try to put it into the confines of a treaty, that you are diminishing those rights. This is incorrect.

For me, what is incorrect is to sell the agreement with such words. Indeed, the existing Aboriginal rights are lost even though Makivik is saying that Aboriginal rights are still there.

The extinguishment has been clearly confirmed by Rod Bruinooge, parliamentary secretary to the Minister of Indian Affairs and Northern Development, by chief federal negotiator for the Department of Indian Affairs, Tom Molloy, and by senior counsel for the Department of Justice, Brian Keogh, when they appeared at the committee on December 12 and December 13, 2007. They have also explained the backup clause in case that a court decision decided that the non-assertion technique is not valid.

Here is what Mr. Bruinooge said as a witness at the committee, on page 4.14 of the proceedings:

> The non-assertion technique is based on a promise from Nunavik Inuit that they will not assert Aboriginal rights concerning lands and resources, except as set out in this treaty.
>
> The treaty includes a backup release, but this is triggered only if, for some reason, the promise made by the Inuit is not given effect by the courts and there is resulting prejudice to the rights of Inuit or to the rights of others.
>
> It is true that the Inuit will not benefit from future court decisions concerning Aboriginal rights, but neither will they be prejudiced by any such decisions.

Mr. Molloy, at page 4.27, said:

> Perhaps I was not as clear as I should have been. It is not the intention to extinguish the rights. However, there is a provision that would cause the rights to be released if they were asserted by the Inuit as continuing to exist — in other words, if the Inuit tried to argue that there are rights other than those contained in the agreement with respect to lands and resources. Any such assertion would cause those rights to be released, only to the extent of that assertion.
>
> I will ask our lawyer, Mr. Keogh, to explain further.

Mr. Keogh, senior counsel of Justice Canada, said at pages 4.27 and 4.28:

> We use a number of different words to achieve the same effect. The words "cede," "release," "surrender" or "extinguish" were previously used in some earlier land claims agreements. You might still find them in more recent agreements applying in certain areas.
>
> In the Nunavik Inuit Land Claims Agreement, we have attempted to avoid any sort of release or surrender of rights by using a technique called non-assertion, which comprises an undertaking by the Inuit not to seek to assert their rights, except those that are set out in the agreement. To the extent that the Inuit have included Aboriginal rights within the agreement, those rights remain as Aboriginal rights and they can be asserted.
>
> It is the only the rights that have not been negotiated — the rights outside the agreement — that the Inuit may not claim or assert.
>
> This is a fairly novel technique that was used as well in the Tlicho agreement.
>
> The courts have not commented yet on the effectiveness of this technique, so we have included a backup release or surrender. It is hoped that it will never be triggered. If the courts give effect to the non-assertion, there will never be any release or surrender of rights. That exists simply as a backup and will apply only to the extent that those rights might prejudice the obligations or rights of Canada, the Inuit or third parties.

If Justice Canada and Indian Affairs need a backup in case of a court decision or something else, Nunavik Inuit need the amendment proposed in the report on Bill C-11.

I will repeat what I have explained:

> The amendment provides that, in the first period of ten years, Makivik will be enabled to raise a flag and to report about implementation. Nunavik Inuit will not have to wait ten years or more to report. Also, the report would not be necessarily negative. It could be a positive report in a view to share some success.
>
> On the minister's side, he will report on the implementation and on the agreement. In my view, this is a good, an efficient and a transparent process. I am sure that you will agree with me.

Honourable senators, it is clear from what we read and from what we have heard that existing Aboriginal rights are lost. In fact, Aboriginal rights are delineated in the book of 250 pages; and, on top of that, Nunavik laws and local laws will apply to Nunavik Inuit rights and to Nunavik Inuit land.

In a regime of rule of law, this is unbelievable. This creates a critical situation where individuals and their lands will be subject to the civil law and common law at the same time while they are from two different territories.

• (1640)

There is no provision for harmonization, and honourable senators can bet that Nunavik Inuit do not know the content and the consequences of the Wildlife Act, the Human Rights Act and the Power of Attorney Act of Nunavut.

This situation is not only unbelievable, Nunavik Inuit will be discriminated from the protection of the Statutory Instruments Act. Indeed, section 11 of Bill C-11 provides that this law will not apply to instruments made under the agreement.

The Statutory Instruments Act requires that Canadian statutory instruments be examined to ensure that they are lawful, that they do not trespass unduly on existing rights and freedoms and that they are consistent with the Canadian Charter of Rights and Freedoms. If this protection is important for all Canadians, why would Nunavik Inuit not have this protection? They are Canadians, after all.

Such discrimination is contrary to section 15 of the Canadian Charter of Rights and Freedoms and therefore unconstitutional. On this prejudice, some are saying that this is the policy and we have the same approach in other laws and treaties.

Honourable senators, there is a major difference. For example, while Nation Tsawwassen in British Columbia will be regulated by British Columbia laws according to Bill C-34, the Nunavik Inuit from Quebec will be ruled by Nunavut laws. This is very different.

Nunavik Inuit need their existing Aboriginal rights for their day-to-day subsistence. As honourable senators may know, 75 per cent of the food for Nunavik Inuit comes from the land and from the sea. With the agreement, subsistence rights would come from quotas and restrictions adopted by the federal, Nunavut and local law.

This is not fair for Nunavik Inuit because they are neither ready nor prepared for such major changes.

Honourable senators, Bill C-11 and the agreement prejudice Nunavik Inuit in many ways. Indeed, the agreement provides that Nunavik Inuit renounce claims against the government and other persons for any damages past, present and future, known or unknown.

Nunavik Inuit are also committed to indemnify and forever save harmless government from any claims. We have not heard about any study or any evaluation of the consequences from this.

Another important prejudice is the fact that the agreement does not refer to or consider important matters of the culture, traditional knowledge, practice and intellectual property of Nunavik Inuit, which are very important to them.

On top of those prejudices, the justificatory process to infringe Aboriginal rights developed by the Supreme Court of Canada since 1982 has not been followed. In fact, there was no public discussion or public forum, and some Nunavik Inuit received the text of the agreement only a few days before the vote on the agreement and many others received it after the vote. This is not consultation.

On January 30, we heard two mayors from Nunavut as witnesses. For the records, I would table the transcript.

Honourable senators, may I table this document?

Hon. Senators: Agreed.

Senator Watt: Here is what the mayor said, on page 1600-41 of the transcript. This summarizes their testimony:

> We have not really heard about this Agreement. As I said, we do not understand the language too well. We do not understand why Nunavut is still in the Agreement when it is supposed to be a Nunavik Agreement. There are many things we do not understand about this Agreement.

Honourable senators, I still maintain that Makivik has no legal power to negotiate constitutional rights. This corporation is a not-for-profit corporation that has the responsibility to manage the benefits from the James Bay and Northern Quebec Agreement. They do not have a legal power to negotiate constitutional rights.

No one in the Nunavik has given power of attorney to give away their rights. More time was needed to study this bill in more depth.

Unfortunately, the majority preferred to respect the vote of Nunavik Inuit, even though they see the consequences.

The consultation was not significant, and Nunavik Inuit are not fully aware of the consequences and changes following the loss of their Aboriginal rights.

Ironically, we are near to adopting Bill C-11 and, at the same time, the Canadian Human Rights Commission has just published a special report advocating for the respect, the protection and the promotion of Aboriginal rights. The commission also recommends measures to prevent discrimination.

Honourable senators, my concerns are not personal. Even though I have been directly involved within this corporation, I have never been directly involved in the actual negotiations. I was involved at the beginning, setting the status of what should be negotiated in the framework.

I have raised serious questions because I believe that the Constitution of Canada, 1982, is the highest law of the land. I also believe that the rights have the same level of protection from the Constitution of Canada.

Adopting Bill C-11 to give effect to the Nunavik Inuit Land Claims Agreement sends the message that even if you have a constitutional right, someone can trade it off.

Is this the right thing to do? I leave that in honourable senators' hands.

Hon. Lorna Milne: Honourable senators, I will take part in this debate today on Bill C-11 in order to outline my great concerns with the Nunavik Inuit Land Claims Agreement.

During the Standing Senate Committee on Legal and Constitutional Affair's review of this bill, I found myself being won over by the arguments presented by my colleague, Senator Watt. By the end of the committee's examination, Senator Watt had convinced me that this bill will forever limit section 35 rights under the Canadian Charter of Rights and Freedoms for his people in the areas covered by the land claims agreement under a so-called non-assertion clause. His people will be subject to a bewildering combination of legal regimes.

To my horror, I have discovered that every single self-government agreement or comprehensive land claim settlement signed with our Aboriginal peoples since 1975 contains a similar clause or similar clauses, weasel clauses, all 23 of these agreements.

Honourable senators, the compensation that one of the senators opposite asked about that will be paid to the Inuit of Nunavik for relinquishing their section 35 rights will amount to $500 per person per year for 10 years, as Senator Watt has pointed out. Five hundred dollars seems little enough in southern Canada, where we can just drive or walk around the corner for our essential supplies. How far will it go in Nunavik? How much better off will these people be in a region where everything costs many times more than it does in the South?

• (1650)

I am also concerned by the fact that the Government of Canada has a fiduciary responsibility to our First Nations. Unfortunately, successive Canadian governments have abrogated that responsibility for the past 33 years. However, in my heart, I have believed deeply all my life in the democratic process. The people of Nunavik have voted on the matter and have overwhelmingly supported it. Honourable senators, 78 per cent voted in favour of the agreement and the vote turnout was 81 per cent.

To repeat, Senator Watt is absolutely right, but his people have chosen, so I am really torn. With that in mind, I cannot go against the right of the people to decide their own future. Therefore, I intend to abstain on the vote on this bill.

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

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Comeau, seconded by the Honourable Senator Stratton, that Bill C-11 be read a third time.

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

Some Hon. Senators: Agreed.

Senator Milne: On division.

Motion agreed to and bill, as amended, read third time and passed, on division.

[*Translation*]

ANTI-TERRORISM

SPECIAL COMMITTEE AUTHORIZED TO MEET DURING SITTINGS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government) pursuant to notice of February 5, 2008, moved:

> That the Special Senate Committee on Anti-Terrorism be authorized to sit at any time from Monday, February 11, 2008 to Friday, February 15, 2008, even though the Senate may then be sitting, and that the application of rule 95(4) be suspended in relation thereto.

Motion agreed to.

BANKRUPTCY AND INSOLVENCY ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Goldstein, seconded by the Honourable Senator Chaput, for the second reading of Bill S-205, An Act to amend the Bankruptcy and Insolvency Act (student loans).—(*Honourable Senator Comeau*)

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, since this is the thirteenth day of debate on this bill, I would like to adjourn the debate under my name for the time remaining to me.

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

Hon. senators: Agreed.

On motion of Senator Comeau, debate adjourned.

[*English*]

THE SENATE

MOTION TO URGE GOVERNMENT TO NEGOTIATE FREE TRADE AGREEMENT WITH EUROPEAN UNION—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Keon:
>
> That the Senate call upon the Government of Canada to engage in negotiations with the European Union towards a free trade agreement, in order to encourage investment, free movement of people and capital.—(*Honourable Senator Comeau*)

Hon. Joan Fraser: Honourable senators, I prefer to adjourn this item.

On motion of Senator Fraser, debate adjourned.

[*Translation*]

ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

REVIEW OF CANADA'S DEVELOPMENT COOPERATION PROGRAM—INQUIRY—DEBATE CONCLUDED

Hon. Pierre De Bané rose pursuant to notice of November 22, 2007:

> That he will call the attention of the Senate to the review of Canada's development cooperation program published by the Organization for Economic Cooperation and Development on October 19, 2007.

He said: Honourable senators, I would like to call your attention to the study published by the OECD last October on the Canadian International Development Agency's development assistance program.

[*English*]

Every five years, there is a peer review by the OECD of the different programs of member countries of the OECD related to international development. This year, it was the peer review of CIDA done by the OECD.

I should like to bring to the attention of honourable senators what this group of experts representing 30 countries had to say about Canada's international development.

First, let me remind honourable senators of the member countries of the OECD who participated in that assessment of CIDA's program, they are: Australia, Austria, Belgium, the Czech Republic, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

In order to achieve its aims, the OECD has set up a number of specialized committees. One of them is the Development Assistance Committee, which they call DAC. It is encouraging to see that this assessment of Canada's aid program, particularly for Africa, gets very high marks from the OECD.

I would like to read to honourable senators, if I may, some of the experts' testimony in this document of over 100 pages, which is an in-depth evaluation of CIDA.

• (1700)

This year's peer review of Canada's development cooperation program highlights Canada's renewed commitment to Africa: a promising approach toward fragile states such as Haiti and Afghanistan; initiatives to make Canadian aid more effective. This is one of the highlights of the report of the Standing Senate Committee on Foreign Affairs and International Trade to make it more effective, focusing on accountability and explaining results to the Canadian public and Parliament.

Global peace and security is a defining element of Canada's foreign policy, with implications for development and the geographic allocation of aid. Since the review was undertaken, Canada has re-engaged in Latin America, including the Caribbean.

Those are the highlights of the assessment of this document of 100 pages.

The first item is more effective aid. The DAC, the development program, acknowledges Canada's efforts to make its aid more effective. In particular, Canada has forgiven most ODA-related debt and increased its proportion of untied bilateral aid to the least-developed countries from 32 per cent in 2001 to 66 per cent in 2005.

The government changed its food aid policy in 2005 so that up to 50 per cent — previously it was 10 per cent — of its food aid could be purchased locally in certain LDCs and lower income developing countries. Canada has opened its market to duty-free and quota-free imports of most goods and services from poor countries and passed legislation to make generic HIV/AIDS drugs and other medicines more accessible.

CIDA has begun concentrating aid in fewer countries, which is one of the recommendations of the report of the Standing Senate Committee on Foreign Affairs and International Trade, and is experimenting with modest decentralization — again, a recommendation from the committee — in six African countries, moving away from traditional projects toward more program-based approaches. The agency has made its operations more results-oriented, and efforts are underway to reduce administrative costs.

Canada has volunteered to chair the international Advisory Group on Civil Society and Aid Effectiveness. Canadian thinking on this topic will feed into the deliberations leading to the 2008 high-level forum of aid effectiveness to be held in Accra, Ghana. CIDA is engaged in strengthening multilateral institutions' ability and effectiveness, in particular to meet the Millennium Development goals for health, education, gender equality, and environmental sustainability.

I have read to honourable senators some of the highlights of the assessment of the CIDA program by one of the most prestigious international organizations, to which Canada is represented by an ambassador and top-notch economist.

I am putting this assessment of the OECD about our aid program in relation to the decision rendered recently by our Speaker about how to go about the report of the Standing Senate Committee on Foreign Affairs and International Trade in the last Parliament. The first suggestion that was put by the Speaker, which I found very wise, was to put a motion that will authorize sending back to the committee in this Parliament all the minutes and the documents of the last Parliament that were studied by the Standing Senate committee on Foreign Affairs and International Trade. That will give the committee an opportunity to review also other documents that have been published since December 2006.

That first suggestion made by the Speaker is, in my humble opinion, the most enlightened one, because many things have happened in one year, particularly this study that relates to the effectiveness of CIDA's programs, to which we have not alluded in our own report as our report predates by a year the report of OECD.

It would be very unwise to limit ourselves to publishing an old report of another Parliament without taking stock of what has been published in the last year, and also of what happened during the last year. The events that have happened in Africa, many of them tragic, in the last year, in Kenya, Zimbabwe and Chad, all have a bearing on our study.

As Senator Di Nino, who today is the chair of our committee, said, the Western world has devoted over $700 billion to aid sub-Saharan Africa. Canada's contribution is barely 2 per cent of that: $12 billion.

To conclude that Canada and all the donor countries have failed would be most unfortunate. The report quotes Mr. Robert Calderisi in his book entitled *The Trouble with Africa: Why Foreign Aid Isn't Working*, which is a title more appropriate than with a broad brush to say that Canada and all the donor countries have failed, and even more unjustified to say that we, the Senate of Canada, are giving to the world a road map of how to go about it, when thousands of the best economists in the world, whether at the World Bank, IMF, OECD, in the U.K., and all the other countries, have been working on this. The truth can be found in those excerpts in the report of the Senate committee that reads that no aid, whatever the amount of it, can offset the bad government and bad leaders who steal the treasury of their country, and the bad policies. No aid can offset those.

It is unfortunate that those thoughts in our report did not find their way into the press release that was published when that document was tabled in this house. The press release dealt only with one topic: an indictment of CIDA and suggesting that maybe it should be disbanded and, if not, the responsibility for Africa should be taken away, without realizing that in 1965 that was exactly it. External Aid of Canada was a small directorate within the Department of Foreign Affairs. It was unanimously decided that it was time that Canada, like other countries, have a separate agency for international development.

On the report of the OECD, while also highlighting improvements that are warranted in CIDA, I am very encouraged to see that a peer review has given high marks to several modifications and improvements that were brought to Canada's aid program.

• (1710)

The Hon. the Speaker: If no other senator wishes to participate in this debate, it will be considered debated.

THE SENATE

MOTION URGING GOVERNMENT TO BLOCK SALE OF CANADARM AND RADARSAT— DEBATE ADJOURNED

Hon. Mac Harb, pursuant to notice of February 5, 2008, moved:

> That the Senate take note of the proposed sale of the Canadarm, RADARSAT satellite business to American arms-maker Alliant Techsystems for $1.325 billion;
>
> That the Senate note that this nationally significant technology was funded by Canadian taxpayers through grants and other technology subsidies for civilian and commercial purposes;
>
> That the Senate note that this sale threatens to put Canada in breach of the 1997 international landmines treaty it was instrumental in writing;
>
> That the Senate acknowledge that although Industry Canada will do a mandatory review of the trade issues relating to the sale there are many vital social, political, moral and technological issues that need to be examined;
>
> That the Senate of Canada urge the Government of Canada to block the proposed sale of the nationally significant Canadarm, RADARSAT satellite business to American arms-maker Alliant Techsystems; and
>
> That a message be sent to the House of Commons to acquaint that House with the above.

He said: Honourable senators, I rise today to bring to your attention the proposed $1.325 billion sale of Canada's cutting-edge space program to an American company, Alliant Techsystems, or ATK, which manufactures cluster bombs and land mines.

A Canadian company, MacDonald, Dettwiler and Associates, or MDA, is best known for partnering with the Canadian Space Agency on the RADARSAT satellite projects, and the Canadarm technology that is the ongoing pride of the 50-year-old Canadian space program and every Canadian citizen.

The RADARSAT-2 technology is a state-of-the-art Canadian scientific achievement. This satellite was developed in partnership with the Canadian government and was launched this past December. It can monitor the environment, report on weather conditions, enforce our sovereignty in the North, spot unauthorized shipping and help manage disasters.

[*Translation*]

In a few short days, on February 14, Canada's most recent contribution to the space program, a robot named Dexter, will leave Earth onboard the shuttle Endeavour and become the hand of Canadarm2 on the International Space Station.

Over the years, Canadian taxpayers have invested $1.4 billion in the International Space Station. These contributions have resulted in roughly $2.7 billion in economic spinoffs and have created jobs for the equivalent of 45,000 person years.

There is no doubt that MDA's space division is a remarkable example of productive cooperation between the private sector and the public sector and a success both for Canada and the entire world.

[*English*]

However, if MDA's proposed sell-off to ATK is approved by the minister and the respective shareholders, the core of Canada's space business will be under the control of an American company. This, honourable senators, raises questions about our ability to enforce our sovereignty in the North and in other vital areas of national security.

More than half of ATK's $4 billion U.S. in annual revenue comes from military contracts, including cluster bombs, depleted uranium rounds and land mines.

Honourable senators, it is hard to imagine that MDA's space divisions, which to date have focused solely on civilian and commercial applications, will not be affected. We must stop and consider how we could explain to Canadian taxpayers that their investment in this radar and optical imaging technology will now be exported to a U.S. munitions manufacturer.

[*Translation*]

An important ethical question is raised here, but it must also be asked in a broader sense. A sale like the one being considered could put Canada in the delicate position of subsidizing — through its research grants and other technology support programs — a U.S. company that manufactures weapons.

Two of MDA's key scientists have already tendered their resignation so as not to use their skills for weapons manufacturing.

Canadian taxpayers must be assured that their money is not being used to develop technologies that will end up in the hands of foreign companies and be used for purposes that are inconsistent with our values and national priorities.

[*English*]

Along with RADARSAT and Canadarm technology, Canadians also take great national pride in being the driving force behind the Ottawa Convention, namely, the international mine ban treaty signed here in Ottawa in 1997 by 122 governments and which now has more than 150 member states. The United States is not a signatory to the Ottawa Convention. Honourable senators, the sale of MDA's space division to ATK may, in fact, in my view, contravene the provisions of that treaty — provisions which prohibit the transfer of public money into a company that makes land mines.

I will quote Article 1 of the treaty, which outlines the general obligation of signatory states:

> Each State Party undertakes never under any circumstances: To use anti-personnel mines; To develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, anti-personnel mines;

It is imperative that we investigate our obligations under the treaty thoroughly. ATK, on the other hand, argues that its land mines are self-destruct mines, which have a self-deactivation feature and are only used in combat. ATK says its land mines are Ottawa Convention compliant, but others disagree.

Last week the Minister of Industry appeared before the Senate Social Affairs, Science and Technology Committee to discuss the government's science and technology strategy. At that time, the Minister of Industry stated that he would like to see research which is undertaken in Canada be commercialized here as well. Obviously, the sale of RADARSAT-2 brings this issue to a head.

ATK officials have stated that all Canadian-based facilities and workforce will remain in Canada. Surely, honourable senators, this is a situation which is subject to market conditions, strength of the dollar and corporate priorities. We have heard this kind of promise before.

There is no way to guarantee that the Canadian facilities and these highly specialized jobs are protected for the long term. In fact, one of the reasons MDA is selling this unit is that it could not obtain contracts with American companies for security reasons. There will be great pressures to have this work done by American workers in the United States.

Honourable senators, it is just bad business to fund development and then turn around and export the opportunities. As the minister said to the Standing Senate Committee on Social Affairs, Science and Technology, on the long-term science and technology policy of the government:

> Certainly, a preference would be to see research which is undertaken here and commercialized here. I think the policy needs to continue to promote and encourage that. Some of the other actions that the government undertakes need to focus on that.

That was said by the minister on January 31, 2008.

• (1720)

I agree, honourable senators.

In summary, there is a long list of concerns relating to this proposed sale. First, the loss of a 50-year-old space program and the international prestige and economic benefits that go along with what we have developed. Second, the loss of the control of the state-of-the-art satellite system that supports national security and enforces Arctic sovereignty, among a myriad of other tasks. Third, the possible subsidizing of arms and munitions projects that could be in contravention of our international agreements,

including the Mine Ban Treaty, and which are definitely contrary to the civilian and commercial purposes supported by Canadian taxpayers in the past.

This proposed transaction requires approval under the Investment Canada Act by the Minister of Industry. There are, in fact, several different approvals needed prior to this transaction being completed, and it is imperative that the minister's review involve not only the economics of the transaction but, as well its social, ethical and political ramifications. The government has the power under these regulations to prevent this sale and to salvage Canada's space program, our access to state-of-the-art surveillance satellite and our international commitment on landmines.

I urge honourable senators to support me in sending a strong message to the other House and the government so they can ban this sale.

On a final note, the government has recently announced that it would introduce a national security test for foreign takeover, noting that Canada was one of the very few countries without such a test. Honourable senators, let us put this issue to the test. In the best interests of Canadians, honourable senators with one stroke of the pen, we can stop this deal from going forward.

Hon. Bill Rompkey: I note with some interest the issue that Senator Harb has raised. I fully support him. Not only do I think this motion should be passed, but I think this is an issue that should be studied by our Standing Senate Committee on Social Affairs, Science and Technology. Two committees will already be studying the Arctic, but if we lose control of RADARSAT-2, which was a jewel in our crown, I thought, and an instrument we devised, constructed, sold and put up there to survey, if that gets out of our control, we have no way of exercising sovereignty in the Arctic. We know what the environment has done. We know what is happening to the ice cap and the Northwest Passage. Ships are traversing that waterway right now. Many countries are about to do that, not just the Chinese but the Russians as well who have interests in mining and other resources there that they want to get to market. This is a sensitive area that we have no way of controlling except from the air.

We had testimony from the Coast Guard that replacements for Canadian vessels may be 10 years away. The *Louis S. St-Laurent* is well out of date and needs a replacement, but that replacement is years down the road. The fact is we do not have the ships to do the necessary job in the Arctic. We do not have the ships or the aircraft. The Aurora has not been replaced, although certain contracts will perhaps come, but certainly not in time. As I understand it and recall, the government has ceased Aurora flights. I think sometime ago flights were cancelled over the Arctic. We do not have the ships, planes or any way of telling what is going on in our territory unless we know from the air.

We are about to get rid of the technology that we designed for that very purpose. We should be concerned with this very serious situation. I want to support this motion, and state that we need to have a good examination of this issue before the sale is allowed to go forward.

Hon. Wilbert J. Keon: Honourable senators, I raised this issue with the minister when he was before the Standing Senate Committee on Social Affairs, Science and Technology. He responded that he would indeed be looking into this very carefully.

Both Senator Harb and Senator Rompkey have missed the point. The point is this: This is just another duck flying south. We do not have the venture capital pools in Canada to hold our scientific discoveries at home. When companies get on to something hot and want to make a lot of money, they sell it someplace else, either in the South, Europe, or the Far East, because that is where they find the huge pools of venture capital.

In my spare time, I referee one of the venture capital pools we have in Canada because I am trying to help some 60 companies stay alive. It is very discouraging because there is so much venture capital available in other countries compared to ours so that, in a situation like this, they are hot. They have hot discoveries and hot products, and so they can make billions in profit.

I dealt with this situation myself. One of the companies that spun out of my own research had a factory here in Ottawa. We were second in world global market sales, but we ran out of venture capital. Where is it now? It is in San Diego. We have to go far beyond what points were raised here today to address this subject thoroughly. Maybe it should be that Canadian companies that have been heavily subsidized by government in the development of their products, whether at the basic level, in research or whether it was at the development stage, should have to return the money to Treasury Board from their profits when they sell at huge profits. Let us be realistic, there is a huge profit on this one.

Senator Rompkey: Would Senator Keon permit a question?

Senator Keon: Yes.

Senator Rompkey: I accept the information on venture capital and private ownership, but we own the ships that are up there and we own the planes that fly over it. Why should we not own RADARSAT-2? Has any thought been given to nationalization? Taxpayers in Canada have made an investment; is it not one step further to take it over? This is a surveillance instrument, an instrument of sovereignty. The government has said, and rightly so and I support them, that Arctic sovereignty is a priority. The Prime Minister said, "Use it or lose it," in the Speech from the Throne, and you see it reflected in the budget. You saw it reflected in the last budget. Perhaps it will be reflected in the next budget. The point is that this is a primary cause for the Government of Canada. It seems to me that now is the time for the Government of Canada to exercise its influence in space, particularly in view of the dangers that we face in this country at the present time.

• (1730)

Senator Keon: I am happy to respond to that. It is very important to keep that technology here. This is a broad discussion that we will not have on a Thursday afternoon. Will we just keep going on and on and on? Every time a company runs into trouble, someone gets up and screams that the government has to bail them out. Will the government pour $4 billion into this company this time? We have to address the underlying issue.

Hon. Yoine Goldstein: I understand there are other pressing matters to deal with. I had the honour of representing Canada at a conference two weeks ago which dealt with the Arctic, and if my whip lets me go at the end of the month, I will be attending a continuation of that conference in Finland. We are being watched by other Arctic countries in terms of what we are doing with our own Arctic. The issue raised by Senator Harb and by Senator Rompkey is a major issue in respect of which it is important that we reach a decision and a plan of action.

Senator Keon has raised an additional issue, which is of a broader nature that we also have to deal with, but it is important that we stick for the moment to Senator Harb's question.

I understand that the honourable senator is about to adjourn the debate in that respect and I encourage that.

Hon. Consiglio Di Nino: No one is suggesting this is not an important issue. My deputy leader made comments yesterday to that effect. It is an issue that needs to be further explored, and I adjourn the debate for the rest of my time.

On motion of Senator Di Nino, debate adjourned.

[*Translation*]

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

Thursday, February 7, 2008

Mr. Speaker,

I have the honour to inform you that the Right Honourable Michaëlle Jean, Governor General of Canada, signified royal assent by written declaration to the bill listed in the Schedule to this letter on the 7th day of February, 2008, at 4:41 p.m.

Yours sincerely,

Sheila-Marie Cook
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bill Assented to Thursday, February 7, 2008:

An Act respecting payments to a trust established to provide provinces and territories with funding for community development (*Bill C-41, Chapter 1, 2008*)

ADJOURNMENT

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, February 12, 2008, at 2 p.m.

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

Motion agreed to.

The Senate adjourned until Tuesday, February 12, 2008, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION

(*indicates the status of a bill by showing the date on which each stage has been* ***completed***)

(2nd Session, 39th Parliament)

Thursday, February 7, 2008

(**Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.*)

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to amend the Canada-United States Tax Convention Act, 1984	07/10/18	07/11/13	Banking, Trade and Commerce	07/11/15	0	07/11/21	07/12/14	32/07
S-3	An Act to amend the Criminal Code (investigative hearing and recognizance with conditions)	07/10/23	07/11/14	Special Committee on Anti-terrorism					

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Criminal Code and to make consequential amendments to other Acts	07/11/29	07/12/12	Legal and Constitutional Affairs					
C-3	An Act to amend the Immigration and Refugee Protection Act (certificate and special advocate) and to make a consequential amendment to another Act	08/02/06	08/02/07	Special Committee on Anti-terrorism					
C-8	An Act to amend the Canada Transportation Act (railway transportation)	08/01/29							
C-9	An Act to implement the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention)	08/01/31							
C-10	An Act to amend the Income Tax Act, including amendments in relation to foreign investment entities and non-resident trusts, and to provide for the bijural expression of the provisions of that Act	07/10/30	07/12/04	Banking, Trade and Commerce					
C-11	An Act to give effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act	07/10/30	07/11/29	Legal and Constitutional Affairs	08/01/31	1 observations	08/02/07		

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-12	An Act to amend the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act, the Wage Earner Protection Program Act and chapter 47 of the Statutes of Canada, 2005	07/10/30	07/11/15	Banking, Trade and Commerce	07/12/13	0 observations	07/12/13	07/12/14	36/07
C-13	An Act to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments)	07/10/30	07/11/21	Legal and Constitutional Affairs	07/12/11	6 observations	08/01/29		
C-15	An Act respecting the exploitation of the Donkin coal block and employment in or in connection with the operation of a mine that is wholly or partly at the Donkin coal block, and to make a consequential amendment to the Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act	07/11/21	07/11/29	Energy, the Environment and Natural Resources	07/12/13	0	07/12/13	07/12/14	33/07
C-18	An Act to amend the Canada Elections Act (verification of residence)	07/12/13	07/12/14	Committee of the Whole	07/12/14	0	07/12/14	07/12/14	37/07
C-28	An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007 and to implement certain provisions of the economic statement tabled in Parliament on October 30, 2007	07/12/13	07/12/13	Pursuant to rule 74(1) subject-matter 07/12/12 National Finance	Report on subject-matter 07/12/13	—	07/12/13	07/12/14	35/07
C-35	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008 (*Appropriation Act No. 3, 2007-2008*)	07/12/11	07/12/11	—	—	—	07/12/13	07/12/14	34/07
C-38	An Act to permit the resumption and continuation of the operation of the National Research Universal Reactor at Chalk River	07/12/12	07/12/12	Committee of the Whole	07/12/12	0	07/12/12	*07/12/12	31/07
C-41	An Act respecting payments to a trust established to provide provinces and territories with funding for community development	08/02/05	08/02/05	National Finance	08/02/07	0	08/02/07	*08/02/07	1/08

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-280	An Act to Amend the Immigration and Refugee Protection Act (coming into force of sections 110, 111 and 171)	07/10/17							
C-287	An Act respecting a National Peacekeepers' Day	07/11/22							
C-292	An Act to implement the Kelowna Accord	07/10/17	07/12/11	Aboriginal Peoples					
C-293	An Act respecting the provision of official development assistance abroad	07/10/17	07/12/12	Foreign Affairs and International Trade					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-298	An Act to add perfluorooctane sulfonate (PFOS) and its salts to the Virtual Elimination List under the Canadian Environmental Protection Act, 1999	07/12/04							
C-299	An Act to amend the Criminal Code (identification information obtained by fraud or false pretence)	07/10/17							
C-307	An Act respecting bis(2-ethylhexyl)phthalate, benzyl butyl phthalate and dibutyl phthalate	07/11/29							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-201	An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal)	07/10/17	07/11/28	National Finance					
S-202	An Act to amend certain Acts to provide job protection for members of the reserve force (Sen. Segal)	07/10/17							
S-203	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	07/10/17	07/11/13	Legal and Constitutional Affairs	07/11/22	0	07/11/27		
S-204	An Act respecting a National Philanthropy Day (Sen. Grafstein)	07/10/17							
S-205	An Act to amend the Bankruptcy and Insolvency Act (student loans) (Sen. Goldstein)	07/10/17							
S-206	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	07/10/17							
S-207	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	07/10/17	07/11/28	Legal and Constitutional Affairs	07/12/06	0	07/12/11		
S-208	An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein)	07/10/17		Subject matter 07/11/13 Energy, the Environment and Natural Resources					
S-209	An Act to amend the Criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	07/10/17							
S-210	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	07/10/17							
S-211	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Grafstein)	07/10/17							
S-212	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	07/10/18							

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-213	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	07/10/23	07/12/06	Legal and Constitutional Affairs	08/01/31	0	08/02/05		
S-214	An Act to amend the Income Tax Act and the Excise Tax Act (tax relief for Nunavik) (Sen. Watt)	07/10/24							
S-215	An Act to protect heritage lighthouses (Sen. Carney, P.C.)	07/10/30	07/12/06	National Finance	07/12/13 Report amended 07/12/13	19	07/12/13		
S-216	An Act to amend the Access to Information Act and the Canadian Wheat Board Act (Sen. Mitchell)	07/10/30							
S-217	An Act to amend the International Boundary Waters Treaty Act (bulk water removal) (Sen. Carney, P.C.)	07/10/31							
S-218	An Act 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 (Sen. Phalen)	07/10/31							
S-219	An Act to amend the Public Service Employment Act (elimination of bureaucratic patronage and establishment of national area of selection) (Sen. Ringuette)	07/11/13	07/12/11	National Finance					
S-220	An Act respecting a National Blood Donor Week (Sen. Mercer)	07/11/15	07/11/27	Social Affairs, Science and Technology	07/11/29	0	07/12/04		
S-221	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	07/11/28							
S-222	An Act to establish and maintain a national registry of medical devices (Sen. Harb)	07/12/04							
S-223	An Act to amend the Non-smokers' Health Act (Sen. Harb)	07/12/04							
S-224	An Act to amend the Parliament of Canada Act (vacancies) (Sen. Moore)	07/12/13							
S-225	An Act to amend the State Immunity Act and the Criminal Code (deterring terrorism by providing a civil right of action against perpetrators and sponsors of terrorism) (Sen. Tkachuk)	07/12/14							
S-226	An Act to amend the Business Development Bank of Canada Act (municipal infrastructure bonds) and to make a consequential amendment to another Act (Sen. Grafstein)	08/01/29							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.

CONTENTS

Thursday, February 7, 2008

PAGE

SENATORS' STATEMENTS

ROUTINE PROCEEDINGS

QUESTION PERIOD

ORDERS OF THE DAY

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