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Wednesday, April 9, 2008

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Wednesday, April 9, 2008

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

Prayers.

SENATORS' STATEMENTS

UNIVERSITY OF ALBERTA GOLDEN BEARS

CONGRATULATIONS ON WINNING
CANADIAN INTERUNIVERSITY SPORT
MEN'S ICE HOCKEY CHAMPIONSHIP

Hon. Tommy Banks: Honourable senators, the University of Alberta is 100 years old this year. During those 100 years, the University of Alberta Golden Bears men's hockey team has played in gold medal games for the Canadian Interuniversity Sport national hockey championship on 17 occasions. On March 23, it won that championship for a record-setting thirteenth time in an exciting, hard-fought, could-have-gone-either-way game in which the Golden Bears squeezed out a one-point victory over the defending champion University of New Brunswick Varsity Reds.

My condolences to Senator Day.

I know that all honourable senators will join me in congratulating the University of Alberta Golden Bears men's hockey team, which has now won the University Cup more times than any other university in Canada.

VIMY RIDGE DAY

Hon. David Tkachuk: Honourable senators, April 9 is Vimy Ridge Day. It marks the time, 91 years ago, when Canadian soldiers did what many before them failed to do. After months of meticulous planning, preparation and exercises, they conquered what, until then, had been an impregnable German position. For the first time in war, all four divisions of the Canadian Corps went into battle together, and together they succeeded where other Allied forces had failed. They took Vimy Ridge, at no small cost — 10,000 casualties, 3,598 of them fatal.

The battle began at 5:30 a.m. The hardest thing many of us face today is getting up at that hour. Few of us can imagine the sacrifices of life and limb those 10,000 young men made under the most horrible of conditions.

• (1335)

Let me read a snippet of what took place. This is from the Veterans' Affairs website:

> At 5:30 a.m., April 9, 1917, Easter Monday, the creeping artillery barrage began to move steadily towards the Germans. Behind it advanced 20,000 soldiers of the first attacking wave of the four Canadian divisions, a score of battalions in line abreast, leading the assault in a driving north-west wind that swept the mangled countryside with sleet and snow. Guided by paint-marked stakes, the leading infantry companies crossed the devastation of No Man's Land, picking their way through shell-holes and shattered trenches. They were heavily laden. Each soldier carried at least 32 kilograms of equipment, plus, some say, a similar weight of the all-pervasive mud on uniform and equipment. This burden made climbing in and out of the numerous trenches and craters particularly difficult. There was some hand-to-hand fighting, but the greatest resistance, and heavy Canadian losses, came from the strongly-emplaced machine-guns in the German intermediate line.

When our soldiers, the descendents of those who fought at Vimy, are risking their lives in Afghanistan, it is a particularly poignant time to remember what took place 91 years ago. We owe those who fought at Vimy our commitment never to forget them, just as we owe their descendants our unwavering support.

THE LATE HONOURABLE
THOMAS ANTHONY DOHM, C.M., O.B.C., Q.C.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to pay tribute to a great Canadian: The Honourable Thomas Anthony Dohm. Tom was a man who truly made a difference in many people's lives. He took on so many vital roles and meant so much to me in my life. He was a boss, a mentor, a law partner and a father figure. I knew his modus operandi well and learned so much from him over the past 34 years. His passing on April 1 has left a huge void in my life. As we grieve our loss, we must also remember that we are celebrating and focusing on his life.

The life lessons that Tom imparted to me were important. He believed that all people were created equal and devoted much of his time to volunteer service. This was recognized when he was awarded the Order of British Columbia in 2006. He took an active and varied leadership in the community, as a member of the Salvation Army Advisory Board, director of the Vancouver Civic Non-Partisan Association, Co-chair of the Canadian Council of Christians and Jews, and Honorary President of the Confratallenza Italo-Canadese Association. He served as President of the Vancouver Stock Exchange and spent 13 years as chair and member of the St. Vincent's Hospital Board of Directors, and eight years as chair and member of the Board of Governors of the University of British Columbia.

Tom worked hard to help people achieve their dreams. He believed that one is richer for what one gives away. He was a generous benefactor to many associations internationally and in British Columbia, and he established several scholarships in Israel, Palestine, India, Capilano College, the University of B.C. and the University of Victoria, including a substantial scholarship for Aboriginal students and a bursary for disabled students.

Tom had an unwavering power of faith. Mr. Dohm was a practising Roman Catholic who worked hard for his church and, more importantly, followed the teaching of his faith.

Tom Dohm made a difference to many in his lifetime. The province of British Columbia was better served because he was there. The lives of so many people within B.C. were enriched

because of his contributions. The most important life lesson he leaves with us is that one person can make a difference in this world. He changed people's destinies, including my own. Today, I pay tribute to a boss, a mentor and a friend who helped me reach for the stars and realize my dreams.

I believe Dr. Seuss summed it up best: "Don't cry because it's over. Smile because it happened."

[*Translation*]

OFFICIAL LANGUAGES

NEW BRUNSWICK—ELIMINATION OF GRADE SCHOOL EARLY FRENCH IMMERSION

Hon. Hugh Segal: Honourable senators, the Government of New Brunswick's decision to eliminate the early French immersion program is a serious mistake.

New Brunswick is the only province in Canada where bilingualism is guaranteed by the Constitution, and now the province has decided to eliminate the French immersion program in English schools.

Bilingualism was established by the Robichaud government and solidified and strengthened by the Hatfield government. Our esteemed colleague, Senator Murray, was a hard-working deputy minister in the Hatfield government. The immersion program in New Brunswick schools introduced anglophone students in grades one through five to the French language.

• (1340)

Constantly changing theories about education aside, Canada is an officially bilingual country and French is one of our country's two official languages.

The future of our country depends on children everywhere having the opportunity to learn French. People protesting the decision believe that children need to learn languages early on, even if Canada should one day adopt the European approach requiring children to learn several languages. However, in the Canadian context, people need to know both official languages. Thousands of Canadian families have chosen immersion, with excellent results.

I remember that when the program started in Calgary in the early 1970s, parents lined up all night to register their children at school the next morning. One of those parents was Peter Lougheed, the provincial premier at the time.

We must express our shared, non-partisan hope that New Brunswick will reverse the decision to cancel its immersion programs. These programs must not fade into the past. They must be an integral part of the future for us all.

[*English*]

EXHIBIT TRANSPORTATION SERVICE

Hon. Catherine S. Callbeck: Honourable senators, last week Canadian public art galleries and museums across the country lost a very valuable service when the Exhibit Transportation Service, or ETS, was cancelled. This was a federal government program which provided cost-effective shipping services so that galleries and museums could bring in important pieces of art and whole exhibits. First established in 1976, ETS had climate-controlled trucks and specially trained drivers to ensure that art and cultural objects arrived at their destination in perfect condition.

This is a serious loss to art galleries and museums in Canada. ETS transported more than 54 per cent of all the art in this country. In fact, in Atlantic Canada where private sector art transportation services are not as plentiful, over 65 per cent of all exhibitions were delivered by ETS.

This change will seriously affect museums across the country, including in my home province of Prince Edward Island. Jon Tupper, director of the Confederation Centre Art Gallery in Charlottetown, has said shipping may cost up to four times more, and their ability to bring fine exhibits to P.E.I. will be severely limited. In fact, they have already had to cancel two upcoming exhibits because they cannot afford to have the pieces delivered. P.E.I. provincial museums feature travelling exhibits from time to time and will see significantly higher costs in bringing exhibits to the Island. This could also hinder museums in bringing high-quality exhibits to Prince Edward Island.

I have read similar comments for art galleries and museums across the country. A demonstration of arts administrators, artists and gallery goers was held last week in St. John's to protest the cancellation of ETS. Art galleries and museums away from urban areas will be most affected, where the option of private carriers is limited and the costs are high.

I urge the Conservative government to reconsider this decision and to find a way to keep our art and cultural artifacts travelling across the country, for the benefit of all Canadians. These exhibits, shared between institutions, give us all the opportunity to witness our common heritage and help to bring us closer together as a nation.

VIMY RIDGE DAY

Hon. Michael A. Meighen: Honourable senators, it was 91 years ago to this day, on a gloomy Easter Monday, that all four divisions of the Canadian Corps, 100,000 men in all, moved on Vimy Ridge. Indeed, the first 10,000 benefited from a creeping barrage so powerful it was allegedly heard by British Prime Minister David Lloyd George on Downing Street.

These men did what no others could do in two years of trying; they conquered Vimy Ridge. The victory at Vimy came at a terrible cost, with 10,602 Canadian casualties, including 3,598 dead. Their sacrifice marked a crossroads in our country's history, and a legacy that continues today.

According to Chief of the Defence Staff, General Rick Hillier, the victory at Vimy Ridge remains the standard for our soldiers to this very day. The so-called "Vimy effect" is a source of inspiration in everything they do.

When the war ended, Canada's position in the world had changed. We were no longer just a colony; we had our own representative at the Versailles peace talks in 1919 and our

own seat at the League of Nations. In 1931, we gained full control over our foreign affairs, marking our final independence from the United Kingdom.

• (1345)

A reminder of that war is in the paintings on the walls of this very chamber, among those commissioned by Lord Beaverbrook to recognize the sacrifice of Canadian troops. A reminder of the battle itself is the magnificent memorial that towers over 91 hectares of French countryside that many of our colleagues in this chamber have visited, and which was ceded in perpetuity to Canada as a powerful symbol of Canadian achievement.

Honourable senators, having just returned from Afghanistan, I have seen first-hand how our soldiers continually strive to achieve the "Vimy effect" in everything they do. The legacy of Vimy lives on, and will forever be a source of pride and inspiration for not only our soldiers in uniform but for all Canadians.

Hon. Joseph A. Day: Honourable senators, I rise to join with my colleagues in remembrance of the Battle of Vimy Ridge. For those of you who have had the opportunity to visit the Canadian National Vimy Memorial, my words will do it little justice. Simply put, the monument, originally completed in 1936 by Toronto sculptor Walter Allward, is one of the most humbling and awe-inspiring war memorials ever constructed anywhere in the world. I had the honour of travelling to France last year with a number of my colleagues here in the Senate for the ninetieth anniversary of the Battle of Vimy Ridge. It was a beautiful ceremony, and an important reminder of the sacrifices made for our freedom.

With its two distinctive towers rising 70 metres above the farmland, the Vimy memorial is a site that brings to Canadians a sense of patriotism like few others. It is an important symbol by which we are able to remember the 619,000 Canadians who fought during World War I to ensure our freedom and security. The statues that surround the memorial are definitions of what our men and women in uniform strive for: justice, peace, truth, knowledge, gallantry and sympathy. Not only does the memorial help us to remember those killed in the Battle of Vimy Ridge but those who lost their lives throughout the ongoing endeavours to secure international freedom and peace.

The Battle of Vimy Ridge marked a profound turning point in the First World War. For the first time, the four Canadian divisions, which had traditionally fought alongside their counterparts from Britain or France, fought together as a single unit, as a Canadian force towards the main objective: to capture Vimy Ridge from the grips of the Germans. It must be noted, honourable senators, that military control of the ridge was not only important strategically, but it was important symbolically. For 18 months the Allied forces had attempted unsuccessfully to take the ridge, and Canada was just recovering from the devastating losses suffered by Canadians at the Battle of the Somme.

In order to capture the important position, Canadian success depended, among other things, upon inventiveness and creativity. The use of tunnels to transport men and equipment, the ability to store ammunition in proximity to where it was required and the capacity to bring electricity and telecommunications to forward positions were essential to the success at the battlefield at Vimy Ridge. Digging trenches and tunnels and building miles of underground railway were not glamorous duties, but they proved to be vital components of the Canadian victory at Vimy Ridge.

Honourable senators have heard that over 10,000 Canadian casualties occurred at the Battle of Vimy Ridge, and 3,598 never came home. Overwhelmingly, honourable senators, it is to those young men and women that we must pay tribute on this, the ninety-first anniversary of the Battle of Vimy Ridge.

• (1350)

The Canadian National Vimy Memorial is truly a holy place that must continue to be restored generation after generation. We have an obligation to remember. We will remember.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, before proceeding, I would call your attention to the presence in the gallery of John MacPherson, Representative of the Council of Government and Sovereign Council of the Sovereign Military and Order of the Hospital of St. John of Jerusalem, of Rhodes and of Malta.

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

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIFTH REPORT OF COMMITTEE PRESENTED

Hon. Wilbert J. Keon: Honourable senators, I have the honour to present the fifth report of the Standing Committee on Rules, Procedures and the Rights of Parliament.

(*For text of report, see today's* Journals of the Senate, *p. 764*.)

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

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

[*Translation*]

CANADA-FRANCE INTERPARLIAMENTARY ASSOCIATION

SECOND ROUND OF PRESIDENTIAL ELECTIONS, MAY 2-7, 2007—REPORT TABLED

Hon. Lise Bacon: Honourable senators, with leave of the Senate and pursuant to rule 28(4), I would like to table a document entitled "Report of the Canadian parliamentary Delegation

of the Canada-France Interparliamentary Association on the Second Round of the Presidential Elections, held in Paris, France, from May 2 to 7, 2007.

SECOND ROUND OF LEGISLATIVE ELECTIONS, JUNE 13-18, 2007—REPORT TABLED

Hon. Lise Bacon: Honourable senators, pursuant to rule 28(4), with leave of the Senate, I would like to table a document entitled "Report of the Canadian Parliamentary Delegation of the Canada-France Interparliamentary Association on the Second Round of the Legislative Elections, held in Paris, France, from June 13 to 18, 2007.

[*English*]

FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES RELATING TO NEW AND EVOLVING POLICY FRAMEWORK FOR MANAGING FISHERIES AND OCEANS

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

> That, notwithstanding the Order of the Senate adopted on Wednesday, November 21, 2007, the Standing Senate Committee on Fisheries and Oceans, authorized to examine and report on issues relating to the federal government's current and evolving policy framework for managing Canada's fisheries and oceans, be empowered to extend the date of presenting its final report from June 27, 2008 to December 19, 2008: and
>
> That the Committee retain until February 12, 2009 all powers necessary to publicize its findings.

• (1355)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO REFER DOCUMENTS FROM STUDIES ON BILL S-205 DURING FIRST SESSION OF THIRTY-NINTH PARLIAMENT, BILL S-42 DURING FIRST SESSION OF THIRTY-EIGHTH PARLIAMENT AND BILL S-18 DURING FIRST SESSION OF THIRTY-SEVENTH PARLIAMENT TO CURRENT STUDY ON BILL S-206

Hon. Tommy Banks: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the papers and evidence received and taken on the subject of Bill S-205, An Act to amend the Food and Drugs Act (clean drinking water), during the First Session of the Thirty-ninth Parliament, Bill S-42, An Act to amend the Food and Drugs Act (clean drinking water), during the First Session of the Thirty-eighth Parliament and Bill S-18, An Act to Amend the Food and Drugs Act (clean drinking water), during the First Session of the Thirty-seventh Parliament be referred to the Committee on Energy, the Environment and Natural Resources for the purpose of its consideration of Bill-206, An Act to amend the Food and Drugs Act (clean drinking water).

QUESTION PERIOD

HERITAGE

EFFECT OF BILL C-10 ON TAX CREDITS TO TELEVISION AND FILM PRODUCTIONS

Hon. Céline Hervieux-Payette (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. As the leader knows, the provisions of Bill C-10, which gives the government the power to censor the arts, are currently before the Standing Senate Committee on Banking, Trade and Commerce and not the Standing Senate Committee on Transport and Communications, which would normally study such measures. This is because the government chose to hide these measures within a 560-page bill with the description "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."

Can the Leader of the Government in the Senate, who preaches transparency and accountability, please tell us why the minister in the other place made no reference to this very important clause while making the case for his bill at second reading? Why was it hidden in this massive tax bill in clause 124?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. As I have stated on previous occasions, the measures in this bill had their origins with the previous Liberal government. This bill passed the House of Commons with all-party support. As the honourable senator mentioned, it is now before the Standing Senate Committee on Banking, Trade and Commerce.

Minister Verner appeared before the committee early last week and stated that the measures contained in Bill C-10 address only the most extreme and gratuitous material.

In order to refresh the memories of honourable senators, with regard to the origins of this bill, on March 5 in *The Globe and Mail* Sheila Copps stated that the Chrétien government had instigated this proposal specifically to prevent accreditation of a film about the kidnapping, torture and killing of two Ontario schoolgirls. Quoting her directly:

> I think that was the genesis of that clause . . . to catch something like the Paul Bernardo story specifically. . . . But it certainly wasn't intended to be an overall vehicle for censorship.

That was the intent of the provision when Minister Copps introduced it at the time, and that is the exact intent of the provision as it is now.

[*Translation*]

Senator Hervieux-Payette: Honourable senators, I understand that the Leader of the Government wants to backpedal on a bill whose measures were never applied and whose directives were never even written. From then on, it has been the same old story every single time; you already passed a bill that was never implemented. If I believe what the Minister of Canadian Heritage, Josée Verner, said in committee, she will conduct one year of consultations to get these directives.

Could the minister tell us when and how the consultations were conducted with the industry, to prevent any directives from being established when they never even existed?

• (1400)

[*English*]

Senator LeBreton: It was announced by the previous government on several occasions.

With regard to Minister Verner's testimony, she has been open and transparent about the intentions of the government and her own intentions.

However, it is important to remember that this bill is before the Senate because it passed unanimously in the House of Commons. It was a provision that had been brought in by the previous government, and it was repeated in this legislation. People in the other place obviously looked at this bill. To make the accusation that it was hidden is an odd testament to the honourable senator's colleagues in the other place and indicates that she feels they were not doing their work. I do not believe that was the case. I believe they understood what was in the bill before they passed it.

[*Translation*]

Senator Hervieux-Payette: The Leader of the Government in the Senate did not answer my question.

Did the minister consult other people in the industry before introducing this measure, or did she consult only people like Mr. McVety, who had lobbied Mr. Day, Mr. Harper's office and the Minister of Justice? What other industry stakeholders were consulted regarding these major changes?

[*English*]

Senator LeBreton: There was no change in policy; I would not give too much sway to a story that caused a headline in *The Globe and Mail*. People continually make claims about how they may or may not influence government. I certainly have never met the gentleman who the honourable senator mentioned. Some of his colleagues even suggested that he may have made those claims, and he may very well have made representations, but they were not the driving factor behind this bill. How could they be?

The fact remains that this policy was not a new policy; rather it was simply putting into the bill something that was announced at least two or three times before under the previous government.

Hon. Wilfred P. Moore: My question is also for the Leader of the Government in the Senate, with respect to Bill C-10.

As a parliamentarian from the Atlantic coast, I have a keen interest in this bill. No other bill has brought so much uproar to my office over the content of legislation. A film is being made now in the Village of Chester, where I live. Therefore, this is important, not just for the actors but for everyone involved, whether they are the bit players or the people supplying everything from sandwiches to props. It is very important. The subjectivity of the new power that the law would grant to the minister in this bill is worrisome.

The bill gives the minister power to pick and choose which films get the tax credit according to her mood of the day. It would also modify the foundation of the process by which a tax credit is awarded. It is not enough to refer to the history of the bill and how it got here. This is the first time that this bill has been before this Senate in this form. It is not just the power that is in the bill that is of concern but also the removal of the proposed guidelines as a statutory instrument and thereby not subject to review by Parliament.

How can the minister say that the proposed legislation is not censorship when a group of unknown bureaucrats would decide how to interpret her subjective will as to which films should get a tax credit?

• (1405)

Senator LeBreton: Bill C-10 is not censorship at all, honourable senators, because filmmakers in this country are free to make whatever films they like. This proposed legislation will ensure that taxpayers' money is not used to finance material that is pornographic, excessively violent or denigrating to identifiable groups. A film such as the one being filmed in the beautiful town of Chester obviously would not fall into one of those categories.

The intent of this proposed legislation is exactly what I stated and it is exactly what it was in the past, when it was brought in two or three times in bills by the previous government. There is no change. There is no censorship. Filmmakers in this country are perfectly entitled to make whatever films they would like.

Senator Moore: That is not much of an answer.

The Canadian Film or Video Production Tax Credit is a good tax credit if it is applied according to objective criteria. However, the tax credit will be subjected to the will of only one person, the Heritage Minister. The committee recommends to this minister and the minister will make the decision. I urge honourable senators to read the bill.

That is not how the cultural industry of Canada will thrive and grow. In order to succeed our cultural industries cannot be subjected to the will of a minister. That is especially true when it is known that the party to which the minister belongs is largely influenced by right-wing ideologues. Why is the minister refusing to admit that what she is proposing is censorship and such a change would see our cultural and artistic community regress?

Senator LeBreton: Honourable senators, I followed the televised testimony of the minister before the committee. I ought to get a life; I watch this stuff on television.

The minister was completely reasonable and explained herself very well. If the honourable senator had any sense of the minister, I am sure he would have appreciated her honesty and concern that there may be some misunderstanding. She has been meeting with various stakeholders in the industry throughout this entire period of time.

I know it is a great disappointment to the honourable senator, but the policies of this government are not driven by right-wing ideologues as he says. This government, of which I am very happy to be a part, is representative of a broad base of Canadians.

The issue here is not censorship and the honourable senator knows that. The issue is exactly what it was when Minister Copps and two ministers of finance introduced their bills.

The interest is not to censor films. The interest is to ensure that hard-earned taxpayers' dollars will not pay for films that denigrate people, promote pornography or promote excessively violent acts against our fellow human beings. I am sure as a taxpayer, the honourable senator should certainly appreciate this; I certainly appreciate that and I am not a right-wing ideologue.

As much as I regret the misrepresentations of this bill, the facts are the facts. There is no censorship.

Even when our party was in opposition, I always felt that when ministers of the Crown appeared before committee, they appeared to try to inform the committee of the government's policies in a given area. I felt quite badly for Minister Verner for the treatment she received at the hands of some senators.

• (1410)

[*Translation*]

Hon. Francis Fox: The Leader of the Government in the Senate must be aware that never has there been such a widespread outcry across Canada, from the Atlantic provinces, Quebec, Toronto and the Western provinces.

In that regard, the Leader of the Government can consult her colleague on her left, Senator Fortier, who attended the Jutra Awards gala and learned about the problems facing the film production community in Quebec under current legislation.

In addition to the outcry from the cultural community, the financial sector is saying that the introduction of subjective factors in the approval of tax credits will only create further uncertainty, which could lead to the withdrawal of some funding.

There is not only the possibility of censorship, but also of meddling in the funding of films. Furthermore, the legal community is also expressing its concerns. The Leader of the Government can say they are wrong, but I would ask her to consider what Pierre Trudel, a prominent legal scholar with the law faculty at the Université de Montréal, said in an article published in *Le Devoir* on April 7. He called Bill C-10 an unwarranted violation of freedom of expression.

He is not a Liberal, a Conservative, a Bloc member or a New Democrat; he is a university professor, an expert in the field. He said and I quote:

> The text of the bill does not contain a definition of "public policy."

He added:

> Freedom of expression is protected by a constitutional text: section 2(b) of the Canadian Charter of Rights and Freedoms guarantees this freedom. It can only be limited by a rule of law (and not the discretionary decisions of a minister). . .

As for the possibility of obtaining additional funding, it would seem that he knew what your reply would be. In his opinion, saying that the funding can come from somewhere else is somewhat like saying that refusing to serve a visible minority at a restaurant is not a violation of the right to equality because the minority could always eat elsewhere.

The Leader of the Government and her minister, Ms. Verner, have both given answers along those lines.

A little later in his article, Mr. Trudel wrote:

> This freedom is threatened by adding to our laws the obligation to "guess," based on the inclination of the minister of the day, what may be deemed contrary to "public policy."

Will the minister take into consideration the serious concerns expressed by the legal and financial communities throughout the country by reviewing this bill?

Minister Verner is recommending that guidelines not be issued for one year. Perhaps the Leader of the Government in the Senate could simply suggest to cabinet that the bill be withdrawn and guidelines not be issued, given that Ms. Verner does not know what she wants to include in them.

[*English*]

Senator LeBreton: Honourable senators, many people can express concern about a piece of legislation, even if their opinions are based on misinformation. A certain community is concerned about this legislation in regard to censorship. This legislation will not create censorship. It is odd that these concerns were not directed at the previous incarnations of this bill.

This legislation is before committee. There will be no censorship; this is a matter of protecting taxpayers' dollars. The minister made her presentation to the committee. This bill passed unanimously in the House of Commons and is now before the committee in the Senate.

I would suggest that, if the honourable senator feels so strongly about the matter, he ought to deal with the matter in the Senate committee, where it is presently.

Hon. Yoine Goldstein: Honourable senators, my question is addressed to the Leader of the Government in the Senate, who spoke a few moments ago about some Canadians whose opinions are based on misinformation.

Is the leader aware that there is a Facebook page where over 40,000 Canadians have expressed their disapproval of this provision? Is the minister suggesting to this chamber and to Canada at large that 40,000 Canadians are misinformed?

• (1415)

Senator LeBreton: Honourable senators, I have been asked about Facebook before. I never look at Facebook because I do not understand the technology. I think the concept is dangerous.

Some of the information that has surfaced with regard to this bill has left the impression that this is censorship. It is not censorship. I think I am quite within my right to say that opinion is misinformed.

I am also quite within my right to say that the vast majority of Canadians would like to see their tax dollars well-protected. I am sure that most Canadians would not want to see their tax dollars funding a film that is pornographic, that shows abuse of women or men or that is violent or denigrating to any particular group.

NATIONAL CAPITAL COMMISSION

GATINEAU PARK— PRIVATE HOUSING DEVELOPMENT

Hon. Mira Spivak: Honourable senators, the proposed private development within the boundaries of Gatineau Park will see 18 new homes, a theatre and a farm on the northeast side of the park. This would violate all sorts of things, not the least of which are successive National Capital Commission master plans for the park. The NCC described property development in the park as contrary to its mandate.

According to news reports, the minister has suggested that the local or regional municipalities could deal with the proposed construction by imposing a halt to development on private land in the park. The minister has also been quoted as backing a development freeze in the park.

As the NCC is the guardian of the park for all Canadians, and Parliament through legislation has given the NCC the tools to halt such development — specifically, its bylaw-making authority in section 19 of the NCC Act and its powers of expropriation — would it not be wise for the NCC board to exercise its authority to prevent large-scale private development?

I am fully aware of the arm's-length nature of the board. However, surely the government has an opinion other than to fob off the park's guardianship on small, struggling municipal governments that could then be sued by landowners.

Would the Leader of the Government in the Senate indicate whether the government is interested in urging the NCC to use its powers, since its mandate is to prevent further development in the park?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. She is quite correct that there have been media stories in the past few weeks about certain private lands within the boundaries of Gatineau Park.

As I have said on previous occasions, protecting and preserving our parks, our environment and our ecologically sensitive areas is of prime importance to the government. Gatineau Park, especially for those of us who live in the Ottawa- Outaouais region, is an outstanding feature of this area. The government has indicated that it is supportive of and committed to the protection of the park.

As I said in response to a similar question from Senator Banks in December, both the Minister of the Environment, John Baird, and the minister with responsibility for the National Capital Commission, the Minister of Transport, Lawrence Cannon, have publicly committed to ensuring the long-term protection of the park.

I understand that this matter is before the board of the National Capital Commission, and that they soon will be forthcoming with the boundaries for Gatineau Park.

With respect to the municipalities, I will need to check the news stories, because that is not how I interpreted Minister Cannon's comments. I will take that portion of the honourable senator's question as notice.

• (1420)

Senator Spivak: I thank the honourable senator for her answer, but I must point out to her that this chamber has the technical description of Gatineau Park in the form of an attachment to Bill S-227. I would be happy to pass a copy to the leader.

I am happy to hear that the NCC is looking at this matter, and I hope the outcome is what the minister's answer indicated. However, Chelsea Mayor Jean Perras said that the development problem could be resolved if landowners had to offer their properties first to the NCC. I point out that Bill S-227 contains such a provision. I hope that it will not be too long before that bill is before the Senate at third reading.

Senator LeBreton: I am aware of the views of the Mayor of Chelsea and that there is a boundary map for Gatineau Park. In particular, because there has been some movement in this area, I understand that the issue is before the NCC Board of Directors, and I feel assured that it will be dealt with sensitively. As the honourable senator pointed out, the National Capital Commission operates at arm's length from the government.

HERITAGE

EFFECT OF BILL C-10 ON TAX CREDITS TO TELEVISION AND FILM PRODUCTIONS

Hon. Jerahmiel S. Grafstein: My question is for the Leader of the Government in the Senate in respect of Bill C-10. No parliamentary leader can deny that the public impression of this proposed legislation to amend the Income Tax Act is affecting Canadians and jobs in a concrete way, and that it will continue to affect film financing in the future. Jobs in Halifax, Montreal, Toronto, Vancouver and almost every region of the country are being affected as these projects are shelved due to the uncertainty.

The proposed change in Bill C-10 is shaking the foundation of Canada's freedom of artistic expression. Groups across Canada are outraged and feel betrayed. Worse, it will crater financing for Canadian television that relies on federal sources.

Honourable senators, allow me to address the leader's earlier response. It is true that some Canadians will believe that films are too violent or too salacious, but these films simply reflect the current ills of our society. It is better for us to address those ills than to avoid them.

I will quote the comments of Sarah Polley, a Canadian Oscar-nominated actor/writer:

> This legislation threatens freedom of expression as well as the very financial foundation upon which this industry was built. Take that away, and many of us would be hard-pressed to understand the motivation to stay here.
>
> The main reason I choose to make films in Canada, and act in Canada, is because public funding allows a level of creative freedom that is simply not possible with private money.

Will the government consider immediately withdrawing this egregious amending bill that is having a devastating impact on Canada's cinematographic industry: actors, producers, directors, film crews and support businesses that have made this a major Canadian industry and job producer, and start once again with the proper process of pre-legislation and guideline consultation with the industry and others affected?

• (1425)

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. However, there is no basis for the comments of the honourable senator in lengthy preamble. I have seen no evidence of the film industry in this country being affected in any way. The industry is thriving; films are being made; there is no censorship. I have seen no evidence that the industry is losing jobs or money.

As I said to Senator Fox, the proposed legislation is before a Senate committee. It has been through the House of Commons twice. Some senators obviously feel very strongly about the subject. This provision existed in the past for a reason, and it is currently being put forward for a reason. The matter is still before the Senate committee, and I invite senators to address it there.

Senator Grafstein: If we on this side can demonstrate that film productions are being shelved, would the leader respond to my request to withdraw the proposed legislation until we have a proper consultation?

Senator LeBreton: Honourable senators, Senator Grafstein often tries to put words in one's mouth. I simply said that the matter is still before the Senate and that senators should deal with it as they see fit in the committee.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table a delayed answer to an oral question raised by Senator Milne on February 5, 2008, concerning transport, Bill C-14.

TRANSPORT, INFRASTRUCTURE AND COMMUNITIES

CANADA POST—DEREGULATION OF MAIL DELIVERY—INFLUENCE OF BILL C-14

(Response to question raised by Hon. Lorna Milne on February 5, 2008)

Almost thirty years ago, all parties in Parliament agreed that important changes were necessary to the postal service received by Canadians. This led to the establishment of Canada Post as a commercial Crown Corporation with a mandate to be self-sustaining.

At that time, Parliament also provided Canada Post with an exclusive privilege over domestic and outbound international letters weighing less than 500 grams. The exclusive privilege that Canada Post received was lesser in scope than the one previously granted to the Post Office Department and was right for its time.

A lot has changed since 1981. From a government department operating in the red and plagued by a reputation for poor service, it has evolved into a successful company that connects Canadians from coast to coast. Every business day, Canada Post delivers some 40 million pieces of mail and parcels. Canada Post now generates $7.4 billion in income each year. It has earned a profit in each of the past 12 years and paid more than $900 million in dividends, capital returns and income tax over that same period to the federal government.

Today in Canada, we also have businesses involved in what is called "remailing." Remailing is a relatively new business from when Canada Post's exclusive privilege was granted.

Remailers collect mail in bulk and ship it to another country at rates lower than those available to Canada Post. Remailers have increasingly entered the Canadian market over the past several years.

At this juncture, the Government of Canada proposes to amend the *Canada Post Corporation Act* to provide more choice and opportunity to Canadian businesses by opening up competition within the outgoing international mailing marketplace. Bill C-14 would remove all outbound international mail from Canada Post's exclusive privilege. This would enable remailers to operate in Canada without infringing on Canada Post's exclusive privilege.

The proposed legislation is not intended to allow the mail to come back into Canada. The addressee of the letter must reside in a foreign country. The government is not touching domestic mail services. Remailers that attempt to send mail back into Canada will still be in contravention of the exclusive privilege after the passage of Bill C-14.

Canada Post is no stranger to competition. Even in its area of exclusive privilege, namely letters, it has faced strong competition from technologies including the Internet and electronic substitutes for some time now. Almost half of Canada Post's revenues come from markets in which Canada Post has no statutory protection from private sector competition.

Bill C-14 specifically addresses enhancing competition in the outbound international mail business. Canada Post successfully competes for revenues today and the Government expects that success to continue.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

NATIONAL CAPITAL COMMISSION—GATINEAU PARK

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 25 on the Order Paper—by Senator Spivak.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE—SPOUSAL EMPLOYMENT AND RECIPROCAL EMPLOYMENT ARRANGEMENTS

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 21 on the Order Paper—by Senator Carstairs.

[*English*]

ORDERS OF THE DAY

INTERNATIONAL BOUNDARY WATERS TREATY ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Murray, P.C., for the Honourable Senator Carney, P.C., seconded by the Honourable Senator Day, for the second reading of Bill S-217, An Act to amend the International Boundary Waters Treaty Act (bulk water removal).—(*Honourable Senator Tkachuk*)

Hon. David Tkachuk: I am sorry, honourable senators, I have risen on the wrong order.

Hon. Lowell Murray: Honourable senators, when the honourable Senator Tkachuk rose on Order No. 4, Bill S-217, An Act to Amend the International Boundary Waters Treaty Act, he excited me prematurely. I thought he was at long last rising to pursue this debate. Perhaps my friend can indicate when we might be hearing from him on this matter.

• (1430)

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, it is my understanding that Senator Tkachuk will not be our lead critic on that item; it will be Senator Nolin. We will get back to the honourable senator as soon as we can, and certainly within the next nine days.

Hon. Terry M. Mercer: Honourable senators, perhaps His Honour can clarify something for us. The Honourable Senator Tkachuk's name appears on that bill. He did rise inadvertently, but then the Honourable Senator Murray spoke on the matter and now the Honourable Senator Comeau has also spoken on it. Is the bill open for debate? Is it necessary for someone to adjourn the debate?

The Hon. the Speaker: Honourable senators, I think the exchange that just occurred was for information, and the Honourable Deputy Leader of the Government in the Senate has provided that information. Therefore, if you would like to make a formal motion, what is the disposition of the house? Is there a motion to adjourn the debate?

Senator Comeau: Yes; I move that it stand.

The Hon. the Speaker: This item, then, would stand in the name of Senator Tkachuk?

An Hon. Senator: Senator Mercer.

The Hon. the Speaker: It was the understanding of the chair, listening to the Deputy Leader of the Government, that this item would stand in the name of the Honourable Senator Nolin instead of the Honourable Senator Tkachuk. Is that correct?

Senator Comeau: Yes.

The Hon. the Speaker: So ordered.

Order stands.

STATE IMMUNITY ACT CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator Stratton, for the second reading of Bill 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). —(*Honourable Senator Tardif*)

Hon. David Tkachuk: Honourable senators, after discussions with Senator Tardif, I wish to move third reading of this bill.

The Hon. the Speaker: It is pretty hard to move third reading at this time; the motion before the house is on the question of second reading. Is the question being called?

Some Hon. Senators: Question!

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

Some Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Tkachuk, seconded by Senator Stratton, that Bill S-225 be read the second time.

Senator Cowan: He said third.

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

Some Hon. Senators: Question!

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.

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 Standing Senate Committee on Legal and Constitutional Affairs.

PARLIAMENTARY EMPLOYMENT AND STAFF RELATIONS ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Stollery, for the second reading of Bill S-212, An Act to amend the Parliamentary Employment and Staff Relations Act.—(*Honourable Senator Cools*)

Hon. Anne C. Cools: Honourable senators, I have observed that this is day 15 on this particular order. I am planning to speak and I am working on my speech. I wish to ask permission of the house to be able to adjourn the debate and to be able to speak next week.

Hon. Serge Joyal: Would the honourable member entertain a question in relation to that?

Senator Cools: I would love to answer questions, but the clock is ticking on my 15 minutes, and I would prefer to use my time more prolifically next week.

The Hon. the Speaker: It was moved by the Honourable Senator Cools, seconded by the Honourable Senator Spivak, that this item be adjourned until the next sitting of the house in the name of Senator Cools for the remainder of her time.

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

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL CAPITAL ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator McCoy, for the second reading of Bill S-227, An Act to amend the National Capital Act (establishment and protection of Gatineau Park).—(*Honourable Senator Tkachuk*)

Hon. Tommy Banks: Honourable senators, I obtained the permission and agreement of Honourable Senator Tkachuk to speak today briefly on this bill and on a matter that I think will be of interest to senators, on the understanding that this order will be adjourned today again in his name.

The reason I want to talk about this matter is that Gatineau Park is in the news these days and here we have before us a bill which deals with this very subject. There seems to be confusion here, on both sides and elsewhere, as to the authority necessary to proceed with the full measures of protection that are deserved on behalf of all Canadians.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, on a point of order, generally speaking, the second speaker on a bill has a reserved 45 minutes. We would agree that Senator Banks may continue. However, we wish to reserve that 45 minutes for our side.

Senator Banks: The important point, honourable senators, is that the provincial transfer that is needed for the creation of a federal park in Gatineau Park, or anywhere else, has already taken place. It is done. According to a 1973 agreement on Gatineau Park and an exchange of Orders-in-Council, the Quebec government transferred the control and management of provincial lands located inside the park to the federal government in perpetuity in 1973. The province also transferred the control and management of the lake bottoms located in the park. The Province of Quebec committed itself to not issue mining exploration permits, stipulated that the land it was transferring was to form the park of Gatineau Park, and guaranteed that the rights it was transferring were free of all defects in title.

In those types of agreements, just as in the agreements that precede the creation of national parks in provinces, it is not ownership that is being transferred when we are talking about Crown lands. It is, rather, the control and management of those Crown lands. In setting the principle of the indivisibility of the Crown, the Supreme Court has ruled that Her Majesty is the owner of the property, whether in right of Canada or in right of the provinces. Her Majesty cannot grant onto herself. Only the administrative control of the property passes from a province to the federal government. The transfer is therefore made by reciprocal Orders-in-Council, and is confirmed by statute wherever third party rights are involved.

A transfer of land from the provincial to the federal government is not a conveyance of ownership. It is the administration and control of the land and the resources that are being transferred from the province to the federal government. By virtue of that

1973 agreement, the province, essentially, has done all that was needed to be done. The lands in question are the property of Her Majesty in right of the Province of Quebec. The Province of Quebec has, by those instruments, handed over the control and management of those lands to the federal government, and has agreed to do so specifically for the purposes of a park, and subject to certain conditions set out in the agreement and in the Orders-in-Council.

An examination of clause C2 of the Quebec Order-in-Council that makes the transfer reveals that the nature of the conditions include that the lands be transferred to the National Capital Commission by the Government of Canada, and the lands described in the Annex A of that agreement are to form part of Gatineau Park. In the event that any part of the lands are not required for the purposes of Gatineau Park, the control and payment of such lands shall be returned by the commission to the Government of Canada.

If those lands are being used for the purposes of residential construction, as may now be the case, and if that is happening on lands that are Quebec lands, that may call into question whether those lands might need to be returned to the Province of Quebec and might not form part of the park.

Quebec says in this agreement, however, "Here is the management and control of the lands for park purposes. If you do not use them for those purposes, you must give them back." The federal government and the National Capital Commission, therefore, have the effective control and management of those lands in perpetuity, and it is evidenced in the Orders-in-Council. If they cease to be used for that purpose and are used for any other purpose, they will be transferred back to the province.

On October 5, 2006, I tabled in the chamber the federal Order-in-Council, the Quebec Order-in-Council, and the agreement of the Government of Canada respecting those lands, the control and transfer into the Government of Canada's hands and then into the hands of the National Capital Commission for the purposes of a park. The first, I want to say for the record, is an Order-in-Council of the Province of Quebec, No. 3736-72, signed on December 13, 1972. The second is an agreement entered into on August 1, 1973, between the Government of Quebec and the National Capital Commission. This sets out the transfer of the management and effective operation of those lands with the conditions to which I referred; that is, setting out the purposes for which they are to be used. The third document is an Order-in-Council of the Government of Canada, number TB716459, signed by His Excellency on February 20, 1973.

• (1440)

Honourable senators, I am from Alberta. In Alberta and in its sister province of British Columbia, there are three national parks. These parks are in the provinces and are Crown lands of those provinces. However, the provinces have handed over the management and control of those lands to the federal government, as they have been handed over in all national parks that exist in provincial territory. Those parks are all world famous and we are proud of them, but there is a certain national and distinctly Canadian cache to Gatineau Park. Although we know it will not be a national park, Gatineau Park should be a park for all Canadians. It should be the crown jewel of the National Capital Region.

The park should not be sold off in bits and pieces, and further development of it should not be permitted. I urge all honourable senators to remember these facts and to refer to the documents when these matters come before us, as they will.

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

PERSONAL WATERCRAFT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Murray, P.C., for the second reading of Bill S-221, An Act concerning personal watercraft in navigable waters. —(*Honourable Senator Comeau*)

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, the intent of Senator Spivak's bill is to allow lakeside residents to regulate or take control over the use of personal watercraft, such as jet skis and so on.

Even those of us who do not have a lake cottage can probably understand the frustrations of cottage owners having to put up with the noise and annoyance of such watercraft. In my area, we call them "Terry Mercer" crafts. They sound like bumble bees amplified to ear-splitting volume.

Honourable senators, it is easy to sympathize with cottage residents who have invested in quiet lakeside getaways in order to escape to a peaceful lake setting to spend their leisure summer holidays away from the noise and air pollution of urban life.

However, we should ask whether this bill is the appropriate response to do away with this pastoral annoyance.

A few questions come to mind: Has Senator Spivak convinced this chamber that this new legislation is necessary to respond to the annoyance of watercraft? Is, in fact, new legislation required? Is a private member's bill the proper means to achieve the objective of reducing noise pollution? Has Senator Spivak sufficiently convinced this chamber that we should proceed to adopt this particular bill in principle? The onus should be on Senator Spivak to convince us that this bill is needed in principle.

There are other existing statutes to regulate such machines. Therefore, why is the existing legislation avenue not being used? Do we in fact need new legislation? Is the existing legislation not adequate or strong enough? If not, should we not amend the existing legislation?

Senator Spivak should convince us that, in principle, this bill is needed. She has not, so far, convincingly made this case. Senator Spivak's argument is that she has been seeking for many years to introduce legislation aimed specifically at personal watercraft to address the concerns related to the operation of these watercraft. Previously proposed bills include Bill S-26, Bill S-10. Bill S-8, Bill S-12 and Bill S-209.

Over the years, however, various solutions have been developed to address Senator Spivak's concerns. Some of these solutions include the introduction of the Competency of Operators of Pleasure Craft Regulations. In addition, a provision has been added to the Small Vessel Regulations making the careless and inconsiderate operation of a small vessel an offence. A similar but more severe provision can be found in paragraph 249(1)(*b*) of the Criminal Code, which addresses the dangerous operation of a vessel.

Transport Canada established a policy to proceed on a yearly basis with amendments to the regulations to permit the addition of restricted areas on a regular basis.

The Boating Restrictions Regulations, which will be renamed the vessel operation restrictions regulations under the Canada Shipping Act, 2001, which will apply to all vessels, were amended to prohibit the operation of a personal watercraft by a person who is under 16 years of age.

Bill S-221 proposes that applications for restrictions on the use of personal watercraft be made directly to the Minister of Transport by local authorities without requiring municipal and provincial government involvement. This bypassing of provincial governments could adversely impact federal and provincial relations, particularly in Quebec, Ontario, Manitoba and Alberta, which actively participate in the administration of the application process related to the Boating Restriction Regulations.

The bill would require a minister designated by the Governor-in-Council to demonstrate why the addition of restriction would not be in the public interest rather than requiring the local authority to demonstrate the necessity of the restriction, as is normally done for all of the regulations under the requirements of the Cabinet Directive on Streamlining Regulation.

Local authorities, as defined in the proposed bill, could send applications directly to the minister. This may include non-elected and non-representative groups, such as cottage associations, with no definition of their roles or their responsibilities. This would effectively permit small, non-representative groups to regulate waterways under federal jurisdiction and circumvent principles of fairness and good governance embodied in the Cabinet Directive on Streamlining Regulation that apply to all other regulation-making initiatives.

Furthermore, a mechanism needs to be in place to ensure that the administrative requirements of the restrictions, such as proper signing, are maintained once a restriction is approved. This can only be accomplished by making a level of government, such as a municipal government, responsible for these requirements.

Bill S-221 requires only a short consultative process, which may exclude such interested groups, such as Aboriginal organizations. This bill discourages exploring non-regulatory alternatives to resolving waterway conflicts and other fundamental principles of good governance.

This bill would put the onus on the minister to demonstrate that a restriction is not required as opposed to requiring an applicant to demonstrate the need for a restriction.

The bill provides for local authorities, after consultation with affected communities, to make proposals to the designated minister in regard to waterways where the operation of a personal watercraft should be subject to restrictions. The waterways in which the operation is restricted should be listed in a schedule to new regulations to be made pursuant to the new act.

This would effectively create a parallel legislation to deal with only one type of craft with all the associated administrative and logistical requirements that this entails.

Personal watercraft restrictions should include imposing limits on access to specific areas, speed limits and limits on approaching shorelines. These waterways and applicable restrictions should also be listed in the schedule to the new regulations.

Bill S-221 would give the minister little choice but to accept the application and make regulations to implement the new Schedules 1 and 2, and as such specify the types of restrictions that may be made relating to the operation of a personal watercraft.

This would also require the minister to table an annual report to the House — and I would have to look back; it says "House," but I am not sure if it is both Houses or not — outlining changes made to each schedule within the first 15 days on which the House is sitting.

The minister would also be required to pre-publish any proposed changes, additions or deletions to Schedules 1 and 2 of Part I in the *Canada Gazette* within 60 days of receiving a local authority's application. This is a very short time period for this process. The bill also provides for a 90-day comment period. Final approval and publication of Part II of the *Canada Gazette* would not occur if the minister determines that the regulatory proposal may impede navigation.

Under Bill S-221, the minister would be required to keep a record of all applications received and a detailed account of how they were disposed of, including the applications that the minister refused to accept along with the reasons for refusal.

• (1450)

Provisions for offences and punishments are contained in the bill. Any person operating a personal watercraft in an area where such crafts are forbidden, or of contravening a personal watercraft restriction, would be subject to a fine not exceeding $500. Senator Spivak has proposed many iterations of this bill over the years. The intent and spirit to increase safety is praiseworthy; however, the implications of this bill should be carefully considered.

For example, the issue of giving a federally mandated legal mechanism to local authorities to propose restrictions on the use of personal watercraft should be considered very carefully. Local authorities could make applications directly to a minister without requiring input or involvement by municipal or provincial governments. Bypassing provincial governments could adversely impact federal-provincial relations, as certain provinces actively participate in the administration of the boating restrictions regulations application process.

The cabinet directives on streamlining regulations state that non-regulatory alternatives must be explored and that a cost-benefit analysis of the proposed regulatory intervention be conducted to demonstrate the necessity for new regulatory requirements. It also describes the level and extent of public consultations that a federal government department must conduct, and provides guidance as to when there is insufficient justification to support a regulatory intervention.

The new bill would create a heavy workload for Transport Canada and the Department of Justice with respect to processing and administering duplicate legislation, which would have to be done shortly. The new vessel operations restrictions regulations, previously known as the boating restrictions regulations, already provide for establishment of restrictions to boating activities and navigation in Canadian waters. They apply to vessels of all sizes and can be made specific to areas, the mode of propulsion used, engine power or speed, recreational towing activities or specified areas in which a permit is required in order to hold a sporting or recreational event.

In addition, Transport Canada officials, in collaboration with the Department of Justice, carried out an in-depth review of the tools provided under the Canada Shipping Act, 2001. This review demonstrated that the existing regulations already provide the flexibility to target a specific type of vessel when applying the principles of the Canada directives on streamlining regulations. It has demonstrated that doing so is the best solution to an identified problem.

This means that the objectives of Senator Spivak's proposed bill can be achieved using existing legislation and regulations. Her bill, therefore, is unnecessary.

Under the Canada Shipping Act, 2001, certain regulations may be used to restrict the use of different types of vessels, including personal watercraft, where the need is justified for safety or other reasons, including environmental considerations or in the public interest.

Honourable senators, the existing provisions of the Canada Shipping Act, 2001 and its regulations, complemented by the application of the process and fundamental principles set out in the cabinet directives on streamlining regulations, meet all aspects of this bill. Furthermore, following the principles of good governance places the responsibility where it belongs, which is on the applicant, to submit a request together with the report that specifies the location of the waters, the nature of the proposed restriction, information regarding the public consultations held, particulars regarding the implementation of the proposed restriction, and any other information that is necessary to justify regulatory intervention.

Honourable senators, we should not support a bill that specifically targets one type of craft when legislation exists that can regulate all types of vessels that may operate in the same area. We should not support a bill that would circumvent principles of good governance to which all other federal regulatory initiatives are subjected. It has been demonstrated that the best solution already exists.

Senator Spivak, I believe, has good intentions behind the introduction of the bill to limit annoying watercraft. It has raised awareness of the issue and led me to determine that these regulatory tools, as I have already noted, already exist to deal with such annoying vehicles. I bring this fact to the attention of the chamber so that we may decide on how to deal with this bill. Since there is existing legislation empowering various government departments to regulate such machines, why should we proceed with this bill?

In conclusion, Senator Spivak's current rationale for re-introducing the bill is that it has been introduced in the past. I have outlined to honourable senators that, in fact, there was legislation on the books to deal with such annoying machines, and regulations have been implemented to do just that. Her bill, therefore, is not necessary to accomplish her goals. By accepting the bill in principle, we would be accepting the current legislation and current regulations as being not good enough. That case has not been made in this chamber. We are not serving the taxpayers of Canada well if we spend our time passing legislation to solve problems when there is legislation that already accomplishes that objective, and certainly not by introducing legislation that will cause implementation difficulties.

Should the chamber decide to proceed, however, and it is up to this chamber to decide should it reject my arguments on this matter, then of course this bill should be looked at further. I suggest that this be done at the Standing Senate Committee on Transport and Communications if the chamber wishes to look at it further.

The Hon. the Speaker *pro tempore***:** Continuing debate?

Hon. Tommy Banks: Honourable senators, I did not anticipate that Senator Comeau would propose that this bill be sent to the Standing Senate Committee on Transport and Communications. Its predecessors have been dealt with, I think, on four previous occasions by the Standing Senate Committee on Energy, the Environment and Natural Resources, which has jurisdiction over these kinds of things. If the bill were to be referred to that committee again, it would be referred to a committee which has a certain body of knowledge and corporate memory, as the phrase goes, with respect to the questions that surround this bill.

It may well be the case that, since the last time it was considered and passed by the Senate, there have been new regulations put in place, in which case the committee would want to hear about those regulations. It would be a good idea for witnesses in that respect to be heard by senators who have previously visited this issue over many years and on four separate occasions.

In the previous iterations of the bill, and its consideration by that committee, we heard those arguments, and the committee determined and recommended to the Senate that the existing means, which we acknowledged existed in law and in regulation to meet the objects of this bill, were not being followed. They did not need to be modified; they just were not being used, and we heard from the community involved as well as the manufacturers and the government of the day.

I hope that the chamber will consider sending the bill to the Energy Committee because that committee has considered its predecessors. In any case, wherever it is sent, the committee should take into account all of the previous testimony that has been given by people who came here, often at their own expense,

from all sides of the question. We had testimony from the government, the industry, the regulatory organizations and the users.

Senator Comeau: That is all fine and good, but if you had listened to the comments in my speech, I did relate the fact, that subsequent to when this bill was last looked at, there have been a number of changes to regulations by Transport Canada. Historically, the committee with the mandate to look at Transport Canada issues in this chamber has been the Transport Committee. They are accustomed to having the transport minister appear before them, and to hear from Transport Canada officials to determine if the existing legislation is not adequate. The existing legislation is, in fact, adequate to change or propose new regulations.

Over the years, the committee that has dealt with Transport Canada issues, and with general transport issues, has been the Transport Committee. If there have been interventions made by the public at large, based on their desire to control these vehicles, I am quite sure that Transport Canada would like to look at the previous testimony given and the urgency with which these individuals presented their cases to the Energy Committee, which looked at this bill from an environmental angle. The general mandate in this chamber has been jealously guarded, and transport issues are generally referred to the Transport Committee, just as fisheries issues are referred to the Fisheries Committee and energy and environment issues are referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

• (1500)

I am not sure why the last time around this bill was referred to the Energy Committee. I would have to go back over the arguments made at that time, which I may do. I am making the case that this matter should be referred to the proper committee, which is the Standing Senate Committee on Transport and Communications, which has the general mandate to look at such bills.

The Hon. the Speaker *pro tempore***:** Do you wish to ask a question, Senator Spivak?

Hon. Mira Spivak: Yes, I do, unless there is someone else who wishes to speak.

[*Translation*]

The Hon. the Speaker *pro tempore***:** I must inform honourable senators that if Senator Spivak were to speak today, that would have the effect of closing the debate at second reading. Do other honourable senators wish to speak in this debate at second reading?

[*English*]

Senator Spivak: Honourable senators, from the time this bill was introduced, I have always maintained that if the regulations could be changed and the minister would change the regulations, I would be happy to withdraw my bill.

The arguments that Senator Comeau has made have been answered in great detail before. I point out that, even at this moment, there is a group in Quebec that has attempted to use the regulations and they cannot use them.

Senator Comeau indicated that he wanted to send the bill to the Standing Senate Committee on Transport and Communications. Since this matter has been so long in the gestation stage, I said: "Sure, send it wherever you want." However, my preference would be to send the bill to the Standing Senate Committee on Energy, the Environment and Natural Resources, not only because of the corporate history but because there are very good environmental reasons for prohibiting these particular vehicles.

While I am of two minds, I should like to adjourn the debate because I wish to rebut the overwhelming case that Senator Comeau thinks he has made, written, of course, by the Department of Transport.

The Hon. the Speaker *pro tempore***:** Is the honourable senator asking to adjourn the debate for the remainder of her time?

Senator Comeau: On a point of order. Your Honour may wish to refer to the rules as to whether this is appropriate at this point. My understanding is that the last speaker makes closing comments and there is no opportunity to adjourn the debate.

The Hon. the Speaker *pro tempore***:** The honourable senator is right.

Senator Spivak, you cannot adjourn the debate. You can say that you would like to continue for the remainder of your time as the last speaker, but you will be the last speaker.

Do honourable senators agree that Senator Spivak will have the rest of her time?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore***:** Do you wish to speak now?

Senator Spivak: I want to adjourn the debate because I would like to read in Hansard what Senator Comeau said so that I can systematically go through it.

The Hon. the Speaker *pro tempore***:** Senator Spivak wants to adjourn the debate for the rest of her time. It is understood that she will be the last speaker.

On motion of Senator Spivak, debate adjourned.

STUDY ON IMPACT AND EFFECTS OF SOCIAL DETERMINANTS OF HEALTH

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

The Senate proceeded to consideration of the tenth report (interim) of the Standing Senate Committee on Social Affairs, Science and Technology, entitled: *Population Health Policy: Issues & Options*, tabled in the Senate on April 2, 2008.—(*Honourable Senator Keon*)

Hon. Wilbert J. Keon: Honourable senators, I am pleased to speak to the tenth report of the Standing Senate Committee on Social Affairs, Science and Technology.

As honourable senators know, the Subcommittee on Population Health has been mandated to examine and report on the impact of multiple factors and conditions that contribute to the health of Canadians, known collectively as the determinants of health. A central element of our study is to identify the actions that must be taken by the federal government to improve overall health and reduce health disparities. This is the final of four interim reports being tabled by the subcommittee. These reports conclude the first phase of our study. Thus far, we have looked at population health policies in the provinces and territories, as well as at the federal level and internationally. We have seen what can be done when governments take coordinated and strategic approaches to reducing health disparities by addressing the determinants of health. We are also painfully aware of the shortcomings of our current systems, which focus too much on health care and not enough on the conditions that create health. The result of this is that Canada is faced with unacceptable health disparities within our country, and our productivity and competitiveness are losing ground by international comparison.

Fortunately, honourable senators, our reports have also identified a number of options for the federal government to consider. Initiatives in the provinces and territories, as well as internationally, offer promising examples of how the federal government could turn this situation around.

The tenth report of the committee is entitled *Population Health Policies: Issues and Options*. It summarizes what the subcommittee has learned about the determinants of health, considers how they impact on the health of Canadians, illustrates how serious a problem health disparities are in this country, and presents the options that we feel offer the best chance for moving to action on these issues and reducing health disparities.

Honourable senators, I will not repeat here what is already known about the impact of socio-economic status, early childhood development, education, employment and other social determinants of health. However, permit me to repeat the finding from the Standing Senate Committee on Social Affairs, Science and Technology study on the health of Canadians, which estimated that 15 per cent of the population's health is attributable to biology and genetic factors; 10 per cent to the physical environment; 25 per cent to the reparative work of the health care system; and fully 50 per cent to the social and economic environment.

We are forced to ask if we are really spending our money wisely when we look at the proportion of budgets that relate to health care spending.

I will take a moment to highlight some of the shameful disparities in health with which we are living in this country.

• (1510)

Life expectancy ranges from 81.2 years in British Columbia to 70.4 years in Nunavut. That is almost 11 years of life less for Northern residents. First Nations' and Inuit people's life expectancy is five to ten years less than Canadians as a whole. Infant mortality rates among First Nations on reserve and Inuit are two to three times the Canadian rate.

Prolonged and intensive stress in childhood can compromise functioning of the nervous and immune systems. Children brought up in adverse environments are predisposed to coronary heart disease, hypertension, type II diabetes, substance abuse and conditions affecting their mental health.

Recent immigrants from non-European countries are twice as likely as those born in Canada to report deterioration in their health, despite the fact that they are generally in better health when they arrive in Canada.

The wealthy live longer than the poor and experience less chronic illness, obesity and mental distress.

These disparities are not inevitable. They result, in large measure, from social environments and economic and social policies that can be changed. However, they will only be reduced through a whole-of-government approach in which health and health disparities are targeted in all policy fields: education, social and cultural services, economic policy, environmental policy, taxation, et cetera. Doing so will require profound structural change, both in public policy and in government's approach to the development and implementation of public policy.

There are sound economic and social reasons to improve the health of the population. The benefits of a population health approach extend beyond improved health status and reduced health disparities to affect economic and social conditions. Simply put, population health policies and programs foster economic growth, productivity and prosperity. Good health enables children to perform well in school. Good health enables people to be more productive, and higher productivity, in turn, reinforces economic growth. Healthy citizens who are better engaged in their communities contribute to social cohesion.

In addition to sound economic reasons, we believe that governments have a moral obligation to foster the social and cultural conditions that empower individuals, communities and societies to create and maintain the conditions necessary for all citizens to live their lives in good health. The reasons for action are obvious. The question is no longer whether we should act, but what should be the next steps.

Our tenth report outlines four underlying issues that are instrumental to making the structural change in public policy happen, as well as a number of options for each one. The first issue is that of data and research. Canada has a good deal of data on population health status by determinant and on health disparities at the national level. There are several useful provincial sources as well. However, there remain substantial deficiencies with the data, including particularly that on the health status and disparities among Aboriginal Canadians. More complete data and information are needed to better understand the interacting factors that affect population health. We need to consider expanding and enriching the population health database, as well as investing more in population health research and the translation to knowledge.

The second issue is re-orienting government policy itself. There is no national plan in Canada to improve overall health status and reduce health disparities. Our governments have not articulated the vision of a healthy society, much less the strategies or action plans necessary to achieve it. At the federal level, the government has not succeeded in implementing a comprehensive approach to population health. A number of mechanisms are available to assist in revising policies and programs. One is an interdepartmental spending review, such as that carried out by the Treasury in the U.K. Or, alternately, the existing federal health goals could be further developed into benchmarks and monitoring tools with measurable actions. Another option is using health impact assessments, which have been embedded as an integral government process through public health legislation in Sweden, New Zealand and Quebec. Ultimately, an overarching federal population health strategy with leadership at the highest levels would be most effective in rallying pan-governmental cooperation. However, we will seek input into what it would look like in practice.

Finally, we need to think about how the federal government works with its provincial and non-governmental partners who are essential allies in multi-sectoral efforts to reduce health disparities.

The third issue is Aboriginal populations. I have already mentioned the shameful health status with which too many Aboriginal peoples are living. Given the federal government's special responsibility for Aboriginal peoples and its central role in the provision of programs and services, it has a particular opportunity to engage Aboriginal leaders to find out how the application of a population health approach, together with Aboriginal concepts of health, could improve the focus, organization and delivery of those governmental services and lead to diminution of disparities of health between those populations and other Canadians. This could take the form of a comprehensive Aboriginal population health strategy, a step-by-step approach to building a strategy, or by supporting peer learning and Aboriginal development.

Finally, the fourth issue deals with how we can foster the political will necessary to implement and sustain this new policy direction. Public awareness, support and engagement of the non-health sector and consensus of key priorities are important to foster political will, generate the conditions necessary for action and ensure that those actions are maintained over the longer term.

In conclusion, honourable senators, the urgency of taking a population health approach to reducing health disparities is a topic that needs to move from the margins to the centre of the political landscape in Canada. In combination with the forthcoming first report of Canada's Chief Public Health Officer, the final report of the World Health Organization's Commission on the Social Determinants of Health, due this fall, and numerous other efforts, there is a growing momentum to make that happen. Our intention is to contribute to that process, and point the federal government to a path forward. I hope that that strategy will be described in our final report.

This tenth report will be the basis for the remainder of the subcommittee's study as we consult with Canadians on how best to proceed. To start phase 2 of our study, I should mention that we are fortunate to have a remarkable round table meeting coming up with an extraordinary group of people to advise us on where we should be focusing our attention. Once we have completed our consultations, I will be back to you with our final report and recommendations. I hope that this will be in honourable senators' hands in December.

Hon. Pierre De Bané: Your Honour, before putting my question to the honourable senator, may I be allowed to say that I will forever be grateful to Senator Keon. That I am alive today is because of him. I was under his care. My wife told me that, before the surgery, he told her the chances were very slim that I would live. It is because of Senator Keon that I am alive today, and I will be forever grateful to the honourable senator.

Besides my personal gratitude, I want to say how much I admire that Senator Keon, at the end of his studies at Harvard where he was the top student and was offered positions as a surgeon in the United States, said: "No, I have to go back to my country; I have to do my work in my country."

• (1520)

Senator Keon turned away from the opportunity to earn a much greater income in order to work in this country. As honourable senators know, he has created, in the capital of this country, a world-renowned hospital. Senator Keon created that institute from scratch and the entire country is grateful to him.

Does the honourable senator think that this committee that he chairs will be able to have some influence on departments of health, both of Canada and the provinces, so that they can reallocate funds — which are scarce by definition — along the priorities that his first-class team has identified?

Senator Keon: I thank the honourable senator very much for his remarks.

There is no escaping the approach of looking at factors that determine health conditions. Other progressive countries are moving in that direction. We have to look at the ratio of spending on health care in Canada to spending in other areas. We are sacrificing education and other areas because our health care spending is growing out of proportion to everything else.

Having said that, we must continue to care for the sick and comfort the dying, as we have in the past. We have a wonderful foundation for our health care delivery system and excellent health care professionals in the system. However, we have not addressed the terrible epidemic of disease that confronts the system on a daily basis, much of which is almost totally preventable. Therefore, we must plan for the long term and overcome health disparities and improve our health status.

In my early remarks on the other reports, I pointed out that we no longer compare favourably to the international scene. We have to climb back and be competitive with other developed countries in the world. We must find a way to encourage governments to work together and to eliminate factors that are producing the disease that the health care system must treat.

On motion of Senator Prud'homme, debate adjourned.

POST-SECONDARY EDUCATION

INQUIRY—DEBATE CONTINUED

On the Order:

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

Hon. Mira Spivak: Honourable senators, I am pleased to join in this inquiry into post-secondary education and I commend Senator Hubley for launching it. She has very ably set out how post-secondary education has changed in the 10 years since the Special Senate Committee on Postsecondary Education delivered its report.

Last fall, I met with the Canadian Alliance of Student Associations and the Canadian Federation of Students. I was shocked to learn that the average student debt now ranges from $21,000 to $28,000, depending on the province. I made a statement at that time about the cost of post-secondary education.

Late last year, the Canadian Council on Learning, an independent, not-for-profit corporation, released its second annual report on post-secondary education. In 2006, the council produced its first national overview of post-secondary education in Canada. These reports pulled together what we know today about the state of post-secondary education in Canada and, just as important, they point out what we do not know and why.

As Jim Knight, President of the Association of Canadian Community Colleges, noted in December, Canada, among all Organisation for Economic Co-operation and Development countries, has the weakest data on education and has developed neither a pan-Canadian skills agenda nor goals and measures for post-secondary education.

Our country has fundamental data gaps. We do not know, for example, how the capacity of our post-secondary institutions measures up to the needs of the labour market. We do not know the state of our community colleges with respect to faculty, enrolment or capacity; the extent to which part-time faculty teach at our universities; whether private colleges are growing or declining and what they do and what happens to their graduates.

Unlike our major trading partners, Canada lacks such basic data-collection mechanisms as unique student identifiers or standardized specifications that would allow us to know when students move between provinces and when data reported in British Columbia matches data reported in Ontario.

Statistics Canada does administer 11 surveys that provide valuable information about post-secondary education and such related matters as immigration and adult learning. However, the agency needs stable and appropriate funding for this work to provide regular, timely and relevant data that measures the strengths and weaknesses of post-secondary education.

Some may question why the federal parliamentarians, rather than provincial legislators, should be concerned with post-secondary education. Canadians invested $36 billion in post-secondary education in 2006-07 through their federal, provincial and territorial governments. Despite this significant expenditure, we have no way to assess how well this money is being spent. There are no pan-Canadian goals or objectives.

The federal government already works with the provinces and territories to provide financial assistance to students. The government contributes considerable amounts to university-based research and development, transfers significant amounts to the provinces and territories through the Canada Social Transfer and supports students and their families through tax measures that help them meet educational costs.

It is not a great leap to conclude that there is room for a federal initiative that could enhance accountability for federal spending. Progress might also be tracked towards something that many other developed nations have already adopted: A national post-secondary education strategy.

The Canadian Council on Learning, with the support of such organizations as the Council of Ontario Universities, is calling for a national data strategy and a national framework that will set goals and measure progress. Without it, the Council on Learning warns that Canada's prosperity will be at risk and its competitive edge compromised.

There are some encouraging signs in the statistics that we do have. Since 1990, the percentage of the Canadian population holding a bachelor's degree has almost doubled. The same is true for the percentage holding a master's or a doctorate degree. In 2006, some 6 per cent of Canadians aged 15 and over held a post-graduate degree.

• (1530)

We cannot, however, afford to be complacent. Other countries are educating their populations at a much faster pace. Just three decades ago, North Americans accounted for more than one third of post-secondary students worldwide. Now, students from Canada and the U.S. make up one sixth of global enrollments.

Between 1990 and 2005, the percentage of young people enrolled in any type of schooling increased to 41 per cent from 28 per cent. Last year, there was a decline to just shy of 40 per cent — the drop, many believe, attributable to a decline in the number of students attending community colleges or CEGEPS.

University enrollments for men and women are at all-time highs but there is a new gender gap on campuses. Female students now account for about 58 per cent of bachelor degree enrollments. In 2004, 61 per cent of all undergraduate degrees were earned by women.

Not long ago, women were in the minority on Canadian campuses. Now it is the men who are under-represented. We have exchanged one problem for another. We need to know why this gender gap is widening.

All these issues are critical, if projections prove correct. In the decade ahead, nearly 70 per cent of the projected 1.7 million new jobs in Canada will be in management or occupations that require university, college or apprenticeship training. We must either educate young Canadians or we must encourage those who are educated elsewhere to make a life in Canada.

Much has been said about the labour shortage in the skilled trades. Registration and apprenticeship programs did increase substantially, but the completion rate for those programs did not increase at the same pace. With just 13 per cent of skilled trade certificates in Canada recognized outside the province in which they were granted, there are enormous barriers to the movement of tradespeople to areas where they are needed.

What about cost, that huge elephant in the room for many students and their families? The good news is that Canada's investments in post-secondary education are above the OECD average. Public expenditures on post-secondary education in 2006 accounted for 6.5 per cent of overall social spending — roughly 1 per cent higher than a decade earlier.

The bad news is that tuition fees, since 1990, have increased at nearly four times the rate of inflation. The percentage of students who require financial assistance rose significantly, from 45 per cent in 1995 to 59 per cent in 2006. Between 2003 and 2006, the percentage of students whose debt load was more than $15,000 rose from 17 per cent to 29 per cent.

The Canadian Federation of Students included this little reminder in its documentation last fall. More than 30 years ago, Canada acceded to the United Nations covenant that reads, in part:

> Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education.

In fact, this country has gone in the opposite direction. Post-secondary education has become more and more costly, and the level of students' debt grows higher and higher.

The students' federation urged the government to replace the Millennium Scholarship Foundation with a $2.1 billion grants program. It called for expanded eligibility criteria for the Debt Reduction Repayment Program, increased federal transfers to the provinces and a new federal department of post-secondary education and research. I am not sure I agree with the last item, but I do agree with the other two.

The Canadian Alliance of Student Associations also called for an increase in federal transfer for post-secondary education to a minimum level of $4 billion annually, a holistic review of student financial assistance programs and goals for post-secondary education against which transfers can be benchmarked.

It is very apparent that a consensus is emerging on things that the federal government, and only the federal government, can do to ensure that post-secondary education thrives in our country. Data collection, a national strategy and increased federal funding are needed to ensure that our young people of today gain the education to help build the Canada of tomorrow.

I sincerely hope that the government is listening to those who recommend action now, and will listen to the wise words that have flowed in the course of this inquiry.

The Hon. the Speaker: Does any other senator wish to participate in the debate on this inquiry?

Hon. Claudette Tardif (Deputy Leader of the Opposition): If this debate is not to be adjourned in Senator Andreychuk's name, I will take the adjournment of the debate.

On motion of Senator Tardif, debate adjourned.

THE SENATE

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

On the Order:

> Resuming debate on the motion of the Honourable Senator Harb, seconded by the Honourable Senator Goldstein:
>
> 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.—(*Honourable Senator Di Nino*)

Hon. Consiglio Di Nino: Honourable senators, Senator Harb brought to our attention this very topical and important issue, which has attracted a great deal of attention in the last month or so. I am not sure that it was because of Senator Harb's comments, but certainly the country is now engaged in debate, particularly in governments and industry.

This whole issue is very fluid, and is under consideration by the Government of Canada. I am continuing to gather information on this matter, and will speak on it as soon as I have completed my collection of pertinent data.

Therefore, I would ask that we adjourn the debate for the remainder of my time.

On motion of Senator Di Nino, debate adjourned.

IMPLEMENTATION OF FEDERAL ACCOUNTABILITY ACT

PROGRESS REPORT—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Oliver, calling the attention of the Senate to the progress that has been made on the implementation of the *Federal Accountability Act*, highlighting the status of key measures of the Act and underscoring the importance of this Act to improving responsibility and accountability in our government.—(*Honourable Senator Day*)

Hon. Joseph A. Day: Honourable senators, I rise today to join in Senator Oliver's inquiry into the implementation of the Federal Accountability Act, Bill C-2. You may not be surprised to hear that my views are rather different from those of Senator Oliver.

I was the opposition critic during the study of Bill C-2 and, along with others I know of in this chamber, I have followed closely the process since the bill was passed and received Royal Assent on December 12, 2006.

To give honourable senators some reflection on what was included in Bill C-2, there was conflict of interest legislation; there was access to information; there was the creation of the Director of Public Prosecutions; there was a Public Appointments Commission; there was lobbying legislation; and there was a Parliamentary Budget Officer, an Ethics Commissioner, the Procurement Ombudsman and the Public Sector Integrity Commissioner with respect to whistle-blowing legislation.

• (1540)

Honourable senators, in the time available to me today, I cannot deal with all of those items. However, I will speak briefly to conflict of interest, the public appointments commissioner and lobbying, primarily because Senator Oliver touched on those areas during his presentation.

Honourable senators, it is clear that this government allowed politics to trump good government. It rushed too quickly to draft this extensive and far-reaching piece of legislation. In committee, we heard the government representative boast that the government knew exactly what it wanted to do with respect to this legislation and, within six weeks of being elected, it had the proposed legislation ready. Honourable senators will recall that during those six weeks, cabinet ministers were being appointed, so there was no consultation with cabinet ministers; and Parliament had not been recalled, so there was no consultation with Parliament. Honourable senators would be correct in wondering who, during those six weeks, prepared that proposed legislation.

Again for political reasons, the government exerted extraordinary pressure on both Houses of Parliament to speed up the study of the bill and to not pass any significant amendments to the bill. When the bill came to the Senate, it was said that the proposed legislation had been gone over with a fine-toothed comb and that there was no need for honourable senators to even look at the bill. However, when Bill C-2 came to the Senate it was deeply flawed. The government was eventually forced to acknowledge this as it put forward, in committee and at third reading in the Senate, 50 amendments to the bill.

Honourable senators, your committee passed a total of 250 amendments to Bill C-2. Unfortunately, the government was not convinced of the righteousness of those amendments and, therefore, was determined to ignore the views of the Senate and rejected all but 90 of those amendments. Thus, the Senate achieved 90 amendments to a bill that, according to Mr. Baird, was perfect when it came to the Senate.

I believe the government missed an opportunity to improve this bill. We have seen how unprepared the government was to actually implement many of the provisions set out in the bill. Even Senator Oliver, determined as he was to give a positive spin on it, could not fail to notice that some institutions to be established under the Federal Accountability Act remain unimplemented on the books. Others were established many months after the bill passed into law. Some sections of the FAA are being implemented only now, more than 15 months after the bill received Royal Assent and came into force. Some sections are still at the discussion and consultation phase.

Honourable senators may call me old-fashioned, but I would have thought that the proper way to develop good public policy is to have consultation before the proposed legislation is drafted. We are told by government officials that they are still in consultation with respect to certain aspects and that is why they have not implemented certain sections of the act. Sadly, this kind of behaviour seems to be the hallmark of this government. We have seen several examples of the government's my-way-or-the-highway attitude; or perhaps it is a legislate-first-and-think-later way of doing things. The bottom line is that this process does not produce good public policy and Canadians are not being well served by this kind of action.

One of Senator Oliver's first examples of the "powerful impact" of the Federal Accountability Act is a new Conflict of Interest Act that appeared as part of Bill C-2. He quickly glossed over the fact that this portion of the Federal Accountability Act was brought into force only on July 9, 2007, almost seven months after the bill was passed. Why did it take so long, honourable senators? This was not a case of needing regulations that required broad public consultation because the proposed legislation would only affect members of the government: ministers, senior government officials and other public office-holders. Why the delay? If this government was not ready to move immediately to proclaim those sections in force and implement provisions that affect the Prime Minister and cabinet members, then what was it ready to do when it first introduced the bill 16 months earlier?

I was very surprised to hear Senator Oliver say: "Further, these provisions ensure that no prime minister can overrule the commissioner on whether he, she, or a minister, or some other public office-holder has violated the act." Senator Oliver made that comment in this chamber a few weeks ago when he spoke to the bill. Honourable senators, Senator Oliver's description is simply not supported by this legislation. Certainly, it is what Prime Minister Harper and his government said the bill would do but, when one reads the legislation, it becomes clear that the act does exactly the opposite. I will explain.

The commissioner can investigate alleged breaches of the act in any of three circumstances: at the request of a prime minister; in response to a request from a senator or a member of the House of Commons; or on his or her own initiative. Section 47 of the act

prohibits alteration of the commissioner's report, including where the commissioner has found that there was a breach of the act. Honourable senators, section 47 only prohibits alteration of the reports and inquiries initiated by a parliamentarian or by the commissioner, not by a prime minister. The section is strikingly silent about inquiries launched by a prime minister.

The committee tried to amend that section and honourable senators will no doubt recall that we passed an amendment that would have made such a prohibition apply to all three situations. However, the government rejected the amendment. This was not an oversight or error made in this government's haste to introduce this important bill. This was a deliberate omission.

Contrary to Senator Oliver's assertion, the much-touted Conflict of Interest Act would permit a prime minister to alter a conclusion of the commissioner, including one indicating that a minister or other public office-holder had violated the act. Honourable senators, under the act, a prime minister is not required to make the commissioner's report public and it can remain secret. We can have a prime minister order the commissioner to investigate a minister or senior official for a possible violation of the Conflict of Interest Act; we can have the commissioner investigate and report back that, yes, there was a breach of the CIA; and, no matter how serious the breach is, a prime minister can alter the conclusion and then either make it public or keep it secret, at his discretion. Do honourable senators think that Canadians intended the Federal Accountability Act to permit this? I doubt it very much. Perhaps Senator Oliver forgot about the amendment that the government rejected. I am sure that he will be the first one to re-introduce it to ensure that the section provides what this chamber has been told it does not provide.

I will limit myself to one more example from this portion of the FAA. The Conflict of Interest Act prohibits ministers and other public office-holders from accepting gifts "that might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function." That appears fine.

• (1550)

However, when you look at section 2, it says, "Despite section 1 . . ." In other words, honourable senators, even where the gift might reasonably be seen to have been given to influence the minister or a senior officer in the exercise of an official power, duty or function, a public office-holder may accept a gift that is given by a relative or a friend, and then he does not even have to disclose it. Honourable senators, this disturbed us when we saw this legislation. Many of my colleagues tried to bring about amendments.

When you turn to the disclosure provisions, you discover that the act excludes these gifts from all disclosure requirements. In other words, a minister of the Harper government may accept a gift, no matter the size or value, even if the person could reasonably think that the gift was given to influence the minister in his or her official duties, and no one even has to be told about it — not the commissioner, and not the Canadian public. Again, we tried to change this particular section. Among other things, we tried to bring about transparency to the gift and amended the act to require disclosure, both to the commissioner and then to the public, if the gift from a friend were valued at more than $200. To our astonishment, the Harper government rejected this amendment and said it was unnecessary. Again, this was no drafting oversight; this was a deliberate loophole created in the legislation.

We were all shocked to know that the former prime minister, Brian Mulroney, accepted hundreds of thousands of dollars from Karlheinz Schreiber. Mr. Mulroney has claimed that this only happened after he left the prime minister's office. Honourable senators, under Prime Minister Harper's Conflict of Interest Act, it would be perfectly acceptable for a minister, including a sitting prime minister, to accept this kind of gift in a paper bag from a friend. I am sure that Mr. Schreiber considered himself a friend of the prime minister at that time. According to Prime Minister Harper, such acts are not at all unethical, and no one ever need know about them. No wonder, then, that this government has been reluctant to probe too closely into Mr. Mulroney's dealing with Mr. Schreiber. Mr. Mulroney's actions were no more than what would be perfectly acceptable under Prime Minister Harper's centrepiece Accountability Act.

This is the much-touted Conflict of Interest Act, and these are just two examples that I have had the opportunity to go into with you today, honourable senators. I will try to find other opportunities to bring about other aspects of this particular part of Bill C-2 that will be of interest to you, I am sure.

We all recall the great pronouncement by Prime Minister Harper that public appointments would be very different under his government. You will remember that pronouncement during the election. The Accountability Act authorized the establishment of a new public appointments commission, and yet, here we are, 15 months later, with no public appointments commission. We asked about this in the meetings of the Standing Senate Committee on National Finance hearings, and we were told —

The Hon. the Speaker: The honourable senator's 15 minutes has expired. Is he asking for more time?

Senator Day: Could I have five more minutes, honourable senators?

Hon. Senators: Agreed.

Senator Day: Honourable senators, I have told you that there are nine sections, and I have dealt with only two aspects of one section.

I would like to talk more about the public appointments commissioner. I have told honourable senators that no public appointments commissioner has been appointed, although such a post is included in the legislation. The word is that the Prime Minister is not happy. Before the legislation was even presented, he tried to implement a non-statutory, similar type of situation, and he put in a provision at that time that the House of Commons would have an opportunity to review his appointment. The House of Commons rejected his appointment, so he is not happy and will not implement that portion of the legislation.

Notwithstanding that fact, over $2 million has been spent thus far on that secretariat that was created to support the non-existing commission — over $2 million. Senator Oliver's comment was that the secretariat is doing a good job advising. Advising whom? There is no commission. It is a secretariat for a commission that does not exist.

Honourable senators, I believe that we should also consider the fact that a number of very highly qualified people have been dismissed from their positions. Perhaps we should create a public dismissal commission to consider some of these various people, such as Adrian Measner, fired from his position as president and CEO of the Wheat Board, and Johanne Gélinas, former Environment Commissioner. Ask Linda Keen about independence, transparency and accountability with respect to her position as a commissioner with the Canadian Nuclear Safety Commission.

Honourable senators, there are many aspects to this particular bill that I would like to bring to your attention. You should be aware that the lobbying legislation has not been implemented, and that just recently a former employee of one of the ministers, Mr. Van Soelen, was quoted as saying that he has found ways of joining the public sector after leaving the ministry recently. According to an article in the *Ottawa Citizen*, Mr. Van Soelen sent a letter to a potential client in which he proudly described his connection to Mr. Baird and promised to help clients score big. The arrogance of this government knows no bounds, honourable senators. Honourable senators will be interested to know that Public Works Minister Fortier's former director of parliamentary affairs has recently joined Hill and Nolton. What about the five-year cooling-off period? What happened to that?

Honourable senators, in conclusion, more than a year after this bill was passed by Parliament, we have no new restrictions for lobbying; a revolving door between Conservative ministers and lobbying firms; no public appointments commissioner in spite of over $2 million having been spent; a Parliamentary Budget Officer only recently appointed after three budgets and two economic updates have already been brought forward, with a fraction of the staff and budgetary resources that any committee would need in order to do the job; respected public servants reduced to public servant Dilberts, focusing only on process; and conflict of interest rules that allow a prime minister to supposedly change the supposedly independent commissioner's conclusions that a minister violated the act and allowed him and members of the government to accept gifts from anyone with impunity, as long as they were gifts from friends, and that they need not tell anyone about it.

This, honourable senators, is accountability and transparency. Honourable senators, it is smoke and mirrors, and we all know it. I thank Senator Oliver for initiating this much-needed inquiry into this government's shameless flouting of the principles of accountability and transparency. This was a brave step by Senator Oliver, and I congratulate him.

On motion of Senator Stratton, debate adjourned.

The Senate adjourned until Thursday, April 10, 2008, at 1:30 p.m.

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