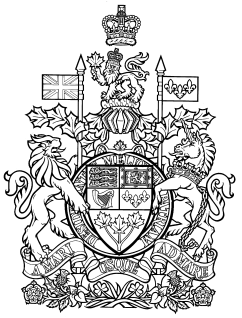

CANADA

Debates of the Senate

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OFFICIAL REPORT
(HANSARD)

Tuesday, May 13, 2008

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

CONTENTS

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THE SENATE

Tuesday, May 13, 2008

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

Prayers.

SENATORS' STATEMENTS

THE LATE ARTHUR KROEGER, C.C.

Hon. Lowell Murray: Honourable senators will have learned from media reports of the death last Friday of Arthur Kroeger, Companion of the Order of Canada, who was one of our senior and most respected public servants.

I had been meaning to call or write him to tell him how much I enjoyed his book, *Hard Passage: A Mennonite Family's Long Journey from Russia to Canada* published last year. Religious persecution from place to place in Europe drove the Kroeger ancestors from a period of relative tranquility in Czarist Russia, then upheaval: the First World War, German rule over Ukraine, the Russian Revolution, civil war, a typhus epidemic and famine. Their long journey resumed in search of peace and freedom, this time in Canada.

In 1926, 6,000 Mennonites came, including Arthur's parents and five children. Arthur Kroeger was born in a farmhouse in Naco, Alberta in 1932. The family knew real privation and hunger in the Depression years and insecurity of a different kind. "To have been an ethnic," he wrote, "was to experience the power of conformist pressures, and to grow up on the Prairies with a German name during the war was to know the discomforts of being different."

Arthur's two older brothers scraped together enough money from a small farm machinery dealership they had started to send him to university. It was a close call. The university term was two weeks along before they could be sure they could afford it.

• (1405)

From University of Alberta, Arthur Kroeger went to Oxford University on a Rhodes Scholarship, and then to a 34-year career in the federal public service. One of his brothers, much later, went into politics and served as a cabinet minister in Alberta.

Hard Passage is a wonderful book and it tells a wonderful story, all the more compelling and moving for being told in Arthur Kroeger's direct, spare style. It is the story not only of the Kroegers but of the Mennonites of the Ukraine and of Canada. The group that emigrated in 1924, he wrote:

> . . . included the future parents of Jake Epp who, in 1979, would become the first Mennonite appointed a federal cabinet minister; of Gordon Thiessen, who served as Governor of the Bank of Canada from 1994 to 2001; of Peter Harder, who was appointed Deputy Minister of Foreign Affairs in 2003; and of Henry Friesen, who served as president of the Medical Research Council of Canada from 1991 to 2000.

That was quite a group.

In 1925, the Russlaenders included the future parents of Vic Toews who, in 2006, became Attorney General of Canada. In 1927, a year after the Kroeger family arrived, 847 Russlaenders reached Canada, among them the future parents of tenor Ben Heppner.

It would be a classic understatement to say that these people have made a positive difference in the life of Canada, and none more so than Arthur Kroeger. His story and theirs offers a meditation on Canada's great good fortune to have been blessed with such people, now well into the third generation.

MAZANKOWSKI ALBERTA HEART INSTITUTE

Hon. Donald H. Oliver: Honourable senators, Alberta has a new high-tech heart centre named after a man who is well known to many of us in this chamber, a former Progressive Conservative, Deputy Prime Minister and Health Minister, the Right Honourable Don Mazankowski. I am speaking of the Mazankowski Alberta Heart Institute, which officially opened on May 1, 2008, on the University of Alberta campus.

The $217 million facility was primarily funded by the Government of Alberta. The University of Alberta Hospital Foundation capital campaign also contributed an impressive $45 million to the project.

The Right Honourable Don Mazankowski, a heart attack survivor himself, said the institute:

> . . . will be a beacon of hope for those who are afflicted by the disease.

This centre for excellence in heart disease prevention, treatment, rehabilitation, education and research includes 124 beds; five adult operating rooms; one pediatric operating room and catheterization lab; two adult cardiac catheterization labs; and three electrophysiology labs for both adult and pediatric patients. The centre is the first of its kind in Western Canada and one of the few institutes in the world to provide cardiac care to both adult and pediatric patients under the same roof.

At the institute's opening, Prime Minister Harper showed his support for the institute and said:

> Building on the University of Alberta Hospital's already sterling reputation for health and heart care excellence, this Institute is attracting top international cardiac doctors and researchers because they know it will rank with the best in the world. That means Albertans and Canadians will be getting quality cardiac care that is second to none, right here in Edmonton.

I heartily agree with those sentiments.

Moreover, the institute is a "green building," which may become the first hospital of its kind to achieve silver certification from Leadership in Energy and Environmental Design, LEED, for energy-saving features like occupancy sensors, rooftop green spaces and heat recovery wheels.

Congratulations to Alberta for its new heart institute, and to Canada, which is building on its already impressive expertise in the area of cardiology.

Congratulations to Don Mazankowski for this richly deserved honour and tribute.

CANADA-UNITED STATES RELATIONS

Hon. Jerahmiel S. Grafstein: Honourable senators, two weeks ago the Canada-United States Inter-Parliamentary Group travelled to Washington, D.C., on one of our regular visits to advocate to our congressional colleagues in the House of Representatives and the Senate about the pressing issues concerning Canada-U.S. trade and economic issues of interest to every region of Canada and to every region of the United States of America.

Repeatedly, we brought to the attention of our congressional colleagues, who are obsessed with economic issues facing their constituencies and their states, the fact that Canada is the largest trading partner of the United States, with over a billion and a half dollars a day in two-way trade and the leading trading partner in 36 of the 50 states of the union.

• (1410)

We reminded our American colleagues that NAFTA has created more jobs than any other single initiative, including over 7.5 million jobs in the United States, while at the same time increasing jobs in Canada. These jobs are all value-added in the manufacturing and service sectors and are confused too often with outsourcing to low-cost, low-wage countries.

Canada is, by far, the United States' largest secure source of energy in oil, gas, hydroelectricity and nuclear materials. Despite these clear and unequivocal economic facts, there is a growing drumbeat against NAFTA as a whipping boy for job loss in the United States, especially in the so-called Rust Belt areas.

My concern is that perception is becoming reality and that politics at the grassroots level across America may undermine the continued growth and prosperity that NAFTA brings to both sides of the border. Meanwhile, the situation continues to deteriorate as costs and delays increase, exacerbated by undermanned customs posts on both sides of the border. Job losses also continue to grow on both sides of the border. New infrastructure for clogged border points, especially at Windsor-Detroit and Buffalo-Fort Erie, is woefully falling behind and is now expected to be completed by 2015 at the earliest, a lifetime away.

Therefore, honourable senators, we have a crisis of misinformation and mis-politics that the Canada-United States Inter-Parliamentary Group will seek to patiently address in the weeks and months ahead as we meet with senators, congressmen, state legislators and governors, as the United States continues to be embroiled in presidential politics and congressional and state political change.

At the end of this week, honourable senators, our parliamentary group will travel to Santa Fe for the forty-ninth annual meeting of the Canada-U.S. Inter-Parliamentary Group to engage our congressional colleagues with these and many other issues.

I bring this matter to the attention of honourable senators in order to point out the seriousness and the contagion of the issues facing Canada in the weeks and months ahead.

NORTH AMERICAN AEROSPACE DEFENSE COMMAND

FIFTIETH ANNIVERSARY

Hon. David Tkachuk: Honourable senators, on May 12, 1958, Canada and the United States signed the NORAD agreement. Perhaps more than any other institution, NORAD defines the enduring and steadfast military relationship of our two countries, but it also transcends the purely military and serves as a constant reminder of the unbreakable bond between our two great democracies — partners, friends and allies.

NORAD has changed over the years, which more than anything else is testimony to this remarkable organization's ability to adapt to changing circumstances. In fact, there have been nine renewals of the original agreement with four substantial changes in 1975, 1981, 1996 and 2006.

In spite of these changes and the half century that has passed since its founding, the rationale for Canada's participation in NORAD remains the same: It provides us with enhanced protection from direct military attack; it gives us first-hand insight into U.S. military thinking, not to mention some measures of influence over decisions that may affect Canadian interests; it provides valuable and ongoing opportunities for joint training, as well as cooperation in the areas of defence research and development; and it provides or supports thousands of jobs in defence production.

I hope that all honourable senators will join me on this, the fiftieth anniversary of NORAD, in not only celebrating this occasion but also doing what we can from this moment forward to ensure that this organization exists for another 50 years.

• (1415)

Hon. Joseph A. Day: Honourable senators, I would like to join Senator Tkachuk in saluting NORAD. Canada and the United States have shared a long history of military relations. They have not always been amicable, as our respective national interests have from time to time diverged. However, over the past 50 years, our two nations have shared a common interest in the North American Aerospace Defense Command. NORAD celebrated its fiftieth anniversary yesterday, May 12, and throughout this summer, there will be celebrations of the partnership we have shared in monitoring and defending the North American airspace.

Today, we use highly developed tracking systems to monitor aircraft, both identified and unidentified, as well as other objects that may invade the North American airspace. NORAD's

mandate has expanded in recent years to include coastal maritime surveillance. NORAD is also instrumental in helping us maintain our Arctic sovereignty.

Established in 1958, NORAD was originally called the North American Air Defence Agreement. In 1981, it changed its name to that which is used today, North American Aerospace Defense Command. As international political and military situations have evolved, there have been coinciding changes to the agreement, but the main objective has always stayed the same, to protect North America from outside attack. Even that mandate changed slightly after the attack on September 11, 2001, when we learned that attacks from within North American airspace could also be a threat to security.

Honourable senators might be interested to know that during the September 11 terrorist attacks in the United States, Canadian Lieutenant-General Rick Findley was in command of the NORAD operations centre. This clearly illustrates the fact that Canada is a full partner in NORAD.

NORAD headquarters is located in Colorado Springs. Cheyenne Mountain Operations Centre, where the majority of surveillance operations take place, is only a short distance away. There are also satellite bases in Winnipeg and Bagotville in Canada.

The lengthy relationship that Canada and the United States have shared in their mutual interest in the defence of North American airspace is one that we should be proud to uphold. Canada gains much from this alliance. We are indeed fortunate to have such a good working relationship while maintaining safety for the citizens of North America.

NATIONAL PAROLE BOARD

ABORIGINAL PRISON POPULATION

Hon. Robert W. Peterson: Honourable senators, I rise today on a matter of great concern to Canadians regarding the functioning of the National Parole Board and the incarceration system in this country.

As you may know, First Nations people are disproportionately over-represented in the Canadian prison population at both federal and provincial facilities. Although First Nations make up only 4 per cent of Canada's population, they represent 18 per cent of admissions to federal prison facilities. In Saskatchewan, this reality is even more troublesome when we consider that the Aboriginal population at provincial prison facilities reached 80 per cent in 2004.

The Liberal critic for Aboriginal Affairs, Anita Neville, wrote in a letter to the minister responsible to the National Parole Board, the Honourable Stockwell Day, that the 2007 report from the Office of the Correctional Investigator highlighted numerous concerns pertaining to First Nations incarceration and parole granting.

Amongst the most unsettling findings were the unfair sentencing practices faced by Aboriginals, their higher rate of revocations for breach of parole and the consistent over-classification of that group on the part of Correctional Service of Canada.

As disconcerting as these findings are, also troubling is the investigator's assessment that the proportion of full parole applications resulting in reviews by the National Parole Board is noticeably lower for Aboriginal offenders than it is for any other group in the country.

The devastating social problems that lead to disproportionately higher First Nations crime are known and must be dealt with in appropriate ways. However, we must not allow these problems to be made worse by institutions that do not function properly and aggravate an already complicated social dynamic.

Like my colleague in the other place, I am calling on the National Parole Board to review its practices to ensure that First Nations people are treated fairly and in a culturally sensitive matter. Moreover, I call on the National Parole Board to ensure that efforts are made to ensure appropriate First Nations representation on the National Parole Board and among staff and professional advisers.

MR. DOMINGO SILVA

Hon. Tommy Banks: Honourable senators, in this place we often complain about what people do, and we sometimes laud the actions of Canadians. Today, I would like you to join me in congratulating the actions of a non-Canadian.

Some time ago, Domingo Silva was the third engineer on a ship called the MSC *Trinidad*. In a move that may well have ended his sea-going career, Mr. Silva took video pictures of a bypass pipe that had been installed on the ship on which he worked, which, it is alleged, would allow bilge water to bypass the bilge tank on the ship and be dumped directly into the ocean.

Mr. Silva knew that to dump bilge water in this way was in contravention of a number of international conventions, and certainly the laws of Canada. Mr. Silva delivered those video pictures to the authorities when the ship came ashore, and it is now detained in the Port of Montreal for further investigation.

• (1420)

Members will recall the passage in this place of amendments to the Migratory Birds Convention Act, which had to do with actions of this kind. The discharge of oily bilge waters resulted in the deaths of thousands of seabirds on the coast of Newfoundland and Labrador two years ago.

Mr. Silva has done the right thing and has likely done so at great personal cost, which we must hope will be something from which he will be somehow insulated. Canada owes Mr. Silva a great vote of thanks. He has set an example that we must hope other seamen will follow.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw your attention to the presence in the gallery of Mr. William Hay, M.L.A., Speaker of the Northern Ireland Assembly and Chairman of the Northern Ireland Assembly Commission,

together with the following members of the Northern Ireland Assembly Commission: Mr. Stephen Moutray, Mr. Paul Butler, Reverend Dr. Robert Coulter, and Mr. Sean Neeson.

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

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

THE ESTIMATES, 2008-09

SUPPLEMENTARY ESTIMATES (A) TABLED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Supplementary Estimates (A), 2008-09 for the fiscal year ending March 31, 2009.

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY SUPPLEMENTARY ESTIMATES (A)

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

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2009.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a class from the Glebe Collegiate Institute in Ottawa. The students are accompanied by their teacher, Mr. Gordon Hamilton Southam. They are guests of Senator Marcel Prud'homme, P.C.

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

SPECIFIC CLAIMS TRIBUNAL BILL

FIRST READING

The Hon. the Speaker: Honourable senators, a message has been received from the House of Commons with Bill C-30, An Act to establish the Specific Claims Tribunal and to make consequential amendments to other Acts.

Bill read first time.

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

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

• (1425)

CANADA-CHINA LEGISLATIVE ASSOCIATION CANADA-JAPAN INTER-PARLIAMENTARY GROUP

MEETING OF ASIA PACIFIC PARLIAMENTARIANS FORUM, JANUARY 21 TO 25, 2008—REPORT TABLED

Hon. Joseph A. Day: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canada-China Legislative Association respecting its participation in the Sixteenth Annual Meeting held in Auckland, New Zealand, from January 21 to 25, 2008.

[*English*]

QUESTION PERIOD

NATIONAL DEFENCE

CANADA FIRST DEFENCE STRATEGY

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

Yesterday, the Conservative government announced the Canada First Defence Strategy with great facility. I would like to remind the leader that the *Canadian Oxford Dictionary* describes the word "strategy" as, first, a "long-range policy designed for a practical purpose;" and second, "the process of planning something or carrying out a plan in a skilful way."

Therefore, I ask the Leader of the Government in the Senate if she can table a government strategy that will guide them in their quest to spend $30 billion?

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

The Canada First Defence Strategy, which was announced yesterday by the Prime Minister and Defence Minister Peter MacKay in Halifax, is a comprehensive long-term plan to ensure that the Canadian Forces finally have the people, equipment and support that is essential to doing their job. There are three clear priorities to the Canada First Defence Strategy: first, to strengthen Canada's ability to defend our country and protect our citizens; second, to shoulder our fair burden of continental security; and, third, to contribute to global security.

With regard to how this strategy will work, it will help the Canadian Forces to grow by evolving to expand to 70,000 regular force and 35,000 reserve force members, improving key infrastructure, increasing the forces' overall readiness and

proceeding with the replacement of surface combat ships, maritime patrol craft fixed-wing search-and-rescue aircraft, fighter aircraft and land combat vehicles and systems.

As the Prime Minister noted yesterday, this was a commitment that our party made when we were running for election. It was certainly something the Chief of the Defence Staff had been urging from government. We have now made this long-term commitment to Canada's defence strategy, and other than a few people in the opposition, I notice it has been very well received by people who actually deal with the military and are concerned about issues of defence.

[*Translation*]

Senator Hervieux-Payette: Honourable senators, I am happy that the Leader of the Government in the Senate has referred us to the last budget because I do not believe that we have learned much about this $30 billion. This announcement was merely a chance for a new photograph in front of a military flag. Military personnel, at least those who are retired and can speak freely, are very disappointed with this announcement because it says nothing concrete about what the funds will be used for. More importantly, it makes no mention of the national defence policy the government intends to implement.

Having weapons or tools available to protect the country is one thing; having a defence policy is another.

What are the government's intentions and specific plans for spending this $30 billion?

[*English*]

Senator LeBreton: The honourable senator was obviously listening to different people than I was.

• (1430)

I found the people who commented in the media on the Canada First Defence Strategy were thankful a long-term commitment to strengthen our defence has been delivered by a government.

The policy will deliver significant economic benefits to the country. Our funding plan is based on an automatic annual increase in defence spending from the current 1.5 per cent to 2 per cent beginning in 2011-12. Our commitment is for the long term. Stable funding will provide good jobs and new opportunities for thousands of Canadians who work in the defence industries. It will also benefit the communities where those industries are located.

Additionally, on the recruitment side, it will allow our young men and women to join the Canadian Forces or the reserves and have some sense that the organization they are joining will be supported by the government as a result of this Canada First Defence Strategy.

INTERNATIONAL TRADE

ROTTERDAM CONVENTION—ADDITION OF ASBESTOS TO PRIOR INFORMED CONSENT SUBSTANCES LIST

Hon. Tommy Banks: Honourable senators, with respect to the last question, I suppose we are indeed listening to different people. I will return to that point later.

My question today, addressed to the Leader of the Government in the Senate, concerns the Rotterdam Convention. I suspect the minister might want to take this question as notice. It is important.

The Rotterdam Convention and the meeting of the parties to the convention has developed a list of prior informed consent substances. This convention means that the countries agree among themselves that no one will export certain substances deemed to be injurious to human health to another country without a prior informed consent of the country to which the product is sent. There is a veto. To put something on the list requires unanimous consent of the parties.

Most countries involved want asbestos and chrysotile asbestos, in particular, to be added to that list. Asbestos is a substance that is injurious to human health. Canada, however, has vetoed the addition of asbestos, of which we export a great deal to those countries. Canada has vetoed the addition of chrysotile asbestos to that list. On the face of it, that veto seems to put the interests of industry, which are important in our country, against the interests of health in the countries to which asbestos is exported. There are about 74 of those countries.

Can the minister inquire as to whether the government will change its mind and, when the next conference of parties relating to the Rotterdam Convention occurs, agree and accede to the request to add the chrysotile asbestos to the list of prior informed consent substances, PIC?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): The honourable senator is correct in his opening sentence in that I will take that question as notice. The question is complex. Many products are listed as hazardous.

I will take the question as notice.

Senator Banks: I thank the leader for that.

Canada says and has said for a long time that it will only export chrysotile asbestos to those countries in which there are information and dust-control seminars, for example, given to trade unions in those countries. Canada says it does so only on that basis.

How often does the Government of Canada collect and review that information from the countries to which it exports that product? How many times has Canada collected and reviewed information from those countries in the two years since the last convention of the parties? Finally, are any countries on record to which Canada has refused to export chrysotile asbestos because the countries have not complied with those requirements?

Those questions are in addition to the first question.

Senator LeBreton: I will pass along those detailed questions and seek a delayed answer for the honourable senator.

• (1435)

THE ENVIRONMENT

KYOTO PROTOCOL—NATIONAL REGISTRY FOR GREENHOUSE GAS EMISSIONS

Hon. Grant Mitchell: Honourable senators, the UN Climate Change Secretariat has notified Canada that we are in contravention of a Kyoto reporting obligation because the government has failed to establish a national registry of greenhouse gases. This is embarrassing internationally, and it is also very troubling when one begins to wonder exactly how a government could achieve anything in climate change if they are not even in the process of measuring greenhouse emissions to begin with.

My question is for the Leader of the Government in the Senate. How could anyone take this government seriously about its effort to achieve even its pathetically weak climate change objectives if it has not bothered to establish a basic registry system to record and report greenhouse gas emissions in this country?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Once again, the honourable senator is wrong with his facts. There was a contract for Canada's national registry under the Kyoto Protocol. It was awarded to Perrin Quarles Associates on February 14 of this year, following a competitive bidding process. PQA has significant experience in developing registry systems, including the Clean Development Mechanism Registry and New Zealand's national registry for the UN Framework Convention on Climate Change.

Rather than criticizing our government, as the honourable senator always does, he should reflect on some of his own leader's past comments, considering that he is the one who made it clear that Canada could not meet its Kyoto targets. Of course, as his deputy leader has said in the other place, and as is well known, "you did not get it done."

We are working very hard and have made great strides on our greenhouse gas emissions plan. We have a plan, and I am happy to say that many industries and governments are supportive of it. We will work very hard toward a reduction of 20 per cent by 2020.

Senator Mitchell: We hear about striving, about a plan and talk, talk, talk, but we get absolutely no action, even in this answer.

Senator Stratton: Thirteen years.

Senator Mitchell: The leader says there is some sort of contract that her government is letting, but we still have no indication of when that might be finished.

Will the leader indicate to us that when her government cancelled all the previous climate change programs in 2006 did they also consciously cancel the development of the registry? Is that why we have had to wait until now before they would even bother to start letting the contract, let alone getting it done and meeting our international obligations?

Senator LeBreton: First, I am glad to see the honourable senator has acknowledged that we actually have someone working on the registry.

It is clear that Canadians know and understand that there was nothing done on the environment. The honourable senator talks about talk, talk, talk. There was a significant amount of talking by the Chrétien and the Martin governments. Ours is the first government to require mandatory reductions in greenhouse gas emissions and air pollution from industry — 20 per cent by 2020.

As the honourable senator knows well, we recently published details of our regulatory framework. Budget 2008 included $66 million over two years to set up key features of the regulations. The budget also includes a $250 million investment in carbon capture and storage. We are making significant investments to improve public transit. We are investing in clean energy technology and we set a $1.5 billion trust fund for the provinces and territories for projects that produce reductions in greenhouse gas emissions and air pollution. Those are concrete, real measures. We are determined to move forward on this file — something that has not happened in the past under the honourable senator's government.

Senator Mitchell: Those are concrete, real announcements, many of which have been made over and over again in the process of spin. Environment Minister Baird and the Leader of the Government in the Senate seem to spin so hard that they are perpetually dizzy.

• (1440)

The UN may well suspend Canada's right to trade in the $92 billion international carbon market because we are not fulfilling our obligations to report under the Kyoto Accord. Has this government bothered to assess what loss might be incurred by Canadian companies that are already actively trading in that $92 billion international carbon market, when we have not even bothered to set up a market?

Senator LeBreton: The only person "spinning" is Senator Mitchell. The honourable senator is spinning his wheels on matters that the Liberals did not resolve. We know what happened the last time the Liberals made promises on the environment: Canada was 35 per cent over its Kyoto targets. We also know that this government has been able to move its environment plan forward because the Liberals have supported government measures in the other place.

Senator Mitchell: The government cancelled them in 2006.

Senator LeBreton: Even though Senator Mitchell wants to believe otherwise, a serious effort is being made not only on greenhouse gas emissions and pollution but also on protecting pristine lands, lakes and parks.

Senator Mitchell: We do not want effort; we want results.

Senator LeBreton: We have made great environmental strides, and this work is reflected in the public's view and that of most reasonable people that the government is making a serious effort to deal with the environment. We must bear in mind that we live in the northern half of North America and, therefore, we have a

climate that is colder than many other countries. We must also be mindful of our economy as we move forward on the environment with great care. Most people acknowledge that we have done that.

HEALTH

INTERNATIONAL MEDICAL GRADUATES PORTAL

Hon. Lorna Milne: Honourable senators, providing quality health care to Canadians should be one of this government's top priorities. Unfortunately, we live in an age where a top magazine in Canada can make the claim that one's dog can receive better health care than a person.

Senator Andreychuk: They have said that for a long time.

Senator Milne: In Budget 2005, $75 million was earmarked over five years to expand the assessment of qualifications and the integration into the workforce for health care professionals from other countries around the world. The program is referred to as the International Medical Graduates, IMG, Portal.

Can the Leader of the Government in the Senate advise honourable senators how much of this funding has been spent, whether the program still exists and how this government is implementing it to improve health care delivery for Canadians?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I read the article to which the honourable senator referred, that mentions the care some people receive for their pets, provided they can afford it.

The Minister of Citizenship and Immigration is trying to streamline our entry system so that qualified people, in particular from the medical profession, can come to Canada because we are in dire need of nurses, doctors and medical technicians. Honourable senators, the government has committed to delivering significant sums of money to the provinces and territories in the form of an annual 6 per cent increase in the Canada Health Transfer. The delivery of health care, as the honourable senator well knows, is provincial and territorial. Obviously, there are real concerns about personnel shortages in some parts of the country.

With regard to the specific program that the honourable senator has inquired about, I will take that as notice and provide a delayed answer.

• (1445)

Senator Milne: I thank the Leader of the Government in the Senate for that response and I will await the actual answer with bated breath.

While researching the programs specific to health care professionals, I noticed that in 2005 the current government made a commitment to create the Canadian agency for assessment and recognition of credentials. In addition, they committed themselves to working with the provinces and professional associations to ensure foreign-trained professionals meet Canadian standards while getting properly trained professionals into Canada quickly.

On February 29, columnist Carol Goar commented that Mr. Harper's Canadian agency for the assessment and recognition of credentials turned out to be an information office with no authority to accredit foreign-trained professionals. I believe I have heard it referred to as "an empty room with a telephone."

Will the Leader of the Government in the Senate undertake to advise honourable senators how much public money has been spent since Budget 2006 in order to establish this information office that provides no authority to accredit these foreign-trained professionals? Also, how many of these professionals have actually been able to enter Canada under this program?

Senator LeBreton: I wish to thank the honourable senator for that question.

One of the difficulties with medical professionals establishing their credentials is that provinces and territories administer our health care system.

This year, we will transfer $22 billion to the provinces and territories under the Canada Health Transfer. I will determine how much of that $22 billion the provinces and territories have earmarked specifically for integrating foreign-trained medical personnel into their various systems.

VANCOUVER—SUPERVISED INJECTION SITE TO COMBAT DRUG ABUSE

Hon. Larry W. Campbell: Honourable senators, in keeping with my reputation for being non-partisan, I will begin my question to the Leader of the Government in the Senate with kudos.

The Minister of Health convened a panel to look into 24 scientific papers published on Insite, the supervised injection site in the City of Vancouver. They could have appointed whack jobs who call themselves "scientists," who in fact are only ideologues, but they did not. I believe they chose a fair and unbiased panel. The report is now in. That report has confirmed what the 24 peer reviews and published papers stated. Insite increases the use of addiction treatment; reduces the prevalence of syringe sharing; reduces public disorder; does not lead to greater levels of crime; saves lives from and prevents overdose; provides education for HIV, hepatitis, abscesses, drug effects, et cetera; and provides addicts with access to a health care provider. This is what we knew from the papers commissioned by the previous government for the research.

My question is for the Leader of the Government in the Senate. Can she please clarify the Conservative government's position with regard to Insite? Can she give Canadians a sense of whether we can expect a long-term exemption so that Vancouver Coastal Health can move forward on improving services, promoting treatment and saving lives?

Some Hon. Senators: Hear, hear!

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

The Minister of Health sought out research and advice from qualified individuals. As the senator knows, we have extended Insite until June 30 of this year. The minister is currently studying the issue and a decision will be made as soon as possible.

• (1450)

Having said that, it is important to point out that the government has taken major steps on the whole issue of drug abuse. On April 28, we announced the Drug Treatment Funding Program, which provides $111 million over five years to provincial and territorial governments to boost drug treatment that is available to young people who are at risk.

We are committed to working with the provincial and territorial partners to improve access to quality services and effective approaches to treating individuals who pose a risk to other individuals or to themselves, their families and their communities.

This announcement builds upon an announcement last year of a new National Anti-Drug Strategy to prevent young people from becoming involved in drugs, to support treatment services for those with addictions and to combat the production and distribution of illicit drugs. Minister Clement has also launched a national prevention campaign aimed at youth and their parents. Honourable senators have probably seen some of that in our newspapers and on television.

The important aspect here is that we realize that drug abuse is a serious problem in the country. We have invested significant funds to combat the problem.

Of course, the honourable senator is asking specifically about the Insite program in Vancouver, and as I said in my earlier response, the minister will make an announcement as soon as he is able to do so.

Senator Campbell: I appreciate anything the government does to help with treatment for addicts. Unfortunately, in the second case that the leader mentioned, the government has followed what all governments have followed and that is enforcement rather than treatment, prevention and harm reduction. We continually call this "a problem." It is not a problem, it is an illness. It is no different from cancer or any other illness. We must get away from calling this something it is not.

Last week, 800 crosses were erected in Oppenheimer Park in Vancouver. Those crosses represent the people who have died due to drug-related addictions. Brothers, sisters, sons, daughters; for anyone here who has lost someone, it does not matter how he or she died, it matters what we can do to prevent it from happening again. We need to move forward with regard to treatment.

Perhaps one of the things the minister can answer — and I do not understand — is how the Conservative government continues to delineate among jurisdictions. In other words, the federal government has a responsibility, the provincial government has a responsibility and the municipalities are children of the province. There is a myth out there that the federal government actually puts money into the Insite program. The federal government does not put money into that program. They put up $1.5 million over the first three years, specifically to investigate what was going on, and that was at our insistence.

Each year, $3 million comes out of the health budget of the Province of British Columbia. Insite is completely supported by the premier, completely supported by the politicians and 78 per cent supported by the people. The question that I have is, while health is a provincial matter, why would I need permission from the federal government to keep a health care facility open.

Senator LeBreton: First, I must take issue with what the honourable senator says, namely that we focus more on enforcement and not on treatment. That is absolutely not true.

• (1455)

Senator Di Nino: Right on!

Senator LeBreton: About 75 per cent of the monies that we expend is for treatment. The remainder is for enforcement.

Some federal money was allocated to the Vancouver Insite program, as the honourable senator points out. With regard to the specific question, I must confess to the honourable senator that since he claims this has nothing to do with the federal government, I find it curious why I would be asked the question. I will take that portion of the question as notice.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table two answers to oral questions raised by Senator Tardif on March 5, 2008, concerning human resources and social development, Budget 2008, student loans and grants, funding for research; and by Senator Milne on May 1, 2008, concerning the Ontario tobacco industry.

HUMAN RESOURCES AND SOCIAL DEVELOPMENT

BUDGET 2008—STUDENT LOANS AND GRANTS—FUNDING FOR RESEARCH

(Response to question raised by Hon. Claudette Tardif on March 5, 2008)

Budget 2008 announced the wind-down of the Canada Millennium Scholarship Foundation (CMSF) in 2009 and the introduction of the new Canada Student Grant Program to provide more effective support to low- and middle-income students who struggle with the cost of higher education. The research program that was conducted by CMSF which was funded with proceeds of its endowment will end with its sunset in 2009.

The Government of Canada recognizes the importance of research to the development of effective policies and supports for post-secondary education. Accordingly, the federal government conducts extensive research on a wide range of post-secondary education issues each year through the work of Human Resources and Social Development Canada and Statistics Canada.

Various options for conducting additional research on access to post-secondary education are currently under consideration. However, the Government will continue to draw on collaborative research partnerships and external academic and policy research in order to benefit from diverse perspectives on student needs and access issues, including those touching Aboriginal students.

The Government of Canada will also continue to support research conducted by post-secondary institutions, providing an additional $80 million per year to Canada's three university granting councils for research in support of industrial innovation, health priorities, and social and economic development in the North.

CITIZENSHIP AND IMMIGRATION

TOBACCO FARMERS—MEETING WITH MINISTER

(Response to question raised by Hon. Lorna Milne on May 1, 2008)

The Minister of Agriculture and Agri-Food Canada has met several times with members of the Ontario Flue-Cured Tobacco Growers' Marketing Board; representatives of tobacco manufacturing operations; the province of Ontario and other stakeholders concerned about the situation facing tobacco growing regions.

The federal government has vowed to continue seeking transition opportunities by working with producers and communities to help them access existing programs.

Following through on this commitment, the Minister asked Mr. Joe Preston, MP, to chair an economic development task force composed of regional mayors from the tobacco counties, economic development officers, chamber of commerce representatives, and business people from the tobacco belt. This group will look to identify programs and work with communities to access assistance and further economic development.

The government is dedicated to finding solutions for the sector and will continue to work with communities, the industry and other federal and provincial partners.

[*English*]

DEVELOPMENT ASSISTANCE ACCOUNTABILITY BILL

MESSAGE FROM COMMONS—
SENATE AMENDMENTS CONCURRED IN

The Hon. the Speaker: Honourable senators, a message has been received from the House of Commons to return Bill C-293, An Act respecting the provision of official development assistance abroad, and to acquaint the Senate that they have agreed to the amendments made by the Senate to this bill without further amendment.

[*Translation*]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I would like to introduce the pages who have come to us from the House of Commons.

Stéphanie Dubé-Desrosiers is studying international development and globalization at the University of Ottawa's Faculty of Social Sciences. Stéphanie is originally from Laval, Quebec.

[*English*]

Andra Nadeau Jakobson of Nanaimo, British Columbia, is enrolled in the faculty of social science at the University of Ottawa, where she is majoring in international development and globalization.

ORDERS OF THE DAY

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS—CONCURRENCE IN AND DISAGREEMENT WITH SENATE AMENDMENTS—MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENTS ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Tkachuk:

That the Senate do not insist on its amendments 1 and 3 to Bill C-13, An Act to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments) to which the House of Commons has disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

Hon. Joan Fraser: Honourable senators, before I address the specifics of Senator Oliver's motion, it is worth providing some context about this bill.

As honourable senators will see from the title of Bill C-13, it is an omnibus bill. It covers a fairly wide range of topics under the ambit of the Criminal Code. It is important to stress that this bill has various good elements on, again, quite a wide range of topics.

This legislation covers, for example, things like forfeiture for luring a child; minimum sentences for impaired driving; Internet gaming; the maximum default fine on summary conviction — which is to rise to $5,000 from $2,000. As I say, it takes good or reasonable steps in the areas that it covers.

To be more specific, the bill also contains good and laudable elements affecting minority language rights in the criminal courts. These concern such areas as the translation of documents; examination of witnesses; changes of venue; strengthening provisions for bilingual preliminary inquiries and trials. These are all good things needed by members of language minorities in this country; in particular, francophone minorities outside Quebec and, to some extent, New Brunswick.

Therefore, representatives of language minorities supported this bill and told the Standing Senate Committee on Legal and Constitutional Affairs that they did support it, as did the Commissioner of Official Languages. I should like to stress, by the way, that the expansion of benefits in this bill would apply in practice outside Quebec, and to some extent New Brunswick. As I have said before in this chamber, minority language rights in the Quebec courts have always been fully, generously and expansively respected.

• (1500)

The position and practice in the province of Quebec sets the standard that one would like to see everywhere in Canada. In Quebec, of course, the minority in question is the English-language minority.

[*Translation*]

As Michel Doyon, Bâtonnier of the Barreau du Québec, so aptly reminds us in the document submitted by the Barreau to the committee, and which he signed:

> Quebec has not hesitated to put the necessary resources into offering defendants the choice of having their trial in the language of their choice.

I would add, as I have already said, that this has always been the case. Your committee, therefore, was particularly interested in the evidence given by representatives from the Barreau du Québec who appeared before the committee on November 29, 2007. Those representatives were Louis Belleau and Nicole Dufour.

[*English*]

Maitres Belleau and Dufour raised a number of concerns; two in particular caught our attention.

The first concerns the role of judges when an accused who speaks a minority language appears before them. As written, Bill C-13 would require a judge to ensure that an accused person is notified of that person's right to a trial in either official language. This is, in some ways, a broadening of the protection that is now provided under the Criminal Code in section 530(3), which provides that a judge must notify the accused of that right to a trial in the official language of his or her choice if that accused person is not represented by counsel.

Note, however, the difference: Under the present Criminal Code provision, it is the judge who must notify the accused. Under Bill C-13, the judge would only have to ensure that the accused was notified by someone.

[*Translation*]

To quote further from the letter written by Mr. Doyon, the Bâtonnier of the Barreau du Québec:

> It is difficult to understand why it would have become necessary to do away with the obligation a judge has to advise the accused of his right as this amendment can only have the effect of increasing the uncertainty as to whether or not the accused received the information and above all understood the extent of his or her rights.
>
> Current subsection 533 does not seem to impose any onerous obligations on the court. The advice does not have to be given verbally. It could suffice to give the defendant a standard, bilingual brochure explaining his rights. We believe that in an area that is so fundamental, it is critical that the accused be properly informed of his or her rights and that the proposed amendment not tend to encourage informal information being given to the accused.

[*English*]

The second concern raised by the Barreau du Québec that caught our attention was a more general concern. It was a fear that, over time, what is set out in this bill as a floor in terms of minority rights might end up becoming a ceiling; and even in Quebec, which has such a proud and generous tradition, administrators might start to believe that they only had to live up to the law. Then, as soon as they had met the requirements of the law, which is less than Quebec does now, could they reduce the service that is now provided and could do so for any one of a number of reasons, perhaps out of a desire to cut costs or for administrative convenience.

In light of this carefully considered testimony, your committee proposed three modest amendments. Our object was to help to protect minority language rights against undoubtedly unintended erosion and also to help parliamentarians to assess the success or weaknesses of the proposed law as time goes by.

Those amendments called for, first, a parliamentary review by committee after three years — fortunately, that one was accepted by the House of Commons; second, a requirement that the judge will notify an accused person of that person's right to a trial in either official language; and, third, that annual reports be provided to Parliament on three things. These three things are the number of orders granted directing that an accused person be tried before a judge or a judge and jury who speak both official languages, the number of trials held in French outside Quebec and New Brunswick and the number of trials held in English in Quebec.

Unfortunately, the House of Commons rejected these last two amendments, but what I found and still find truly astounding is the weakness of the reasoning for their rejection that was cited in the House of Commons message to the Senate. Let me quote. They said they disagreed with the first amendment, which is the one affecting judges:

> . . . because it would place an undue burden on judges and does not take into consideration provincial and territorial practices that are currently in place to ensure that accused persons are informed of their language rights.

What is the undue burden on judges? Since the Criminal Code already requires judges to make this precise notification when a person is not represented by counsel, there is, as the Barreau du Québec suggested, no indication, at least that your committee heard, that it would pose an undue burden on the system to require judges to do this in all cases. On the contrary, even as the Commons message suggests, the evidence is that systems have been devised so that even unilingual judges can fulfil this duty, so why reject our amendment? I do not want to say "bad faith," so I will say that the answer must be for reasons of administrative convenience; it would be more convenient not to have to do this; however, administrative convenience is not a good enough reason.

Honourable senators, the Supreme Court of Canada, in the case of *R. v. Beaulac,* 1999, said:

> I wish to emphasize that mere administrative inconvenience is not a relevant factor. The availability of court stenographers and court reporters, the workload of bilingual prosecutors or judges, the additional financial costs of rescheduling are not to be considered because the existence of language rights requires that the government comply with the provisions of the Act by maintaining a proper institutional infrastructure and providing services in both official languages on an equal basis.

I repeat, judgment said: "Mere administrative inconvenience is not a relevant factor."

The second element the House of Commons rejected was our call for statistical reports. The answer there was basically that we cannot do it because we do not do it; provinces and territories do not keep those statistics now.

As its model for this amendment, your committee took a provision that was written into the Anti-terrorism Act in 2002, section 83(31), which required annual reports on the number of investigative hearings and preventive detentions. That did not seem to be a problem for anyone to provide. I cannot believe it would be beyond the wit of man to provide these statistics with respect to official languages. Statistics Canada, for those honourable senators who do not already know, already collects statistics on an enormously broad and detailed range of judicial matters covering at least 98 different categories.

For example, Statistics Canada reports annually on traffic offences reported by type of offence, in Canada, the provinces and 12 selected police metropolitan areas; adult criminal courts, elapsed time at court, mean and medium length of prison term and length of probation; legal aid applications by status and type of matter; number of cases heard in youth courts by length of sentence and dollar amount of most significant dispositions. It will not have escaped your attention that all those categories involve provincial governments and administrations.

• (1510)

I cannot see why a system that can collect all that information and much more cannot include one more box on the relevant forms to tick off concerning the language of a trial. Once again, the issue seems to boil down to administrative inconvenience.

Honourable senators, frankly, this is embarrassing. It is not what one expects from a serious Parliament that is genuinely interested in minority language rights. However, if we reject the House of Commons message, there are heavy risks. We could find ourselves in a ping-pong game, bouncing the bill back and forth between the House of Commons and the Senate, as we did with the bill on animal cruelty. Delaying this bill could also mean that it would be caught in a dissolution and die. The prospect of delay is real. I remind honourable senators that the House of Commons took nearly three months to send this bill back to us. In either of those circumstances, the bill will be lost. Remember that this bill has many good elements, including elements that language minorities need and want.

I do not know when I have come across a better example of the saying that the perfect is the enemy of the good. Your committee proposed two modest steps that will help to make the system a little more perfect, but what was already in the bill made the system good — or at least better. Fortunately, as I said, the House of Commons accepted our amendment calling for a three-year review. I do not know what will happen in the other place, but I have full confidence that in this place, either the Standing Senate Committee on Legal and Constitutional Affairs or the Standing Senate Committee on Official Languages will perform that review thoroughly and properly.

In light of all of this, with considerable disappointment, and even some bitterness, my recommendation to colleagues is that we swallow hard and accept the House of Commons message. I do so in the firm faith that when the government changes hands, these little errors will be rectified speedily.

Motion agreed to, on division.

CANADA MARINE ACT
CANADA TRANSPORTATION ACT
PILOTAGE ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Donald H. Oliver moved second reading of Bill C-23, An Act to amend the Canada Marine Act, the Canada Transportation Act, the Pilotage Act and other Acts in consequence.

He said: Honourable senators, I am pleased to speak today on Bill C-23, which proposes a combination of amendments to the framework legislation governing ports authorities, the Canada Marine Act.

These amendments recognize the underlying importance of marine transportation to the Canadian economy and, at the same time, seek to address pressures that have emerged since the legislation was enacted. The amendments are aimed at promoting strategic investment and productivity improvements.

Bill C-23 has been a long time in the making. It dates back to 2002, when a review panel undertook a comprehensive cross-country consultation process. These consultations were reflected in a report to Parliament and subsequently laid the foundation for Bill C-61, which died on the Order Paper in 2005.

Honourable senators may be aware that many provisions of Bill C-23 are similar to those contained in the previous Bill C-61. New provisions, however, have been included in this package that reflect more recent consultations and also take into account changes to the marine transportation landscape.

Some of my honourable colleagues no doubt are aware also that the entire marine industry strongly supports this bill and is anxious that it be passed as soon as possible. I will explain why the bill is so important not only to the marine industry but also to the economy of our country.

Today, the Canadian port authorities handle more than 200 million tonnes of goods each year worth about $100 billion. This activity represents a quarter of all Canadian trade. As part of this government's long-term economic plan called Advantage Canada, $33 billion in investments have been identified for infrastructure improvements. This infrastructure investment is the largest in nearly 50 years.

These proposed changes to the Canada Marine Act will enable port authorities to tap into some of these investment opportunities. Bill C-23 will make port authorities eligible for federal funding for capital costs of infrastructure, environmental sustainability and security projects at the beginning, putting Canada ports authorities on an equal footing with other transportation modes that have access to contribution funding.

For example, Bill C-23 would allow Canadian port authorities, CPAs, to access infrastructure funding to facilitate the advancement of short sea shipping. For those not familiar with short sea shipping, it is a multimodal activity that incorporates the marine movement of cargo or passengers between points that are in relative proximity to one another without crossing an ocean. Short sea shipping includes domestic as well as international marine transport along coastlines, to and from nearby islands or within lakes or river systems, and may also include cross-border traffic with the United States or Mexico.

The concept of short sea shipping supports the development of an efficient, integrated transportation system to meet current and future needs arising from economic expansion, increased trade, population growth and urbanization. From an environmental perspective, for example, the potential benefits of short sea shipping include air quality improvement, reduced traffic congestion and mitigation of noise pollution. It is not difficult to see the environmental benefits to all Canadians if we can encourage and facilitate more short sea shipping. Other benefits include increased throughput at marine terminals, development of new transportation options and overall increased system capacity.

We need to ensure that the marine industry is a sustainable industry that is environmentally responsible. Canadian ports already provide considerable oversight with respect to implementing environmental measures and practices.

Similar to other models, Bill C-23 will allow the federal government to assist port authorities with these environmental initiatives. Bill C-23 will permit CPAs to access funding under the ecoTransport strategy. This initiative is aimed at reducing the environmental and health effects of freight transportation. Funding under this program can be used, for example, by a port authority to offset the initial costs of shore-power installations, resulting in greater adoption of marine shore-power equipment in Canadian ports, reduction of greenhouse gas, GHG, emissions and air pollutants from the marine sector and improved efficiency in the transportation industry.

Canadian ports are more active now than at any other time in the history of the entire port system, and honourable senators need only look at the globe to see why. Canada is uniquely positioned at the geographic crossroads between new rising economies and the economic heartland of North America. It is important to seize those geographic advantages. That is the goal of the national policy framework for strategic gateways and trade corridors. It is a framework intended to help governments at different levels along with the public and private sector to plan together to attract a greater share of global traffic.

• (1520)

We have seen tremendous progress in a very short time with the Asia-Pacific Gateway and Corridor Initiative. This government is also moving quickly on other gateways and corridors. Take the Atlantic gateway, for example. The closest point in North America for ships coming through the Suez Canal is the East Coast of Canada, and one of those ports is Halifax. It is the intent to create an Atlantic gateway that will be a system of modern and efficient transportation infrastructure to facilitate trade to and from North America through our Atlantic ports.

Significant attention is also being directed to an initiative to build the competitiveness of an Ontario-Quebec continental gateway and trade corridor. CPAs need to be well positioned to be able to respond to all of these opportunities.

In addition to allowing access to infrastructure funding, Bill C-23 would also modernize the current borrowing regime for larger port authorities. Presently, CPAs can only seek an increase in their borrowing limit by making a request to the Minister of Transport, Infrastructure and Communities for supplementary letters patent that increase the borrowing limits set out in their individual letters patent. An increase requires the recommendation of the minister supported by an independent financial assessment of the CPA's debt capacity and the ability to remain financially self-sufficient. Approval is then required by the President of the Treasury Board, the Minister of Finance and the Governor-in-Council.

Bill C-23 proposes amendments to the act that would allow the larger ports to borrow on open markets based on a code governing the power to borrow in combination with commensurate accountabilities on the part of the board and senior port management. Those ports that earn revenues of $25 million a year for three consecutive years such as Vancouver Fraser, Halifax and Montreal, could, if they chose to, implement a commercial borrowing regime. The threshold is $25 million a year over three years.

Key governance amendments are proposed that would be more responsive to CPAs' needs and would promote a more stable and long-term management framework. Canada port authorities have proven to be an excellent governance model for promoting the competitiveness of Canada's ports and have undertaken their management responsibilities in a sound and fiscally responsible manner. The strength of Canada's ports today is certainly a testament to this.

The changes proposed in Bill C-23 are geared to providing long-term stability in the governance of CPAs. They provide greater clarification regarding the terms of appointment of boards of directors, providing for an additional term for reappointment of board directors, thereby increasing the maximum tenure from six to nine years at three-year terms each. They also allow incumbent directors to remain in office until renewed or a new appointment is made, for a maximum of nine years, increasing the overall continuity and stability of the board. If there were three people whose terms were up but new appointments had not yet been made, they could stay until those new appointments were there and that prevents their not being able to meet quorum, whatever it is, and it provides for continuity.

One excellent example of the governance measures that can lead to a more competitive gateway, for example, involves the amalgamation of the Lower Mainland ports and the opportunity to expand their role in global supply chains in the rapidly evolving Asia-Pacific Gateway and Trade Corridor.

The integration of the port authorities in the Lower Mainland is a key policy measure under the Asia-Pacific Gateway and Corridor Initiative. An amalgamated port authority is in a better position to pursue strategic investments in facilities and intermodal connections where constrained by a limited land base and where facilities are closely positioned geographically. It can optimize port planning and maximize the efficiency of the port.

The proposed changes to the Canada Marine Act would streamline and facilitate potential future amalgamations where they make sense and are supported by a strong business case.

Bill C-23 also modernizes the enforcement regime. The current enforcement provisions in the Canada Marine Act consist primarily of court-based mechanisms that are suited to criminal offences. Increasingly, modern federal legislation contains an array of alternatives that are administrative in nature. These alternatives are intended to address instances of non-compliance with regulatory offences as opposed to criminal offences for which the criminal prosecutions would continue to be appropriate.

We need to use our policy tools to create a powerful transportation and logistics system. The first is that the gateway and corridor strategies require port authorities to bring their play-move to the next level. We need to remove some of the constraints imposed by the Canada Marine Act and support the ability of ports to make funding decisions.

Before I close, honourable senators, I would like to emphasize the importance of Bill C-23 in achieving gateway and corridor objectives. Establishing a commercially based borrowing regime for large ports and permitting access to federal funding for infrastructure, security and environmental sustainability are crucial elements of this bill, as are funding for infrastructure, security and environmental sustainability.

As I previously mentioned, there is a very broad support throughout Canada and throughout the marine industry for this bill to be passed.

Honourable senators, I strongly encourage the speedy passage of Bill C-23. These amendments will provide significant benefits to port authorities and contribute significantly to a more efficient and globally competitive marine industry that advances Canada's position in global commerce.

Hon. James S. Cowan: Would Senator Oliver entertain a question?

Senator Oliver: Yes.

Senator Cowan: The honourable senator was referring to the gateways and corridors initiative. He will recall that when he and I were in Halifax several months ago with the Standing Senate Committee on Transport and Communications, we heard evidence from the Halifax Port Authority and a number of other port authorities about how they looked forward to being able to access the funding that would be available under those initiatives. Some of them referred to the need to change the legislation, but they also indicated that even though the government had announced the initiatives some months before — last fall, I believe — they were unaware of application forms or relevant information concerning access to that funding.

Does the honourable senator have any later information as to whether it is now possible to access application forms for accessing the gateways and corridors initiative funding?

Senator Oliver: I thank the honourable senator for his timely question.

As Senator Cowan is aware, the Prime Minister was in Halifax yesterday and one of the things that he did was attend a private meeting with a number of Nova Scotia's leading businessmen, including people from the port. I chaired that meeting. One of the questions that came up in that meeting was the very question that the honourable senator has posed.

The Prime Minister reconfirmed that the funds to which the honourable senator referred are still intact, still in place and available, and he confirmed that there is much groundwork to be done by two main levels of government, both the federal and the provincial government.

• (1530)

The four Atlantic provinces have to work out which ports they want to promote, as it is unrealistic to have four or five ports applying for infrastructure funds. The indication from the Prime Minister as recently as yesterday is that the Atlantic provinces have more preliminary work to do before these types of forms can be filled out. The federal government is quite prepared to sit down and work on those important negotiations with the provinces.

Senator Cowan: Is the honourable senator suggesting that in order for, say, the Port of Halifax to access that funding, it will require some sort of vetting or approval or agreement amongst all four Atlantic provinces, in which case it is highly unlikely that it would ever come to pass?

Senator Oliver: No, that is not my suggestion. There is already, under the authority of Atlantic Canada Opportunities Agency, ACOA, an Atlantic provinces council and committee meeting and they are working on a number of those preliminary matters. Those talks are going well.

The Prime Minister's indication is that there is still more work to be done before the forms can be signed. There is already an Atlantic committee in place under the aegis of ACOA.

Senator Cowan: Did the Prime Minister make any public comment on this yesterday? Is there a press release or some form of circular?

Senator Oliver: No, Senator Cowan, it was a private meeting.

Hon. Tommy Banks: Honourable senators, I have a question for Senator Oliver.

On the Pacific Coast, there is particular anxiety with respect to the Vancouver Fraser Port Authority having to do, among other things, with the onshore generation of power that the honourable senators talked about, as well as the Olympic Games, and so on.

I presume that this bill will go to the Standing Senate Committee on Transport and Communication for study. I assume it will be fast-tracked, studied and passed. It will then receive Royal Assent. The coming-into-force provision of this bill is one that delegates the authority, as many bills do, to the Governor-in-Council to decide when to bring it into force.

Does the honourable senator think that the processes he has been talking about would be an impediment to bringing the bill into force so as to allow ports, such as the amalgamated Vancouver Fraser Port Authority, to gain access to the programs?

Senator Oliver: Not at all. A number of potential witnesses have indeed phoned my office and said: We would love to come and appear as witnesses before you, but we like the bill as it is. We are very anxious that this bill be passed, because once it is passed and receives Royal Assent and is proclaimed, it can help us a great deal. We in the industry urgently want this bill.

Therefore, I cannot see this bill being held up by the government at all after it receives Royal Assent.

On motion of Senator Tardif, debate adjourned.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Wilfred P. Moore moved third reading of Bill S-224, An Act to amend the Parliament of Canada Act (vacancies). —(*Honourable Senator Moore*)

He said: Honourable senators, today we begin debate on the final stage of consideration of Bill S-224. The bill would limit the discretion of prime ministers with respect to vacancies in both Houses of Parliament. It would establish a time frame for filling Senate vacancies similar to the six-month rule already in place for the House of Commons. In addition, it would put an end to the selective calling of by-elections, eliminating the capacity of prime ministers to manipulate by-elections for partisan ends.

There are three aspects to the rationale behind Bill S-224. The first, and most important, is the right of the people and of the provinces and territories to a full and timely representation in both Houses of Parliament. Second is the independence of the legislative branch from control or influence by the executive and the concern about increasing concentration of power in the Office of the Prime Minister. Third is the capacity of each House to function without the impairment caused by too many vacancies.

Honourable senators, the Constitution of this country is the result of a compromise among former British colonies. Compromise is at the very essence of our country, and the Constitution protects the provinces by guaranteeing the rights they negotiated on entering Confederation. As part of the elaborate compromise of Confederation, the provinces were entitled to representation in two federal Houses. The sitting arrangements in both Houses were the result of negotiation and compromise.

I am not saying that we can never change those provisions and I acknowledge the initiative of Senator Murray, who proposes to change the allocation of Senate seats. All I am saying is that paying lip service to democracy and the rights of provinces means nothing if we do not respect the rule of law. So long as the current arrangement is the rule of the land, it must be respected. To do otherwise is to deny citizens, provinces and territories their rights under the Constitution.

When it comes to the House of Commons, a prime minister should not be able to call by-elections in Quebec because he thinks he can win, while leaving vacancies in Ontario to languish for fear that the opposition will win them. In one recent case, citizens in Toronto Centre had to wait over eight months for a by-election, while citizens in another part of the country were, by the grace of the Prime Minister, allowed to have a new representative in less than two months. This is not merely partisan manipulation; it is a repudiation of the constitutional rights of every citizen to be represented in Parliament.

What is more, the current government argued that the excessive discretion of the Prime Minister needed to be curtailed when it proposed to establish fixed dates for elections. However, it failed to address by-elections when it took that initiative. As Professor Ned Franks of Queen's University noted in his appearance before the Standing Senate Committee on Legal and Constitutional Affairs:

> Australian by-elections are governed by the principle that electors should not be left without representation any longer than necessary. Unfortunately, the same principle does not govern by-elections in Canada. The current government established fixed election dates so that prime ministers could not fiddle with the timing of general elections to their party's advantage. However, that has left the timing of by-elections open to prime ministerial machinations.

As for the Senate, I have said it before and I will say it again: The Constitution requires that vacancies be filled. By convention, this is achieved when the Prime Minister advises the Governor General to make an appointment, but this does not mean that the Prime Minister has the option of leaving seats vacant. Let me quote the well-known author on the Crown in Canada, Professor David Smith of the University of Saskatchewan. When he appeared in committee, he made the following remarks:

> Is it possible for the chief adviser of the Crown not to give advice when in fact it is only on advice that you have democratized our system of government? How then can you

> not give advice? I do not think discretion extends to not doing something. It has a breadth of range of things that you may do, but I do not think it includes doing nothing.

Regrettably, the current government seems to have a different view.

Honourable senators, the discretion of this Prime Minister, or any other, does not permit the unilateral altering of the Constitution without the consent of Parliament or of the provinces. What if a prime minister thought that some provinces have more seats than they deserve and decided to reduce their numbers by refusing to fill vacancies? What if a prime minister wanted to impose Senate elections on provinces like Ontario, Quebec, New Brunswick and Nova Scotia, which have made it clear they do not want them? These are not acceptable actions for the government of a modern democracy like Canada, founded on constitutionalism and the rule of law. The Prime Minister must pursue his objectives through constitutional means. If the Prime Minister wants to reduce the number of Senate seats for some provinces, or if he wants the provinces to elect senators, he must proceed by way of a constitutional initiative after negotiating for the support of the governments and legislatures of the provinces. He cannot abuse his discretion by refusing to fill vacancies that he is constitutionally mandated to fill, as a way of pressuring Parliament and the provinces into accepting his proposals.

• (1540)

Let me quote from Jennifer Smith, a Professor of Political Science at Dalhousie University. In her evidence before the committee, she agreed that the right of the people to have their representation in Parliament is paramount. She said:

> The Government of Canada certainly is not supposed to sabotage the Constitution by undermining existing national government institutions like the Senate. The Senate is a foundational institution that if it "belongs" to anyone, it belongs to the people of Canada. It is not the play thing of political elites and until the people are consulted about the proposed change, then they have every right to expect that it serve them in the way that it is designed to do.

The current war of attrition against the Senate shows a blatant disregard for the rule of law and the Constitution. Bill S-224 would remove the discretion that empowers a prime minister to ignore the rights of citizens, provinces and territories to be represented and would put an end to the abusive manipulations we have witnessed in the past.

In Canada, in the 21st century, 160 years after responsible government began in Nova Scotia, we still tolerate a situation where the executive has significant control and broad discretion over filling vacancies that occur in both Houses of Parliament. That situation is unworthy of a democracy like ours. We cannot effectively promote democratic values in places like Afghanistan if we fail to observe them at home. This anachronistic discretion in the hands of a prime minister has no principled basis, and it is time we reined it in.

The bill we are considering at third reading today, honourable senators, is also designed to address in some measure a shared concern by most observers of, participants in and commentators on our political system. The concentration of power in the office of the Prime Minister has been criticized even by its current occupant, and it is a threat to the balance of institutions that makes our democracy work properly. Bill S-224 will curtail the excess of discretion that currently lies in the hands of the Prime Minister and remove the improper influence of the executive branch over the legislative branch.

Honourable senators, no one in this house doubts that vacancies impair our ability to perform our collective constitutional duties. If the Prime Minister persists in his current policy, the Senate will reach 30 vacancies by the end of next year. That number is nearly one third of the membership. For the Senate to function properly, and bear in mind that it is already a much smaller house than the House of Commons, we need a certain critical mass to take on the various activities. Let me quote Professor Franks on this point. He said:

> I do have a concern that, over time, we cannot let the Senate atrophy. It either has to be abolished or it has to be a functioning part of Parliament. Death by 100 cuts is not the way to go.

The problem is most glaring in our committees, where the bulk of our work is done. The government in this place is already struggling to staff 17 standing committees, two special committees and three subcommittees. The Senate has 22 committees in total. The government bench has only 21 members if we do not include the Speaker. The implications are obvious. Let us be honest: The government can barely manage to staff half its committee seats, often functioning with only one or two members present at meetings.

The House of Commons could not function well, either, if it had many vacancies. That is why Parliament established a time frame of six months to ensure that the membership of the elected House would not atrophy. The six-month time frame is a good measure for the House of Commons, and it is a good measure for the Senate of Canada. Bill S-224 will put the Senate on par with the House of Commons and ensure that its membership cannot be reduced to the point where it becomes dysfunctional.

Let me turn now to some of the issues raised in the Standing Senate Committee on Legal and Constitutional Affairs when it examined Bill S-224.

Honourable senators, when the Leader of the Government in the other place appeared in committee, he talked a lot about the government's proposals for Senate reform, and attempted to equate my initiative with the status quo. He seemed to want to create a false choice between my bill and an elected Senate. First, I state clearly that Bill S-224 has nothing to do with Senate reform. Vacancies affect both Houses. In addition, no matter what the future brings for the Senate, there will be vacancies. Several provinces have clearly rejected the Prime Minister's current reform initiative, not least because of his unilateralist approach to federalism. Even if the Prime Minister were to succeed with his proposals, the Senate he envisions will have vacancies. Regardless of the Senate we have today or in the future, the Prime Minister should not be allowed to let vacancies pile up for years. My bill is a remedy that works both for the status quo and for the Senate in the future.

Honourable senators, a concern was raised that my bill could result in by-elections being called with a voting day close to the fixed date of a general election. The existing provisions of the Elections Act address this concern and make provisions for it. Moreover, Bill S-224 does not change the existing timelines for by-elections; the bill merely prohibits the selective calling of by-elections to the detriment of the democratic rights of citizens who are without a representative in the House of Commons.

Some discussion in the committee focused on what could happen if a Senate vacancy were due to be filled immediately after a government is defeated in the House of Commons, or defeated in a general election. Obviously, such a government will have lost legitimacy under our constitutional conventions to tender binding advice to the Governor General. Senator Murray expressed concern that a Governor General in such a situation could be intimidated into making appointments. He raised the spectre of an overbearing prime minister arguing that the law requires the Governor General to accept the advice. Honourable senators, I submit that this concern is not valid. It is important to focus on how the bill has been crafted. The bill does not attempt to constrain the Governor General at all. It creates a statutory obligation on the prime minister to tender advice, but it does nothing to disturb the settled convention that a Governor General will refuse to act on such advice when it is tendered by a defeated government. That convention was firmly established in 1896 when Lord Aberdeen refused to make appointments on advice by from Sir Charles Tupper, who had been defeated in a general election. Bill S-224 does not affect that convention.

In our committee deliberations, Senator Andreychuk raised the theme of legal sanctions on several occasions. If I understood her correctly, she regards the provisions of Bill S-224 as unenforceable in court. I have two responses to that concern.

First, witnesses agreed that the main consequences of failure to respect the law would be political, but they did not all agree with the view that Bill S-224 would be unenforceable. In fact, Professor Errol Mendes of the University of Ottawa Faculty of Law stated clearly that it is enforceable, particularly because it addresses the powers of the prime minister, not those of the Governor General. He addressed this subject in more than one response to questions. Let me quote from one:

> If a statute has been duly passed by Parliament and mandates the Prime Minister to fill vacancies, as section 32 says, on a vacancy arising, just as if he disobeyed the equivalent provision in the House of Commons, anyone could go to court, under the public interest standing rules, and ask for either a declaration or one of the administrative remedies to force the Prime Minister to do it. It has happened in the past, and it could happen in this situation too.

Second, with respect, I think Senator Andreychuk misses the point. If we look at things through the lens that she suggests, much of the constitutional fabric of our country is not enforceable — that is to say, there are no real sanctions against a prime minister who violates all sorts of provisions of the Constitution, both written and unwritten. Indeed, if Bill S-224 is unenforceable, so too are the existing provisions of the Parliament of Canada Act that require the prime minister to call by-elections within six months.

• (1550)

The object of my bill is not to sanction a prime minister who fails to respect the Constitution. My objective is to clarify the law.

I have already made the argument at second reading that the Constitution clearly requires that vacancies be filled. The provisions are mandatory, not permissive. However, prime ministers can leave Senate vacancies to linger because the Constitution does not provide a time frame and it is difficult to know when a prime minister has waited too long.

Bill S-224 does not attempt to sanction the Prime Minister; it attempts to bring clarity to the issue: to draw the line, so that we will know when a prime minister has crossed it. In light of such clarity, the political consequences that Senator Andreychuk seems to rely upon would be more likely to materialize.

Honourable senators, in conclusion, we all know that prime ministers of both stripes have taken liberties with the powers entrusted to them in respect of vacancies in both Houses of Parliament. Indeed, prime ministers have shown through their actions that they cannot be trusted with such power.

Bill S-224 is a modest attempt to curtail the abuses of the past. It will ensure that the rights of citizens, provinces and territories to representation in Parliament can no longer be manipulated, delayed or denied outright. The measure would put an end to excessive executive power in relation to the legislative branch. Finally, it would ensure that the membership of both Houses is maintained at levels that will allow them to function properly.

I urge honourable senators to support this bill.

On motion of Senator Comeau, for Senator Brown, debate adjourned.

ANTI-SPAM BILL

SECOND READING—DEBATE ADJOURNED

Hon. Yoine Goldstein moved second reading of Bill S-235, An Act concerning unsolicited commercial electronic messages. —(*Honourable Senator Goldstein*)

He said: Honourable senators, last week the world marked a rather inauspicious anniversary, namely the thirtieth anniversary of the sending of the first spam email message. In the intervening 30 years, spam messages, more technically known as "unsolicited emails," have progressed from being a minor nuisance to becoming a serious threat to the integrity of e-commerce, a significant drain on corporate resources and productivity, and a vehicle for a wide range of criminal activities.

Although the word "spam" technically refers to any unsolicited email message, this bill concerns unsolicited commercial messages; namely, those that promote products, goods, services, investment or gaming opportunity. It is these commercial messages that account for the vast majority of spam traffic and that sustain spammers by providing them with significant profits. Commercial spam is also the most straightforward for government to deal with since its commercial nature means that it is not protected by the freedom of speech.

Honourable senators, Canada is the only G8 country that does not have anti-spam legislation. Although an anti-spam task force was established under the Martin government and came up with an excellent and comprehensive report, we have not followed through with any legislation.

Some years ago, Honourable Senator Oliver repeatedly introduced anti-spam bills which, although they proceeded from very different principles than those followed in this bill, were, nevertheless, a bold attempt on his part — for which he deserves congratulations — to attempt to control and discourage the spam that plagues our country every bit as much as it plagues every other country where the use of the Internet and email is generalized.

Trying to deal with spam generates a host of problems. Much spam is generated extraterritorially; that is, outside of Canada. Some messages which some would consider to be spam would be considered by others to be legitimate advertising. Issues of freedom of speech and freedom of expression arise. Political activity could be compromised by too stringent a piece of legislation, but too permissive a piece of legislation would have virtually no effect because spammers, whatever else may be said about them, are a very creative bunch.

We all know what spam is. Although the Senate filters a tremendous number of spam messages, some, nevertheless, get through. We have all been solicited to buy Viagra at bargain prices on the web or via email.

We have all received a goodly number of plaintive emails, predominantly from Nigeria but from elsewhere as well, telling us that the sender is an orphan or the widow of an oil minister who died in unexplained circumstances. They speak of leaving a bank account in a secret place that contains in excess of $70 million. They tell us that our cooperation is required in order to transfer the money to a safe haven, like Canada. In exchange, we would receive 20, 30 or 40 per cent of that $70 million.

Those few who are foolish enough to respond end up providing bank account information and various pieces of other personal information that allow the sender to raid the bank account, withdraw virtually all the money and then disappear.

While many of us may not consider spam to be a significant challenge to deal with, it imposes massive costs at the global level. Depending on which source one uses, somewhere between 75 and 95 per of all email sent in 2007 was spam. That is up from 10 per cent in 2000. In concrete terms, there are roughly 120 billion spam messages sent each day, give or take a billion or two.

In order to protect consumers from this ever-increasing flood of messages, Internet service providers, known as ISPs, have been forced to spend vast amounts of money for which the consumer pays to purchase the latest email filtering services and to upgrade their bandwidth so that the flow of spam does not overload the service. The global email security market alone is now estimated to be worth some $5 billion annually.

In addition to the costs to ISPs, spam also creates significant costs for businesses and individuals, in terms of increased costs for Internet services, reduced productivity and losses from fraud. Studies have estimated that having employees spend just 15 minutes a day dealing with spam messages can cost businesses an average of $3,200 per worker each year in lost productivity. In 2003, the Organization for Economic Cooperation and Development estimated that spam costs companies $20.5 billion in lost productivity worldwide. That is a figure that has certainly increased since that time.

Fraud committed via spam also imposes significant and growing costs. Recent years have seen a massive increase in so-called "pump and dump" activities. These are schemes whereby false stock tips are distributed via spam to drive up the price of a stock so that the original holders can sell at a profit. One such incident that took place this last summer involved the sending of over 500 million messages encouraging investors to buy into an obscure U.S.-based firm. Investors who fall for this kind of scam typically lose about 8 per cent of their investments in the first two days. It gets worse immediately thereafter.

Even more worrisome are "phishing" attacks whereby users are sent misleading emails that lure them to a phoney website that impersonates the site of a trusted business. Usually, but not always, it is a bank. They do so in the hopes that the user will be duped into entering his or her account number and password. Such attempts have grown remarkably common in recent years, with total losses estimated at over US$630 million in 2005-06, with each incident costing an average of US$850.

• (1600)

Finally, the negative impact of spam email threatens the viability of the Internet as a method of commerce. A study by *Consumer Reports* found that concerns over identity theft had made 25 per cent of the respondents stop shopping on-line, and 29 per cent had reduced the number of on-line purchases they made. Unless confidence can be restored, the potential of the Internet as a platform both for sharing information and for reaching new markets will be seriously compromised and undermined.

There are two schools of thought with respect to regulating spam. One school of thought envisages a system whereby each person, business or group is free to send unsolicited commercial emails to any recipient they choose, provided that the messages that are sent contain a tool by which the recipients can advise senders of commercial email that they do not wish to receive further commercial emails from that sender. This strategy is called the "opting out" approach and serves as the foundation of anti-spam efforts in the United States.

Unfortunately, while appearing sound in theory, the opting-out approach has proven to be highly ineffective in practice since sending an opting-out message to a spammer generally confirms that a recipient's email address is valid and active, resulting in a large increase in the volume of spam received at that account.

The opposite mechanism, "opting in," prohibits the sending of unsolicited commercial electronic messages to any recipient unless that recipient has previously consented to receiving these messages or, in some circumstances, is deemed to consent to receiving the messages. This opting-in approach is the foundation of the Australian Spam Act, which is universally held up as a model piece of legislation.

The bill I propose adopts the opting-in approach. The sending of commercial messages is generally prohibited unless the intended recipient gives prior consent to receiving them. There are exceptions to that rule. To avoid stifling freedom of expression and commercial activities with charitable ends, for instance, the bill exempts a variety of people and institutions from the obligation to obtain prior consent.

These institutions include political parties, political nomination contestants, leadership contestants, candidates of political parties, registered charities or other not-for-profit organizations, educational institutions and public opinion, polling or survey organizations. A person who has an existing business relationship with the recipient is also exempt from the prohibition.

The bill envisages that other types of organizations may also be exempted from time to time by regulation. However, this bill provides that a recipient of an exempt commercial message may advise the sender that the recipient does not wish to receive any further exempt messages from that sender, thereby opting out of the exempt sender's mailing list.

The bill requires all senders to indicate clearly who sent the message or who authorized the sending of the message, and must contain readily accessible and accurate routing information so as to permit the recipient to contact the person easily who is either sending or who has authorized the sending of the message. To avoid having spammers change their address every day, which they all otherwise do, the information that I indicated to honourable senators must remain valid for at least 30 days after the commercial electronic message has been sent.

In addition to accurate contact information, the bill requires all commercial email messages to include an easily accessible "unsubscribe" mechanism that the recipient can use to withdraw consent to receiving any further messages from that sender. As a result, email users will be able to unsubscribe from commercial messages that they do not wish to receive even though they initially consented to receiving such messages.

The power to unsubscribe from commercial emails also applies to messages that were sent by exempt senders such as political parties or businesses with whom the recipient had a prior relationship. Accordingly, while exempt senders can send a first message without the express consent of the recipient, they cannot send repeated messages if the recipient objects.

One great difficulty in dealing with spam is that a lot of it originates outside of Canada. With rare exceptions, the Canadian legal tradition is not to legislate extraterritorially; that is, Canada will not pass laws generally that apply to non-residents. The fact that spammers are elsewhere than in the jurisdiction that passes the anti-spam legislation is one of the weaknesses of anti-spam legislation throughout the world.

I try to overcome that issue in this bill by introducing the concept of the commercial beneficiary of the spam message. All this spam promotes wares, services or gaming, or schemes of various types involving land or other similar schemes. The sender of the spam from a foreign jurisdiction is often not the commercial beneficiary of the message. To capture this problem, the bill provides that the commercial beneficiary of these messages has the same liability as the sender; that is, the commercial beneficiary is effectively deemed to be the sender of the message, although the bill does not say so in those terms. The result, however, is that where spam promotes a service or goods to be supplied by a Canadian, the supplier becomes subject to the penalties envisaged by the statute, even though that person was not the sender of the spam, but only the commercial beneficiary.

Speaking of penalties, breaches of any of these prohibitions are subject to serious penalties. Spam has worked so far because it costs senders almost nothing to send out millions of messages, and only one or two people need to fall for a scam for a spammer to make money. As a result, the penalties envisaged by this bill are purposely high to scare people. Fines can amount to as much as $1.5 million, enough to act as a significant deterrent.

I fear going beyond the time limit so I will describe only two other features of this bill. The first is an attempt to enlist and protect Internet service providers, ISPs. All these communications go from a sender to a recipient through ISPs. They can be small providers or they can be giants like Bell, Rogers, TELUS and many others.

In all cases, the bill provides that an ISP, upon reasonable notice, may refuse or cancel service or refuse access to any person who has been convicted under the bill or who sends commercial electronic messages that the ISP has reasonable grounds to believe are sent in contravention of the bill. Moreover, the ISP may filter or block some or all commercial electronic messages originating through another ISP that hosts or facilitates the spammer.

This penalty is potentially severe and debilitating for those foreign ISPs that allow their services to be used by spammers. The bill allows Canadian telecommunications service providers to block not only the spam, but all messages from that provider. We hope that will motivate the foreign ISPs hosting spammers to police themselves and to minimize spam or to block it.

The other feature I want to tell honourable senators about is the anti-phishing provisions. As I indicated earlier, phishing is the use of a created website or domain name that purports to be the site of a well-known institution. Some of us have received these messages, supposedly from the Royal Bank of Canada or similar institution, saying that their security arrangements are being reviewed, and that we should check our account by emailing back the bank account number and the password, which the recipient then uses to access that bank account. Of course, the moment that information is supplied to the sender of the phishing email, the sender then empties the bank account of the recipient more quickly than one can say how-do-you-do.

Honourable senators, Canada's law enforcement officials are currently doing their best to tackle the negative impacts of spam. They participate in global and bilateral anti-spam and anti-phishing initiatives and have established services such as PhoneBusters, which is Canada's national anti-fraud call centre.

Canada's securities commissions have also stepped up their efforts to stop "pump and dump" schemes and other investment fraud. However, until spamming and phishing are specifically prohibited by law and subject to strong penalties, these agencies will fight the battle with both arms tied behind their backs.

• (1610)

Honourable senators, this bill is a non-partisan, entirely apolitical piece of proposed legislation. I respectfully ask each honourable senator to support Bill S-235.

I do not express frequently enough the admiration that all honourable senators have for Senate support personnel, who not only help us to do our work but also make the work possible. Without each of them and their expertise in various areas, we could not fulfil our duties. In dealing with this particular bill, although my researchers and I were involved in the research and the drafting, as well as the choices of the approaches we wanted to take to various problems, the final draft was prepared by the Office of the Law Clerk and Parliamentary Counsel, specifically by Suzie Seo and Janice Tokar. I thank them publicly and I put on the record how much I admire their professionalism, their flexibility, their competence and their speed. One could not ask for more.

Some Hon. Senators: Hear, hear!

On motion of Senator Comeau, debate adjourned.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—SPEAKER'S RULING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Day, for the second reading of Bill C-253, An Act to amend the Income Tax Act (deductibility of RESP contributions). —(*Speaker's ruling*)

The Hon. the Speaker: Honourable senators, on Tuesday, April 29, 2008, Senator Di Nino rose on a point of order respecting Bill C-253, An Act to amend the Income Tax Act, (deductibility of RESP contributions). In his remarks, he recognized that the bill violates neither the Constitution Act, 1867, nor the *Rules of the Senate of Canada*. He did, however, argue that the bill does not respect constitutional convention surrounding the financial initiative of the Crown and has failed to respect normal parliamentary procedure.

After Senator Di Nino's intervention, the Senate agreed to hold further consideration of the matter over to the next day. When the item was called again, Senator Fraser, Senator Carstairs, Senator Moore and Senator Cools all expressed the view that there was no proper point of order. In particular, they argued that the bill does not violate either constitutional provisions or Senate procedure, and that it is improper for the Senate to concern itself with the practices of the other place.

I have reviewed all these interventions and I thank honourable senators for them.

[*Translation*]

On the issue of violating constitutional conventions relating to the financial initiative of the Crown, the Speaker must be extremely cautious. The responsibilities of Speaker are largely confined to the proceedings of the Senate itself. While the principle of the financial initiative of the Crown finds concrete expression in certain sections of the Constitution and the Senate's rules, all participants in discussion on the point of order accepted that these provisions were respected. Accordingly, this issue does not need to be further addressed.

The second major issue in Senator Di Nino's point of order was that the bill has not respected normal parliamentary processes relating to financial legislation. This point particularly relates to the specific procedures for financial legislation that exist in the House of Commons.

[*English*]

As honourable senators know, each House is master of its own procedure, within the bounds of the Constitution and the law. Just as honourable senators would object to the other place examining Senate procedures, it is inappropriate for the Senate to question those of the Commons. As noted in Beauchesne's, sixth edition, at citation 4, one of most important privileges is the right for each chamber ". . . to regulate . . ." its own ". . . internal proceedings . . . or more specifically, to establish binding rules of procedure." This point has been made at different times in Speakers' rulings here in this place. In fact, reference was made to some of these rulings in debate on the point of order.

[*Translation*]

In this case, the Senate received a duly attested Message from the Commons indicating that it had passed Bill C-253 and requested the Senate's concurrence. It is not for the Senate to question how the Commons adopted the bill. All that matters is that it was properly sent to us.

[*English*]

Many of the concerns raised by Senator Di Nino deal with the substance of the bill and are more properly matters for debate. The point of order has not been established, and debate can continue.

[*Translation*]

PHTHALATE CONTROL BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator Di Nino, for the second reading of Bill C-307, An Act respecting bis(2-ethylhexyl)phthalate, benzyl butyl phthalate and dibutyl phthalate.—(*Honourable Senator Fraser*)

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, Bill C-307 has been before this chamber for several months now and I believe we should refer it to the Standing Senate Committee on Energy, the Environment and Natural Resources for thorough consideration.

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 Tardif, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

[*English*]

STUDY ON GOVERNMENT SCIENCE AND TECHNOLOGY STRATEGY

INTERIM REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Eggleton, P.C., seconded by the Honourable Senator Milne, for the adoption of the sixteenth report (interim) of the Standing Senate Committee on Social Affairs, Science and Technology, entitled: *Mobilizing Science and Technology to Canada's Advantage*, tabled in the Senate on April 30, 2008.—(*Honourable Senator Keon*)

Hon. Claudette Tardif (Deputy Leader of the Opposition): Question!

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I believe that Senator Keon, who took the adjournment, will speak to this item. I suggest that it remain adjourned in his name.

Order stands.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIFTH REPORT OF COMMITTEE—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Keon, seconded by the Honourable Senator Di Nino, for the adoption of the fifth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (use of Aboriginal languages in the Senate Chamber), presented in the Senate on April 9, 2008. —(*Honourable Senator Stratton*)

Hon. Claudette Tardif (Deputy Leader of the Opposition): Question!

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Is there a motion on the disposition of this item?

Senator Tardif: Honourable senators, when will Senator Stratton speak to this item?

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I believe that Senator Stratton had intended to speak to this motion today. However, he was called away to a meeting of a steering committee and is unable to be in the chamber.

Does Senator Moore have a problem?

• (1620)

Hon. Wilfred P. Moore: No, I do not have a problem. Get your Prime Minister to appoint some senators.

Senator Comeau: If the honourable senator wants to debate this issue, the Prime Minister was ready to start making appointments, but the other side decided to vote against all measures that would have made it possible to have appointments.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, my understanding is that the question before the house is that this item stand.

Hon. Senators: Agreed.

Order stands.

[*Translation*]

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 Tardif*)

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I am pleased to rise today to highlight, once again, the importance of post-secondary education to Canadian society. Senators Hubley, Callbeck, Poy and Cowan have already addressed this matter with eloquence and I am happy to add my voice in support of their excellent remarks.

Honourable senators, last month I celebrated the third anniversary of my appointment to this upper chamber. In June 2005, on the occasion of my first inquiry on the state of post-secondary education in Canada, I stated, and I quote:

> More and more of our citizenry are realizing the social and economic benefits of a post-secondary degree and are seeking to attend schools across the country. The challenge, then, for all levels of government is in providing, for those who desire it, a post-secondary education that is accessible, affordable and of high quality.

Furthermore, in June 2006, I reiterated my commitment by making an inquiry into this matter that is vital to current and future generations. I would like to thank Senator Hubley for putting forward an inquiry this year, thereby showing that this is a matter of interest to a large number of senators.

Honourable senators, since 2005 many things have changed throughout the country and many others have not. Fortunately, even more Canadians are participating in and benefiting from the many advantages of post-secondary education.

[*English*]

On March 4, 2008, Statistics Canada released the census data from 2006 on educational attainment rates in Canada. I wish to share with honourable senators some of the key findings of the census.

Sixty per cent of Canadians between the ages of 25 and 64 have completed some form of post-secondary education.

The number of university graduates has risen 24 per cent since 2001, increasing to 23 per cent of the total population.

Of those immigrants who have come to Canada between 2001 and 2006, 51 per cent have a university degree. Eight per cent of the Aboriginal population aged 25 to 64 has a university degree compared with 6 per cent in 2001.

These findings are all positive, honourable senators, and speak to our growing understanding of the value of a post-secondary education. Yet, within that same 2006 census, there is a significant amount of sobering data.

For example, Canada ranks sixth in the OECD in terms of the proportion of the population with a university degree, behind countries such as Norway, the U.S. and Australia.

Thirty-three per cent of women between the ages of 25 and 34 have a university degree. Only 25 per cent of men between those ages have a university degree.

Eleven per cent of all Canadians aged between 25 and 34 still have less than a high school diploma.

Although the number of Aboriginals obtaining a university degree has grown, the figure has not kept pace with the growth in the general population. The university participation gap between Aboriginal students and the general population is now at 15 per cent compared to 14 per cent in 2001.

Thirty-four per cent of Aboriginals between the ages of 25 and 64 have failed to complete high school.

Twenty-six per cent of Canadians between the ages of 25 and 64 living in an urban area have a university degree compared to only 11 per cent of those living in rural areas.

There is more. In the past seven months, the presidents of three of Canada's largest and most prestigious universities have all publicly proclaimed the need for greater public and private investment in post-secondary education.

President Indira Samarasekera of the University of Alberta referencing the Canadian figures stated that:

> . . . faculty members have not kept pace with enrolment growth . . .

She continued:

> We now have 2,000 more faculty than we had in 1992, but we also have 222,000 more students.

President Stephen Toope of the University of British Columbia has noted that:

> . . . when our brilliant researchers attract federal funding for their research, there is a modest top-up to universities to sponsor the overhead costs of supporting those researchers. That top-up is still too small; it still doesn't recognize the full costs of research. Even worse, however, the more successful a university is in attracting research funding, the lower the rate of the overhead top-up. We punish extraordinary accomplishment.

President David Naylor of the University of Toronto has pointed out that:

> . . . in advanced or graduate education, we clearly underperform. The Conference Board study of 17 OECD nations found that only Italy awarded fewer Ph.D. degrees per capita than Canada. Compared to the United States, Canada awards a third fewer doctoral degrees and half as many master's degrees per capita.

He also noted that:

> . . . twenty years ago, Canadian universities received $2000 per student more from government than their U.S. peers. Today they receive on average $5000 less.

That is but a sample of the deficiencies in Canadian post-secondary education policy illustrated by these presidents. Other bodies have outlined more. *Nature Magazine*, one of the world's most reputable and renowned journals, recently criticized Canada's current government for its "dismal" track record and "manifest disregard for science."

The Association of Universities and Colleges of Canada has noted that in Canada:

> . . . the institutional cost of supporting research. . . funded through the Indirect Costs Program, are estimated to be at a minimum 40 per cent of the total direct costs of research.

The federal government is currently reimbursing at an overall rate of approximately 25 per cent.

The Canadian Millennium Scholarship Foundation has stated that:

> . . . in 2006, 59 per cent of undergraduate university students graduated with debt resulting either from a government student loan or borrowing of another type. They owed an average of $24,047.

These are some of the significant problems facing our students, our post-secondary institutions and our country. These are real problems related to: university participation rates, graduate student participation rates, gender inequalities, geographical inequalities, Aboriginal participation and completion rates, student loans, student debt, faculty growth, research development and innovation.

• (1630)

Each of these problems matters and must be addressed because we live in a time in history when the world's most important resource lies not on the side of a mountain or under a pile of sand, but within the mysterious confines of the human mind. We are in the midst of what economist Richard Florida calls "the creative era" — an era where knowledge is not just king, it is everything.

The social and economic well-being of our nation depends on our ability to transform ideas into technologies and innovations. To neglect the institutions that foster and incubate those ideas — universities and colleges — is to invite disaster.

Much has changed and much has stayed the same. Sadly, three years after my appointment to the Senate, one thing that remains the case is that Canadian legislatures have failed to make post-secondary education a public policy priority, meaning that an agenda of accessible, affordable and high quality education, an agenda that our citizens need and demand, is being advanced at a dilatory pace.

[*Translation*]

Honourable senators, that does not mean that there has been no progress or change in the field of post-secondary education. On the contrary, changes are being made, but we should be concerned about the speed and diligence with which we are tackling this issue, or to put it more accurately, the lack of speed and diligence with which we are tackling this issue.

Canadian governments have made progress in post-secondary education largely by investing time and resources, but the action taken does not reflect the promises made by these governments, the needs of students and post-secondary institutions or developments occurring simultaneously around the world.

As lawmakers, we are progressing much too slowly on the issue of post-secondary education, and we do not have a common set of goals, with the result that we are not giving Canadians what they want.

Last week, Senators Cowan and Meighen spoke about the need to find solutions to the problems of post-secondary education in Canada. I can only agree. The time for solutions is now. I do not think the solutions are out of reach. It is not the lack of solutions that is preventing rapid progress in this area. It is the lack of political will.

We can implement some of these solutions ourselves. However, many require the support of the provinces, post-secondary institutions and the private sector.

I will conclude by reiterating that I would like to see a national agreement on post-secondary education. As I said in 2005 and 2006, the time has come for legislators across the country to invest in our future and in the welfare of our society by making post-secondary education a national priority.

I add my support to Senator Callbeck's motion calling on the Standing Committee on Social Affairs, Science and Technology to examine and report on the accessibility of post-secondary education in Canada. I believe that such a report will contribute to finding solutions and will play an important role in what I feel should be our ultimate goal: to make Canada an international centre for knowledge.

On motion of Senator Andreychuk, debate adjourned.

The Senate adjourned until Wednesday, May 14, 2008, at 1:30 p.m.

CONTENTS

Tuesday, May 13, 2008

PAGE

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