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**Tuesday, June 10, 2008**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

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## THE SENATE

Tuesday, June 10, 2008

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

Prayers.

### AFGHANISTAN—FALLEN SOLDIER

#### SILENT TRIBUTE

**The Hon. the Speaker:** Honourable senators, before we proceed, I would ask senators to rise and observe one minute of silence in memory of Captain Jonathan (Jon) Sutherland Snyder whose tragic death occurred on the weekend while serving his country in Afghanistan.

*Honourable senators then stood in silent tribute.*

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## SENATORS' STATEMENTS

### ONE HUNDRED FIFTIETH ANNIVERSARY CELEBRATION OF CHINESE IN CANADA

**Hon. Vivienne Poy:** Honourable senators, I rise today to bring your attention to an important celebration that will take place in Victoria on the weekend of August 8, 2008, marking the one hundred and fiftieth anniversary of the Chinese in Canada.

The event will be held in Victoria because the first Chinatown was established there when the Chinese arrived in 1858 lured by the gold rush in British Columbia. At the beginning, the Chinese gold miners came from California and then the rush was on with more arriving from China. That is why California, British Columbia and the State of Victoria in Australia are referred to as "Gold Mountains."

The next big wave of Chinese migration to Canada started in the 1870s when tens of thousands of Chinese labourers were contracted to lay the tracks for the CPR in order to unite Canada from coast to coast.

Over a century and a half, the Chinese communities in Canada have gone through severe institutional discrimination and great hardships, as well as the exclusion of their family members who wished to join them. Despite everything, the communities have flourished, and much is due to the respect for scholarly pursuits, entrepreneurship and hard work entrenched in the Chinese culture.

• (1405)

As Census 2006 reported, the community has grown significantly since the mid-19th century. More than 1.2 million Canadians identified themselves as being of Chinese heritage in 2006, and the census also reaffirmed that Chinese languages are the third mother tongue in Canada, after English and French.

Since the Chinese-Canadian community in Victoria is the oldest in Canada, it is only appropriate that the Victoria Chinese Commerce Association is organizing the celebration during the weekend of August 8. It will feature a gala dinner and a celebration pageant honouring the achievements of Chinese-Canadians and will depict the historical milestones of the Chinese in Canada over the last 150 years.

Although there is still much more to be done as a minority community in Canada, we know that we have come a long way and that we are very much a part of the future of Canada.

### SIXTY-FOURTH ANNIVERSARY OF D-DAY

**Hon. Michael A. Meighen:** Honourable senators, 64 years ago last Friday, on June 6, 1944, the storms abated and the moon and tides worked together to open a small window of opportunity that allowed the Allied Forces, some 130,000 strong, to move onto the beaches of Normandy.

Canadians formed an integral part of that invasion since the 3rd Canadian Infantry Division and the 2nd Armoured Brigade were given the job of establishing a bridgehead on an eight-kilometre stretch of beach with the code name "Juno" — a name that is now forever etched in our history books.

The 1st Canadian Parachute Battalion, operating under the 6th British Airborne Division, was also involved that day, along with supporting units from the Corps of Royal Canadian Engineers, the Royal Canadian Corps of Signals, the Royal Canadian Army Service Corps and the Royal Canadian Army Medical Corps.

[Translation]

Under cover of darkness, Allied paratroopers, including 450 Canadians, landed behind the German coastal defences. They succeeded in capturing a German headquarters, destroying a key bridge and seizing an important crossroads.

Meanwhile, the infantry troops, tossed about by the angry waters of the English Channel in large flat-bottomed landing craft, chilled to the bone and suffering from seasickness, prepared to disembark. Before the infantry reached the beach, the artillery regiments saturated the German defences, firing over the heads of the Allied infantrymen.

[English]

Some, like most of the Royal Winnipeg Rifles and the company of Victoria's Canadian Scottish, made it ashore relatively unscathed thanks to accurate offshore bombardment that destroyed German guns. Most suffered through a different fate, with Toronto's Queen's Own Rifles bearing the worst of it.

[Translation]

The fortifications along that stretch of beach escaped the saturation bombing. A very small number of tanks, which the Allies were counting on to lead the attack, managed to fire.

The landing craft carrying the Queen's Own arrived late, and the infantrymen were forced to run without cover towards a sea wall some 183 metres away. Only a handful of men survived the bloodbath that followed.

The Germans, who thought the Allies would land near Calais, were taken by surprise. In a single day, their first line of defence was completely annihilated. The Canadian troops advanced inland further than all the other Allied forces. According to Veterans Affairs Canada, 359 members of our assault force were killed and 715 were wounded.

[English]

A Canadian journalist reporting on the battle described the grisly scene as follows:

The German dead were littered over the dunes, by the gun positions. By them lay Canadians in bloodstained battledress, in the sand and in the grass, on the wire and by the concrete forts. They had lived a few minutes of the victory they had made. That was all.

The D-Day attack was the Allies' toehold back on the continent. The brutal battle of Normandy lay ahead and, further still, the liberation of the rest of Europe.

• (1410)

The Allies waged and won a desperate, fearsome fight in a war to win back a freedom that had been stolen. It is that very same freedom that today permeates every part of our life — in our homes, our streets and in this chamber — and a freedom that was paid for at a very high price.

Honourable senators, let us pay tribute today to the brave Canadians, and to all Allied soldiers, sailors and airmen who, on that blustery morning 64 years ago, took back the beaches of Normandy and, in so doing, our freedom. To them, we say thank you.

#### NATIONAL STRATEGY FOR CHILD NUTRITION

**Hon. Pana Merchant:** Honourable senators, I draw to the attention of this house the compelling need for a national strategy for child nutrition.

[Translation]

Breakfast for Learning is a charity that works to improve child nutrition.

Founded in 1992, the organization is dedicated solely to child welfare, because every Canadian child who attends school needs to be well nourished so that he or she can pay attention in class.

Breakfast for Learning is having an enormous impact in my province, Saskatchewan, where I used to teach.

Since 1993, relying solely on community support, this program and its distribution service have made a huge difference in the lives of disadvantaged urban dwellers, people in rural areas and the First Nations communities in my province.

This model of community distribution has encouraged local populations to get involved and provide leadership. As a result, four of these programs are operating at present and no longer need government assistance.

[English]

Good nutrition is not simply an issue of poverty. The children of affluent families are not without poor eating habits. Childhood diabetes and obesity defy socio-economic barriers.

[Translation]

Our negligence on these issues could have real consequences at the national level. Basic and advanced education, health care costs, good physical fitness and national productivity are all dependent on nutritional criteria. Awareness of these issues is limited and uneven.

[English]

I commend the work of those pursuing a national nutrition strategy, and I urge everyone to learn more about it and to become actively engaged in the work of those involved in Breakfast for Learning.

Wendy Wong is the national President. The Saskatchewan coordinator is Kelly Berlinic, and Jean MacKay is the one who has pressed my commitment to this pioneer organization for good nutrition that is making a difference for Canadians.

This chamber and all Canadians should support the great work of this ambitious organization.

#### THE LATE DR. SHEELA BASRUR

**Hon. Nancy Ruth:** A week ago, Dr. Sheela Basrur, Ontario's Chief Medical Officer, died from cancer. "The National" and Toronto papers had pages of stories and comments on her achievements and her steadfast hand on the public health crisis that SARS created in Canada. Dr. Basrur championed and created our smoke-free Ontario and worked with Senator Kenny on tobacco issues, but I want to talk about how she and I met.

Sheela and I went horseback riding outside Las Vegas at dusk one evening, and this was the beginning of our conversation. I knew of the public Sheela and her unflinching courage, expertise and commitment. What endeared her to me was the sparkling good humour, the boundless curiosity and the sheer good sense of the private woman.

Sheela was passionate about her family, about colour, food, needlework, flowers and a holy host of things. I remember her zest for colour, the mauve or yellow suit and the shiny red nail polish. I remember her jeans and boots and downright scaredness

that her horse might see a rattlesnake and bolt. I know she loved her family and would take her daughter or sister about with her on occasion. She chose Kitchener to die in so the loving care of her parents was close to her.

• (1415)

Like all inspirational leaders, she did not pretend to have all the answers. Instead, she radiated commitment to asking the right questions and trusting the answers would follow.

My last time with Sheela was in Judith Ramirez's car, driving her home from the Mary Yusef Mouammar's chick fest. I said to her as she got out of the door, "I hold you dear to my heart." She turned her head and her eyes asked, "Why?" I said, "Because it is so easy to hold you dear."

And it was and we do, Sheela.

**MR. DAN CLEARY OF NEWFOUNDLAND  
AND LABRADOR, THE DETROIT RED WINGS  
AND THE STANLEY CUP**

**Hon. Joan Cook:** Honourable senators, last Thursday at precisely 12 minutes after midnight, Newfoundland time, Dan Cleary skated his way into hockey history as the final buzzer went in the Detroit Red Wings' 3-2 win over the Pittsburgh Penguins, making Cleary the first player from my home province of Newfoundland and Labrador to win the Stanley Cup.

Less than 30 people from my province have ever played an NHL game, and only two have made it to the Stanley Cup final. Keith Brown and Alex Faulkner were the first two Newfoundlanders to make it to the big leagues. However, Keith Brown's 1992 Chicago Blackhawks and Alex Faulkner's 1963-64 Detroit Red Wings each lost in the final.

Honourable senators, our hockey hero was raised in Newfoundland in a town called Harbour Grace, in a section of the town called Riverhead, which has a population of about 300. The small community overlooking Conception Bay was swept up in Red Wings fever during the playoffs with red flags, signs and decals bearing the team's logo popping up everywhere.

With the whole town caught up in the playoffs, Don Coombs, the Mayor of Harbour Grace, said last week that Danny Cleary had taken the character and the personality of our province and made it work for him. Cleary has given the young hockey players in Newfoundland a boost, because if a little kid from Riverhead can win the Stanley Cup, they can do anything.

In an interview shortly following the final game, Dan Cleary said, "I know Riverhead and Harbour Grace are celebrating tonight and I know the whole province is excited. I can't wait to bring it home." Dan was right. The whole town erupted into celebration when the game finished, and the parties continued all night. Later this summer, the town will have another chance to celebrate a game with Cleary when he brings the Stanley Cup home to our province to celebrate.

Honourable senators, I am proud to say that a resident of Newfoundland and Labrador has won the championship that will finally put the province's stamp on the oldest trophy in professional sports. I extend my congratulations to my province's hockey hero, Dan Cleary.

**SENATOR BARACK OBAMA**

**Hon. Donald H. Oliver:** Honourable senators, on June 3, 2008, the world changed. Illinois senator Barack Obama became the first Black presumptive candidate for the U.S. presidency in American history. He has already achieved what was once believed to be impossible.

His nomination and success in securing approximately 2,158 delegates is unprecedented. It truly is an epoch-making event. His victory is a defining moment for a nation whose history is plagued by overt racism and 200 years of slavery.

Today's edition of the *Economist* said it best:

Obama has demonstrated charisma, coolness under fire and an impressive understanding of the transforming power of technology in modern politics. . . . For a country whose past is disfigured by slavery, segregation and unequal voting rights, this is a moment to celebrate. America's history of reinventing and perfecting itself has acquired another page.

I could not agree more.

Obama's nomination is a landmark for equality rights, not only for Black people in North America, but for all people around the world. The words "Black president" are no longer an oxymoron or a dream. They are now a distinct possibility.

With all the pressures on a candidate in a heated campaign, I was deeply impressed with Obama's ability to take the public policy debate in the primaries beyond race. He has de-racialized American politics. He accomplished this by emphasizing that America had to change. Change was coming; change must come.

• (1420)

Senator Obama also stressed the importance of equality on all levels: universal health care, access to education, fiscal responsibility and shared prosperity. In achieving this major milestone, Senator Obama has shattered the glass ceiling and discarded common racial stereotypes.

I cannot say it better than the first female Black U.S. Secretary of State, Condoleezza Rice, when she said:

I do think we've come a long way in overcoming stereotypes, role stereotypes about African-Americans. I will say race is still a factor. When a person walks into a room, I still think people still see race. But it's less and less of a barrier to believing that that person can be your doctor or your lawyer or a professional in your university or the CEO of a company. And it will not be long, I think, before it's no longer a barrier to being President of the United States.

She also said:

The United States of America is an extraordinary country. It is a country that has overcome many, many, now years, decades, actually a couple of centuries, of trying

to make good on its principles. And I think what we are seeing is an extraordinary expression of the fact that 'We the people' is beginning to mean all of us.

Senator Obama has reminded the world that systemic racism will not limit visible minorities from reaching their potential.

He is the image of the American dream.

He is a symbol of a new generation of political leaders.

He is a fresh face of hope.

He is the change in which the world can believe.

Honourable senators, the eyes of the world will be watching the results of the November vote.

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[Translation]

## ROUTINE PROCEEDINGS

### STUDY ON CONTAINERIZED FREIGHT TRAFFIC

#### REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE TABLED

**Hon. Lise Bacon:** Honourable senators, I have the honour to table, in both official languages, the seventh report of the Standing Senate Committee on Transport and Communications, entitled *Time for a New National Vision: Opportunities and Constraints for Canada in the Global Movement of Goods*.

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

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

[English]

### IMMIGRATION AND REFUGEE PROTECTION ACT

#### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. A. Raynell Andreychuk,** Chair of the Standing Senate Committee on Human Rights, presented the following report:

Tuesday, June 10, 2008

The Standing Senate Committee on Human Rights has the honour to present its

#### ELEVENTH REPORT

Your Committee, to which was referred Bill C-280, An Act to Amend the Immigration and Refugee Protection Act (coming into force of sections 110, 111 and 171), has, in obedience to the Order of Reference of Tuesday, March 4, 2008, examined the said Bill and now reports the same with the following amendment:

*Clause 1, page 1:*

(a) Replace line 9 with the following:

“and 171 come into force one year after the day on which a”;

(b) Add after line 14 with the following:

“(3) For greater certainty, a decision made before the coming into force of section 110 by the Refugee Protection Division or the Convention Refugee Determination Division is not subject to an appeal under that section.

(4) Despite subsection (3), an appeal may be taken under section 110 against a decision that was made by the Refugee Protection Division before the coming into force of that section and that is referred back to it by the Federal Court after the coming into force of that section.”.

Respectfully submitted,

A. RAYNELL ANDREYCHUK  
*Chair*

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

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

### NATIONAL PEACEKEEPERS' DAY BILL

#### REPORT OF COMMITTEE

**Hon. Michael A. Meighen,** for Senator Kenny, Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Tuesday, June 10, 2008

The Standing Senate Committee on National Security and Defence has the honour to present its

#### SEVENTH REPORT

Your committee, to which was referred Bill C-287, An Act respecting a National Peacekeepers' Day, has, in obedience to the Order of Reference of Tuesday, February 26, 2008, examined the said Bill and now reports the same without amendment.

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

MICHAEL A. MEIGHEN  
*For Colin Kenny, Chair of the committee*

**OBSERVATIONS TO  
THE SEVENTH REPORT OF  
THE STANDING SENATE COMMITTEE ON  
NATIONAL SECURITY AND DEFENCE (BILL C-287)**

Your committee notes that the purpose of National Peacekeepers' Day is to acknowledge the past, present, and future efforts of Canadian peacekeepers and all Canadians who work for peace.

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

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

• (1425)

[Translation]

**NATIONAL SECURITY AND DEFENCE**

**BUDGET—STUDY ON VETERANS' SERVICES AND  
BENEFITS, COMMEMORATIVE ACTIVITIES AND  
CHARTER—REPORT OF COMMITTEE PRESENTED**

**Hon. Michael. A. Meighen**, on behalf of the Chair of the Standing Senate Committee on National Security and Defence, Colin Kenny, presented the following report:

Tuesday, June 10, 2008

The Standing Senate Committee on National Security and Defence has the honour to present its

**EIGHTH REPORT**

Your committee, which was authorized by the Senate on November 20, 2007, to examine and report on the services and benefits provided to veterans in recognition of their services to Canada, respectfully requests funds for the fiscal year ending March 31, 2009.

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

Respectfully submitted,

**MICHAEL A. MEIGHEN**  
*For Colin Kenny, Chair of the committee*

(For text of budget, see today's Journals of the Senate, Appendix, p. 1256.)

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

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

[ Senator Meighen ]

[English]

**STUDY ON NATIONAL SECURITY POLICY**

**INTERIM REPORT OF NATIONAL SECURITY  
AND DEFENCE COMMITTEE TABLED**

**Hon. Colin Kenny:** Honourable senators, I have the honour to table, in both official languages, the ninth report, interim, of the Standing Senate Committee on National Security and Defence entitled: *How Are We Doing in Afghanistan? Canadians Need to Know*.

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

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

[Translation]

**APPROPRIATION BILL NO. 2, 2008-09**

**FIRST READING**

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-58, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2009.

Bill read first time.

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

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, and notwithstanding rule 57(1)(f), I move that the bill be read the second time later this day.

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

**Hon. Senators:** Agreed.

On motion of Senator Comeau, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

[English]

**APPROPRIATION BILL NO. 3, 2008-09**

**FIRST READING**

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-59, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2009.

Bill read first time.

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



**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 57(1)(f), I move that the bill be read the second time later this day.

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

**Hon. Senators:** Agreed.

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading later this day.

### BUDGET IMPLEMENTATION BILL, 2008

#### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-50, An Act to implement certain provisions of the budget tabled in Parliament on February 26, 2008, and to enact provisions to preserve the fiscal plan set out in that budget.

Bill read first time.

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

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 57(1)(f), I move that the bill be read the second time later this day.

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

**Hon. Senators:** Agreed.

On motion of Senator Comeau, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

• (1430)

### WORLD AUTISM AWARENESS DAY BILL

#### FIRST READING

**Hon. Jim Munson** presented Bill S-237, An Act respecting World Autism Awareness Day.

Bill read first time.

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

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

### CANADIAN FOOTBALL BILL

#### FIRST READING

**Hon. Larry W. Campbell** presented Bill S-238, An Act respecting Canadian professional football.

Bill read first time.

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

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

### CLIMATE CHANGE ACCOUNTABILITY BILL

#### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-377, An Act to ensure Canada assumes its responsibilities in preventing dangerous climate change.

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.

[Translation]

### CANADA-FRANCE INTERPARLIAMENTARY ASSOCIATION

STANDING COMMITTEE MEETING,  
MARCH 6-10, 2008—REPORT TABLED

**Hon. Lise Bacon:** Honourable senators, I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-France Inter-parliamentary Association to the meeting of standing committee, held in Paris, France, from March 6 to 10, 2008.

• (1435)

[English]

### ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET  
DURING SITTING OF THE SENATE

**Hon. Tommy Banks:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to sit at 5:30 p.m. today, Tuesday, June 10, 2008, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

He said: We have invited provincial ministers to speak to us about a water bill. The Minister of Environment and Conservation of the Province of Newfoundland and Labrador is to appear today. Minister Johnson has come from St. John's specifically for this appearance, and we think it would be untoward to keep her waiting at our pleasure.

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

**Hon. Senators:** Agreed.

Motion agreed to.

[Translation]

## QUESTION PERIOD

### PRIME MINISTER

#### FORMAL APOLOGY TO FORMER STUDENTS OF RESIDENTIAL SCHOOLS—INVOLVEMENT OF SENATE

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, my question for the Leader of the Government is about the formal apology that the Prime Minister will be delivering tomorrow to thousands of Aboriginals who were victims of abuse in church-run residential schools. The Minister of Indian Affairs and Northern Development said that the apology will be sincere and respectful and will acknowledge the loss of culture, ill treatment and sexual abuse perpetrated on thousands of Aboriginals. The government has also invited survivors and Aboriginal leaders to be in the House tomorrow for the statement.

If the government is truly sincere and respectful, then why has it not offered Aboriginal leaders an opportunity to address Parliament in response to the Prime Minister's apology tomorrow?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I thank Senator Hervieux-Payette for that question. Tomorrow, June 11, will be a very solemn and historic day in the history of our country. The government has undertaken to make a solemn official apology in the House of Commons to all those who suffered through the residential schools experience. Associated with this official apology, a number of residential school survivors will be coming to Ottawa. There will be additional ceremonies following the government's official apology. Various Aboriginal leaders and a representative group of victims of the residential schools experience will be seated and honoured on the floor of the House of Commons.

This event has been a long time coming. Having gone through the process that we have, Canadians have become more aware of what happened. It has been an educational process, not only for parliamentarians but for all Canadians. Minister Strahl has been working very closely with National Chief Phil Fontaine, the head of the Assembly of First Nations.

There have been many suggestions on what tone this day should take. The government considers it to be a very solemn occasion. The Prime Minister will speak on behalf of the government and

parliamentarians with a sincere apology to the victims for the many abuses that they suffered, which are well documented.

Following the ceremony, there will be events held in the Reading Room and in the West Block that will give all parliamentarians an opportunity to express directly to these victims our sincere regret for what they were put through. They will also give the victims a further opportunity to tell us their stories.

• (1440)

[Translation]

**Senator Hervieux-Payette:** Yesterday, members of the Truth and Reconciliation Commission, which is responsible for looking into the Indian residential school experience in Canada, declared that the official apology promised by the Prime Minister was critical to reconciliation.

According to the Chair of the Commission, Justice Harry LaForme, a real and profoundly sincere apology that forthrightly acknowledges the destructive darkness of the experience would represent a positive step along the path to reconciliation.

If the government intends to present a real, profound and sincere apology, and if it does not consider it necessary to offer Aboriginal leaders the opportunity to speak in the House, then would the Leader of the Government in the Senate agree to invite Aboriginal leaders to give their response in the Senate, whose members were not invited to participate officially in the ceremony that is to take place in the House of Commons?

[English]

**Senator LeBreton:** First, with regard to Mr. Justice Harry LaForme who will be the Chair of the Indian Residential Schools Truth and Reconciliation Commission, I believe he was the perfect choice, as well as two highly respected women who will serve on this body with him: Jane Brewin Morley and Claudette Dumont-Smith.

The solemn ceremonies tomorrow are an opportunity for the government, on behalf of all Canadians, to apologize. This is the government's apology. As Mr. Justice LaForme and the honourable senator have stated, this is an opportunity for the government to set this matter straight and to apologize to all Aboriginal people, and participating in the Truth and Reconciliation Commission, in addition to the settlements, will go some distance.

Although tomorrow will be a very emotional day, I am happy that our colleague, Senator St. Germain, the Chair of the Standing Senate Committee on Aboriginal Peoples, will be the official master of ceremonies for the event that will take place tomorrow afternoon following the apology of the government.

These are important and solemn ceremonies, and these people are owed an apology. That is what the government is doing in a very non-partisan and respectful way. It is hoped that all parliamentarians of whatever political stripe will recognize this as a day to properly turn the page on these many dreadful chapters in the history of our country.

**Senator Hervieux-Payette:** This ceremony will take place in the House of Commons. I remind the Leader of the Government in the Senate that Parliament is composed of the House of Commons, the Senate and the Governor General. The Leader of the Official Opposition has asked for the Supreme Court judges to be present as well as a member of the Senate, and that was not accepted. That is why I repeat my question.

Would the Leader of the Government in the Senate support a proposal to allow Aboriginal leaders the opportunity to address Parliament by appearing before honourable senators to speak to this Chamber, as we represent all Canadians?

**Senator LeBreton:** Honourable senators, as I indicated in my last answer, we received many recommendations from various Aboriginal groups. There were many recommendations made as to what process we should follow. We followed a process in line with other apologies. I will be tabling as an addendum in the Senate the apology of the Prime Minister on behalf of the government and the people of Canada.

The Senate has a very active committee chaired by my colleague, Senator St. Germain. We have a wonderful facility in the Senate: the Aboriginal committee room. It is a great testament of the contribution to our country of our founding peoples.

• (1445)

I believe that Aboriginal leaders, the people of Canada and all parliamentarians should be proud that we have a government and a Prime Minister who will stand up tomorrow on behalf of us all, no matter which political party we may belong to, after all these many years and formally apologize for this terrible chapter in our history.

[Translation]

## OFFICIAL LANGUAGES

### REPORT OF COMMISSIONER—ACTION PLAN

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate. Graham Fraser, the Commissioner of Official Languages, was very harsh in his latest annual report, criticizing the government for its lack of leadership:

The government continues to support Canada's linguistic duality in principle; however, this support has not led to a global vision in terms of government policies and the public service. This lack of leadership has resulted in a plateau being reached and, in some cases, a deterioration in the application of the official languages policy.

When will the government show some leadership in protecting and promoting linguistic rights by creating an organizational culture of respect for the use of official languages in all federal departments and agencies by reinstating the Court Challenges Program and by agreeing to appoint bilingual judges to the Supreme Court of Canada?

These are concrete examples. When will the government show the leadership illustrated by these examples?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I have read the reports of the Official Languages Commissioner, Mr. Graham Fraser. We thank him and welcome his report.

He obviously raises some concerns that must be dealt with. I do not think I have to convince honourable senators of that. It is well known that our government is committed to linguistic duality. We are acting in the interests of minority language communities to ensure the vitality of French and English in Canada.

For example, on May 24 we reopened Saint-Jean Royal Military College, which had been closed by the previous government; on June 6 we announced over \$750,000 to benefit Ontario's francophone community; and on May 30 we made an investment of \$1.7 million to support French language education in New Brunswick.

In the Speech from the Throne we committed to proposing a strategy to implement the next phase of the Action Plan for Official Languages. In Budget 2008 we reaffirmed this commitment and we will be announcing the next phase of our action plan as soon as possible. We now have the benefit of the report of the former Premier of New Brunswick, Bernard Lord.

As I have said before, the government takes this issue very seriously. We will ensure that funds intended for official language minorities will be continued until the new action plan is in place, as I reported in this place earlier.

[Translation]

**Senator Tardif:** The last action plan expired on March 31, 2008. Tulip season is over, spring is ending and summer, which begins on June 20, is just around the corner. When will the government present the new Action Plan for Official Languages?

[English]

**Senator LeBreton:** We have received the Bernard Lord report. I am well aware that the previous plan expired at the end of March. We have been working very hard on this action plan.

I wish to assure honourable senators on both sides of this chamber that this announcement will be made as soon as possible. The honourable senator will be delighted that she waited for the results, because the results will be very positive.

• (1450)

[Translation]

**Hon. Maria Chaput:** My question is for the Leader of the Government in the Senate. In his report, Commissioner Graham Fraser indicated that there is a lack of political will. In other words, it is not apparent. Political will requires concrete actions.

My question has to do with the reform the current government's plans to reform the spending power and their impact on the official languages program.

In his report, the Commissioner of Official Languages said:

— reform of the spending power, if it is carried out, must not come at the expense of language rights.

In its reform of the spending power, is the Conservative government willing to provide for official mechanisms that will allow it to play a key role in the development of official language communities while respecting the jurisdiction of each level of government?

This would, in my view, be a clear sign of political will.

[English]

**Senator LeBreton:** Honourable senators, I am well aware of Mr. Fraser's comments. I respectfully disagree.

Regarding the statement that there is a lack of political will, in response to the honourable senator's colleague Senator Tardif, I recited some of the actions the government recently announced. We are supportive of minority language communities in this country and their continuing growth within the various jurisdictions in which they are located.

I believe that once we have completed the work on our action plan, the Commissioner of Official Languages may wish to have another viewpoint about whether we have the political will. I would say that a statement like that should only be made when they have seen the result of all the hard work we have done.

[Translation]

### PRIME MINISTER

#### FORMAL APOLOGY TO FORMER STUDENTS OF INDIAN RESIDENTIAL SCHOOLS— INVOLVEMENT OF SENATE

**Hon. Jean Lapointe:** My question is for the Leader of the Government in the Senate, whom I respect very much for her many talents, which include dodging questions and skating around issues. She is a true "Senator," who could play for the Ottawa Senators and look good doing so.

That being said, with respect to Aboriginals, the Prime Minister will address the entire nation and apologize to First Nations representatives present in the House of Commons, yet not one of those representatives is being given the opportunity to respond to that apology in the House.

I would like an appropriate response.

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I was a figure skater and now I am a hockey skater.

I say this with all humility: I believe that when the Prime Minister stands in Parliament tomorrow to offer the apologies of the government and parliamentarians on behalf of us all, I would like to think that members of the Senate will see themselves included in that apology.

[ Senator Chaput ]

This is what is intended and, as I said earlier, there have been many suggestions as to how this event might transpire. The Honourable Chuck Strahl, Minister of Indian Affairs and Northern Development, has been in consultation with various Aboriginal leaders and victims of residential school abuses. They have come to an agreement as to who from their groups will be seated on the floor of the House of Commons. The Prime Minister will speak to the nation on behalf of all of us, and that should be accepted and applauded as the proper way to proceed.

• (1455)

[Translation]

#### CALLING OF BY-ELECTION FOR WESTMOUNT—VILLE-MARIE RIDING

**Hon. Marcel Prud'homme:** Honourable senators, we hear a great deal about reform in the House of Commons. People say the House of Commons is more important than the Senate and people want to reform the Senate. Yet the House of Commons has vacant seats. One might conclude that the House of Commons is either very important or not important at all. In my opinion, the House of Commons is very important.

Accordingly, I would like to know when we can expect a by-election for the Westmount and Saint-Lambert ridings. The seat for the Westmount riding has been vacant since January. Will an election be announced soon to fill that seat, as required by law?

I would point out that this would be an excellent opportunity for Senator Fortier to run. The Westmount riding would no doubt be much more pleasant and productive for him, from a political perspective, than the Vaudreuil—Soulanges riding.

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, having been an esteemed member of both chambers, Senator Prud'homme would agree that both Houses of Parliament are important. With regard to vacancies in the House of Commons, the Prime Minister will call the by-election within the legal parameters. With regard to Senator Fortier, the honourable senator may continue to try, but I doubt that the good citizens of Vaudreuil-Soulanges would appreciate his references to Westmount being a nicer place than Vaudreuil-Soulanges. I cannot imagine how the residents would appreciate such a comment.

The Prime Minister will follow the legalities of calling the by-election when it is necessary to do so.

**Hon. Yoine Goldstein:** Honourable senators, as I represent Vaudreuil-Soulanges, would the Leader of the Government in the Senate not agree that Vaudreuil-Soulanges is a beautiful and wonderful place?

**Senator LeBreton:** I absolutely agree, Senator Goldstein, and I am sure that my colleague, if given the opportunity, would agree wholeheartedly.

## TRANSPORT

### NO-FLY LIST—REMOVAL OF ROBERT ALLEN KENNY AND JAMES ARMSTRONG KENNY

**Hon. Colin Kenny:** Honourable senators, my question for the Leader of the Government in the Senate is a continuation of the question that I put to the leader on May 28, 2008, pertaining to my sons.

The leader will recall that Robert Allen Kenny, who is a Crown Attorney in Toronto, has been on a watch list for every flight that he has taken during the last five years. In the past six months, I have noticed that a second son of mine, James Armstrong Kenny, a graduate student, is also on a watch list, which seems more than just a coincidence. I drew this matter to the attention of the Leader of the Government in the Senate and promptly received a letter from Minister Cannon dated May 28, 2008, in which he thanked me for my correspondence of March 17, 2008. The dates here are what I read, but they are not entirely correct.

• (1500)

The minister said at the outset that he wanted to assure me of his sympathy with the difficulties my sons experienced. He said Transport Canada had reviewed my comments and determined that my sons' difficulties did not result from the Transport Canada program.

He then went on to say the difficulties, in fact, may have been the result of their names matching those of other individuals on a U.S. no-fly list. I remind honourable senators that they were leaving in Canada on separate flights on Air Canada.

Consequently, I would encourage you to forward your concerns to the U.S. Department of Homeland Security's Travelers Redress Inquiry Program, which can be accessed on line at [www.dhs.gov/trip](http://www.dhs.gov/trip).

I should also note that air carriers maintain their own security lists of passengers who have caused problems in the past. If you suspect your sons' difficulties may have been caused by their names matching others on such a list, I would encourage you to contact a customer service representative at the appropriate carrier.

In future, I would recommend that your sons arrive earlier for their flights and bring along additional documentation to facilitate the verification of their identities. This will also help to limit the possibilities of mistaken identification. A list of acceptable identification and background information on all aspects of the Passenger Protect Program is available on the program's website at [www.passengerprotect.gc.ca/identity.html](http://www.passengerprotect.gc.ca/identity.html).

If the best we can do for people caught on the list is to say, "Go and check a website," I do not think this government is doing much to take care of Canadians.

Honourable senators, I want to know if this is the best that the government can do. For all Canadians who are caught in this trap — and there appear to be thousands of them — is this how they are shipped off, and is this how they are dealt with by the Government of Canada?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I also read in the weekend papers the situation that Senator Kenny and his sons find themselves in. I will take the senator's question as notice and determine what processes could be followed to assist him.

With regard to Transport Canada, in their defence, numerous air carriers and governments maintain security lists. Transport Canada has no responsibility for these lists. They can only resolve issues related to their own Transport Canada programs. However, it appears by the letter that was read into the record that Transport Canada makes every attempt to direct passengers to the appropriate authorities to resolve their particular issues and concerns.

I will take the further information provided today as notice and see what can be done to assist the honourable senator and his sons.

## HEALTH

### SPENDING ON DRUG ENFORCEMENT, TREATMENT, PREVENTION AND HARM REDUCTION MEASURES

**Hon. Larry W. Campbell:** My question is to the Leader of the Government in the Senate. I was glad to hear she was a figure skater. There was a rumour over here that she was a right winger. I am glad we have that straightened out.

On Tuesday, May 13, I asked the government leader about safe injection sites and funding for treatment versus enforcement. In her response, she stated that 75 per cent of the monies spent go toward treatment and the remaining funds are spent on enforcement.

After consulting with the experts from the British Columbia Centre for Excellence in HIV/AIDS, I found that the exact opposite is true. According to their most recent findings, \$271 million was spent on law enforcement, which is 73 per cent, and only 14 per cent of the remaining funds were dedicated toward treatment measures. Even after taking into consideration the new spending by this government, the change is negligible.

• (1505)

I assure honourable senators that I understand why it is difficult to obtain the proper figures. Spending is spread across many departments and it changes from year to year. However, my question is: Can the leader please try to provide me with a breakdown of not only the new but the existing government spending on enforcement, treatment, prevention and harm reduction measures?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I will take that question as notice.

The new national anti-drug strategy that was announced last year contained significant dollars. Two-thirds of it was for prevention and treatment and one-third was for enforcement. I will take the question as notice in an attempt to ascertain the exact breakdown of figures.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to table four delayed answers to oral questions: a question raised by the Honourable Senator Mitchell on February 7, 2008, concerning the environment—carbon emissions trading markets, greenhouse gas emission regulations; a question raised by the Honourable Senator Mercer on April 1, 2008, concerning measures taken by Public Safety Canada, the Border Services Agency and the RCMP with respect to Halifax Harbour stowaways; a question raised by the Honourable Senator Callbeck on April 8, 2008, concerning tourism—the travel deficit; and a question raised by the Honourable Senator Fox on May 7, 2008, concerning the coordination of the release of information under the Access to Information Act.

## THE ENVIRONMENT

### CARBON EMISSIONS TRADING MARKETS— GREENHOUSE GAS EMISSIONS REGULATIONS

*(Response to question raised by Hon. Grant Mitchell on February 7, 2008)*

As Canadians know, the previous Liberal government stood by and did nothing for thirteen years as Canada's greenhouse gas emissions skyrocketed.

The current Government has taken real action to reverse the previous government's inaction on climate change.

In April of 2007, the Government released the overall design of the Turning the Corner Plan to reduce greenhouse gases and fight air pollution.

After consultations with environmental groups, industry, aboriginal groups and the provinces, on March 11, 2008, the Government released the detailed regulatory framework of the Turning the Corner Plan on greenhouse gases.

These details include:

- Forcing industry to reduce its greenhouse gas emissions, including banning the construction of new dirty coal-fired power plants and forcing the oil sands to use carbon capture and storage technology;
- Establishment of rules around carbon trading, including a carbon offset system; and
- For the first time in Canadian history, establishing a market price for carbon.

The Montreal Climate Exchange began trading on May 30, as Canada's first carbon market. This is another demonstration that our focused and balanced Turning the Corner plan is delivering results to Canadians who want to have something done about climate change. Unlike the failed approach of the Liberals, our Government is taking a balanced and focused approach towards an absolute reduction in GHG of 20% by 2020 that protects our environment while growing our economy.

Agriculture is one of the sectors that could be included within the emission trading system through the offset system. Projects that reduce emissions from activities not covered by the regulations that meet the eligibility requirements of the Offset System could earn offset credits.

These 'carbon credits' could be sold to regulated entities and used by them to achieve compliance with their regulatory obligations. For example, farmers that store more carbon in the soil by changing from more intensive tillage practices to no-till could earn offset credits.

The principal design features of the Offset System are set out in the final regulatory framework for greenhouse gases. The technical documents that will address in detail the eligibility requirements and approval process for the generation of offset credits will be released in stages over the next few months.

It will be up to the private sector to facilitate the trading of compliance units.

And unlike previous Liberal governments, our Government is putting its money where its mouth is. Budget 2008 included \$66 million over two years to set up key features of the regulations around the Turning the Corner plan, including an electronic tracking system for units traded in the carbon market.

Unlike the previous Liberal government, which talked a lot about climate change on the champagne and canapés circuit, yet stood by and watched our greenhouse gases skyrocket 32% above our Kyoto targets, Canada is now taking real action in the fight against climate change on the world stage.

In fact, the current Government is accomplishing more both at home and abroad on climate change in the last two years, than the previous Liberal government did for thirteen years.

Canada was proud to play a leading role to achieve historic success at the Montreal Protocol conference, where over 190 countries agreed on eliminating substances that harm the ozone layer and contribute to climate change. 20 years ago under a Conservative Government, the world came together to phase out harmful chemicals that create holes in the ozone layer. 20 years later again under a Conservative Government in Montreal, the world agreed once again to take aggressive action to phase out the last remaining harmful ozone-depleting chemicals.

These chemicals, namely hydrochlorofluorocarbons (HCFCs) are among those that deplete the ozone layer and are also potent greenhouse gases that contribute to climate change. Canada was also active at the meeting in building support from other countries, including China and the United States, for the acceleration of the phase-out of HCFCs, and bringing countries together to reach agreement. The result will provide tangible benefits both in terms of ozone layer protection and climate.

The second example is the leadership shown by the Government at the UN Climate Conference in Bali, Indonesia. That meeting made real progress in setting the international community on the path to a more effective and inclusive international regime. Prior to the conference, Canada had set out three main goals:

- That the world come together and agree to launch negotiations for a post-2012 agreement;
- There be an agreement on what the building blocks for a framework should be; and

There must be an end date for negotiations of 2009.

From the very beginning of these discussions, Canada's position has been that we must have an effective, binding international framework that leads to real greenhouse gas reductions.

To reach that goal all major emitters, including China, India and the United States, need to be on board and the world moved closer to that goal. Our Government is proud of the principled position we have taken. With the United States now signed on to this framework the results of this conference show progress and we see that as an important first step.

Countries also agreed to conclude the Kyoto-based negotiations for new economy-wide caps for developed country Kyoto countries in 2009, and on a detailed work program for the completion of the group's work which will proceed in tandem with work under the new process.

The issue of reducing emissions from deforestation in developing countries is also being considered as a significant component of both the Convention and Kyoto-based processes. This is important as the Intergovernmental Panel on Climate Change (IPCC) estimates that 10 to 30% of global emissions from human activities each year are due to land-use change, predominantly due to tropical deforestation in developing countries.

In fact, in some developing countries that are major emitters of greenhouse gases, recent national greenhouse gas inventories show that the majority of their total emissions are related to deforestation and other land-use activities. For these countries, addressing deforestation is their single largest opportunity to contribute to the long term international cooperative effort to mitigate global climate change.

Both the Convention and Kyoto-based processes, are intended to be completed in 2009, and ideally will culminate in a new international framework to address climate change that includes real and measurable contributions by all major emitting economies according to their national circumstances.

The Government of Canada also showed international leadership through a series of important announcements made in Bali. The Government announced that it will contribute US \$1.5 million to the Kyoto Protocol's Clean

Development Mechanism. This mechanism allows the private sector earn emission reduction credits when investing in climate-friendly projects in developing countries. This mechanism makes Canadian companies and others more competitive by providing access to new markets and business opportunities, at the same time helping reduce global emissions.

Canada also made a major contribution to the Global Environment Facility's Special Climate Change Fund. With this \$7.5 million contribution, Canada's total contribution to the Special Climate Change Fund is \$13.5 million. This makes Canada the second largest donor to the Fund which helps developing countries reduce their greenhouse gas emissions. Canada, through the Canadian International Development Agency, is already contributing \$158 million over four years (2006-2010) to the Global Environment Facility. About 35 percent of this supports global climate change efforts.

The outcome from Bali is a remarkable achievement in that it brought together countries with a wide range of diverse national interests in a consensus decision to launch negotiations on long-term cooperation under the UN Framework Convention on Climate Change.

Make no mistake; the next two years will be a challenge. The Government of Canada looks forward to meeting that challenge and will continue to show leadership internationally and work with our international partners to develop global solutions and real action in the fight against climate change.

## PUBLIC SAFETY

### BORDER SERVICES AGENCY—HALIFAX HARBOUR STOWAWAYS—OFFER OF ASSISTANCE FROM HALIFAX POLICE DEPARTMENT

*(Response to question raised by Hon. Terry M. Mercer on April 1, 2008)*

The Canada Border Services Agency (CBSA) has a strong and collaborative relationship with local and national police services, including the Halifax Regional Police who are responsible for policing the Port of Halifax.

With regard to the March 2008 stowaway incident at the Port of Halifax, Halifax Regional Police Officers conducted an initial forensic identification of two of the four buses by video recording each bus and items found within. The Halifax Regional Police took fingerprints from two of the four buses before deciding that the situation did not warrant a criminal investigation under their legislative responsibility.

A CBSA manager was satisfied that other investigative techniques including the above-mentioned video recording would provide the required information to process the case.

CBSA and Transport Canada personnel boarded the vessel in question, interviewed the captain, assessed reported sightings of the stowaways, and were confident that there were no other stowaways aboard the vessel. In addition,

Transport Canada requested that the captain perform a search of the vessel for unauthorized persons; no unauthorized persons were located as a result of this search. Collaboration between all federal and municipal agencies led to the arrest of four stowaways within hours of their escape.

The CBSA has legislative provision under the *Immigration and Refugee Protection Act* and the *Customs Act* for criminal sanction for anyone who enters illegally into Canada. The decision to lay charges would be at the discretion of the investigator and the public prosecution service. In this case, the stowaways all claimed refugee status and cannot be charged criminally unless the Immigration and Refugee Board determines that they are not refugees. The CBSA is precluded from laying charges for illegal entry against a refugee claimant whose claim has yet to be determined.

The CBSA fulfilled its mandate by attending the vessel, by searching the buses, by gathering relevant evidence, by taking the four individuals into custody and processing them in accordance with Canadian law, and by using the information gathered throughout this incident to create valuable intelligence that can be used by both CBSA and its enforcement partners.

As part of the National Security Policy commitment to clarifying and strengthening accountability for marine security, the Minister of Transport has lead responsibility for marine safety and security policy co-ordination and regulation. Transport Canada also chairs the Interdepartmental Marine Security Working Group, which was established in October 2001 to identify and coordinate the Government of Canada's actions in support of enhancing the security of Canada's marine transportation system.

## TOURISM

### TRAVEL DEFICIT

*(Response to question raised by Hon. Catherine S. Callbeck on April 8, 2008)*

The Government of Canada recognizes that the tourism industry is a vital part of Canada's economic fabric. A vibrant and globally competitive tourism industry benefits all Canadians.

The increase in Canada's travel deficit reflects Canada's strong and growing economy as more and more Canadians travel both at home and abroad. Over the last ten years (1997-2006), tourism spending in Canada by foreign visitors has grown at an average compound rate of 3.1 percent, while tourism spending by Canadians outside Canada grew by 3.9 percent. In 2007, tourism spending in Canada by foreign visitors grew by 0.3 percent while tourism spending by Canadians outside Canada grew by 15.5 percent.

Tourism registered its fourth consecutive year of solid growth in 2007. This was in large part due to the domestic market. Total tourism spending in Canada reached \$70.6 billion, an increase of 4.3 percent from 2006.

In each of 2005-06 and 2006-07, federal government expenditures directly supporting the tourism sector exceeded \$400 million. This included funding for tourism marketing and research, tourism development support through regional development agencies, and investments in National Parks and historic sites, as well as events and tourism-related infrastructure. It must be noted that provinces and territories also invest significantly in tourism. While the federal government focuses its tourism marketing activities to attract visitors from abroad, provinces and territories focus mostly on promoting domestic travel.

In November 2007, we announced an additional \$26 million for the Canadian Tourism Commission to leverage the unique opportunities afforded by the Vancouver 2010 Games. The Commission is working with partners, including with provinces and territories, to leverage tourism-related opportunities. It will play a key role in the lead up to the Games by creating promotional imagery and by working with global partners in the planning of the Torch Relay, the Cultural Olympiad and the Opening and Closing ceremonies to ensure worldwide media exposure. We recognize the tremendous opportunity that the 2010 Vancouver Games provide. Overall, the federal government has committed \$552 million to the Games.

The recent federal budget included support for tourism through measures such as \$24 million to assist with the development of tourism-related infrastructure along the St. Lawrence and Saguenay rivers, \$9 million for national museums and \$25 million for the Vancouver 2010 Olympic and Paralympic torch relays.

The budget also announced a number of investments to facilitate travel and trade at the border. \$75 million was committed to ensure that the Canada Border Services Agency has the resources it needs to effectively manage the border. \$14 million is being provided to expand the joint Canada-United States NEXUS program for low-risk frequent travelers across the border. \$15 million is to be provided to establish a permanent facility to enhance the security of the Great Lakes/St. Lawrence Seaway region. In addition, \$6 million was committed to support provinces and territories planning to introduce enhanced driver's licenses in partnership with American States. New higher-security electronic passports for Canadians are also to be introduced by 2011 and will be valid for ten years.

These projects, combined with the government's tax relief that puts more money into the pockets of individual Canadians and small and medium-sized businesses, help ensure that the outlook for Canada's tourism industry will remain positive.

The Deputy Minister of Industry Canada works closely with the Canadian Tourism Commission to ensure that activities are aligned with government policies and objectives, but the Commission is a Crown Corporation guided by a 26-member Board of Directors.



## PRIVY COUNCIL OFFICE

### ACCESS TO INFORMATION— RELEASE OF INFORMATION

(Response to question raised by Hon. Francis Fox on May 7, 2008)

#### **Coordination of policy and guidance under the *Access to Information Act***

There is no central review or coordination for the release of information that is requested under the *Access to Information Act* (ATIA). Under the ATIA, the “Head” of each government institution covered under the Act is responsible for the decisions made in the administration of its provisions. This includes decisions made with respect to the release of records under the control of the institution as a result of an ATI request.

The Government is deeply committed to increasing openness and transparency and to upholding the principles of the *Access to Information Act*. This is why the Government introduced the *Federal Accountability Act*, which made a number of changes to the *Access to Information Act*. An important change was to expand the coverage of the *Access to Information Act* to all Agents of Parliament, all parent Crown corporations and their wholly-owned subsidiaries, five foundations and the Canadian Wheat Board. Moreover, as designated minister for the purpose of section 70 of the Act, the President of the Treasury Board is now required to collect annual statistics to assess the compliance of government institutions with the provisions of the Act and its Regulations.

The changes to the Policy on Access to Information were brought about as part of Policy Suite Renewal, which is an important component of the Federal Accountability Action Plan and the government’s Management Agenda. The renewal of government policies clarifies the responsibilities and accountabilities of Ministers and Deputy Heads.

A chronology of the implementation of these changes is provided below.

#### **Coordination of Access to Information Request System (CAIRS)**

CAIRS was a database that was internal to government which contained the text of requests made under the ATIA, as well as general information about their processing. The system does not contain or identify records processed under the Act. It was put in place to facilitate the internal coordination of policy advice and guidance to government institutions by Treasury Board Secretariat. However, for many years now, Treasury Board Secretariat has opted to coordinate its policy advice through direct communications with ATIP officials as well as its quarterly ATIP Community meetings, as such CAIRS was no longer being used for the purpose it was created.

In terms of CAIRS, it was decided that the resources needed to update and maintain the system were not a good investment of taxpayers’ money. These resources will be

better used to improve the collection and analysis of statistics which, as noted, is a new requirement of the *Access to Information Act*.

Treasury Board Secretariat continues to actively coordinate policy advice and guidance with respect to new or complex policy issues related to the operation of the *Access to Information Act*.

#### **Access to Information Changes since January 2006**

On April 11, 2006, the Government of Canada introduced the *Federal Accountability Act*, which contains legislative changes, and the Federal Accountability Action Plan, which contains non-legislative changes, delivering on its commitment to make government more accountable.

As is common for complex legislation, different sections of the Act came into force at different times. Some came into force at Royal Assent, on December 12, 2006, some came into force on specific dates and others came into force at dates set out by Order-in-Council.

All access to information legislative components of the *Federal Accountability Act* are now in force. Furthermore, the new Policy on Access to Information replaces the 1993 Access to Information Policy.

#### *Chronology of legislative and non-legislative changes*

##### **December 12, 2006**

The *Federal Accountability Act* increased the number of investigators the Information Commissioner may use for investigations concerning information related to defence or national security. The Act also clarifies the time limit for making a complaint to the Commissioner under the *Access to Information Act*.

Furthermore, the *Federal Accountability Act* requires the President of the Treasury Board, as designated Minister for the purpose of the *Access to Information Act*, to collect annual statistics to assess the compliance of government institutions with the provisions of the Act and Regulations.

##### **April 1, 2007**

The *Federal Accountability Act* expands the coverage of the *Access to Information Act* to the Canadian Wheat Board, and to the following Agents of Parliament and foundations created under federal statute:

- Office of the Information Commissioner;
- Office of the Privacy Commissioner;
- Office of the Commissioner of Official Languages;
- Office of the Chief Electoral Officer;
- Office of the Auditor General;
- Canada Foundation for Innovation;

- Canada Foundation for Sustainable Development Technology;
- Canada Millennium Scholarship Foundation;
- Asia-Pacific Foundation of Canada; and
- The Pierre Elliott Trudeau Foundation.

#### September 1, 2007

The *Federal Accountability Act* provides a duty for institutions to assist requesters without regard for their identity; expands the coverage of the Act to include wholly owned subsidiaries of all parent Crown corporations covered under the Act; and expands the coverage of the Act to include the following seven additional Crown corporations:

- Canadian Broadcasting Corporation;
- VIA Rail Canada Inc;
- Atomic Energy of Canada Limited;
- National Arts Centre;
- Public Sector Pension Investment Board;
- Export Development Canada; and
- Canada Post Corporation.

#### April 1, 2008

The new Policy on Access to Information takes effect. Changes to the policy reflect changes made to the *Federal Accountability Act* and the expected enhanced results of the policy are:

- Sound management and decisions in responding to requests from applicants who are exercising their right to access records under the control of a government institution, regardless of their identity;
- Complete, accurate and timely responses to requests made under the Act;
- Clear responsibilities in government institutions for decision-making and effective administration of the *Access to Information Act* and the Access to Information Regulations; and
- Consistent public reporting on the administration of the Act through the government institution's annual reports to Parliament, statistical reports and the annual publication of *Info Source*, produced by the Treasury Board Secretariat.

#### ANSWERS TO ORDER PAPER QUESTIONS TABLED

##### NATURAL RESOURCES— EXPLOITATION OF DONKIN COAL BLOCK

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** tabled the answer to Question No. 20 on the Order Paper—by Senator Mitchell.

##### VETERANS AFFAIRS—VETERANS REVIEW AND APPEAL BOARD—STAFF

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** tabled the answer to Question No. 29 on the Order Paper—by Senator Downe.

[English]

#### THE SENATE

##### TRIBUTE TO DEPARTING PAGES

**The Hon. the Speaker:** Honourable senators, before going to Orders of the Day, this week we will say farewell to departing Senate pages and wish them luck in their years ahead.

[Translation]

After having had the wonderful experience of working as a Senate page for two years, Stéphane am Rhyn will leave this fascinating institution transformed. After two years here, Stéphane still feels honoured to have been chosen to serve the Senate.

[English]

Next year, Stéphane will complete his last year at the University of Ottawa, majoring in accounting. He will apply to law school, medical school or to become a chartered accountant. He wishes to thank all honourable senators and Senate staff for the exceptional educational contribution they have made to his experience in the Senate.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** After two years as a Senate page, it is with great sadness that Valerie Tso bids farewell to the Senate page program. She thanks all honourable senators and Senate staff for making her time here such a memorable and rewarding experience. She will commence her final year of the Bachelor of Arts degree program in psychology this coming September in hopes of pursuing studies in law thereafter.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Also, Aline Fontaine from Sagkeeng First Nation in Manitoba bids farewell to the Senate page program, retaining many wonderful experiences and memories. Next year, she will complete the last year of her degree in political science at Carleton University. After finishing her degree, she plans to work with her community in hopes of facilitating positive change and advancement for First Nations peoples.

Aline says a big *Chi Meegwetch* — thank you — to all honourable senators, the Standing Senate Committee on Aboriginal Peoples in particular, the Senate staff and her fellow Senate pages for making her two years an incredible journey.

**Hon. Senators:** Hear, hear!

[Translation]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, pursuant to rule 27(1), I wish to inform the Senate that, when we proceed to Government Business, the Senate will address the items in the following order: Bill C-58, Bill C-59, Bill C-50, followed by the fourteenth and fifteenth reports of the Committee on National Finance and Government Motion No. 1, followed by other items in the order in which they stand on the Order Paper, namely Government Bills C-30, C-23, C-33, C-21 and S-4, Inquiry No. 1 and Report No. 1 under Committee Reports.

• (1510)

[English]

### APPROPRIATION BILL NO. 2, 2008-09

#### SECOND READING

**Hon. Terry Stratton** moved second reading of Bill C-58, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2009.

He said: Honourable senators, the bill before us today, Appropriation Bill No. 2, 2008-09, provides for the release of the remainder of supply for the 2008-09 Main Estimates. The 2008-09 Main Estimates were tabled in the Senate on February 28, 2008.

The government submits estimates to Parliament in support of its request for authority to spend public funds. Main Estimates include information on both budgetary and non-budgetary spending authorities. Parliament subsequently considers appropriation bills to authorize spending. The Main Estimates also provide information to Parliament about adjustments to projected statutory spending that have been previously authorized by Parliament.

The 2008-09 Main Estimates seek a total of \$221.5 billion in government expenditures, including \$220.6 billion in budgetary spending and \$856.7 million in non-budgetary expenditures for loans and investments. These estimates were discussed in some detail with the Treasury Board Secretariat officials in their appearance before the Standing Senate on National Finance on March 4, 2008.

This year's budgetary expenditures of \$220.6 billion include the cost of servicing the public debt; operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and payments to Crown corporations. These budgetary Main Estimates support the government's request for Parliament's authority for \$79 billion in budgetary spending under program authorities that require Parliament's annual approval for spending limits. The remaining \$141.6 billion represents statutory spending, such as elderly benefits and employment insurance, and these forecasts of statutory spending are provided for information purposes only.

Non-budgetary expenditures refer to those expenditures that have an impact on the composition of the government's financial assets, such as loans, investments and advances. This year's non-budgetary expenditures of \$856.7 million include both voted non-budgetary spending authorities amounting to \$61.3 million and \$795.4 million representing statutory non-budgetary expenditure that is already approved by Parliament through separate legislation. The 2008-09 Main Estimates non-budgetary spending represents a forecasted decrease of \$489.8 million over the 2007-08 estimates.

The total of voted or appropriated items in the 2008-09 Main Estimates is \$79 billion. Of this amount, Appropriation Bill No. 1, 2008-09, sought authority to spend \$23.4 billion. The balance of the \$55.6 billion is now being sought through Appropriation Bill No. 2, 2008-09.

If honourable senators have any questions, I will try to answer; if I cannot answer, then I will try to obtain the answers.

**Hon. Joseph A. Day:** As honourable senators are aware, we typically deal with supply bills in a somewhat different manner than we do other bills in that we often have a study of the subject matter prior to the bill appearing before us.

Honourable senators should know that we have done so with respect to the Main Estimates. We started our study of the Main Estimates. There are three reports before honourable senators for consideration later, but before we go to third reading, we will hopefully have adopted those reports or, at the very least, discussed those reports so that honourable senators will be aware of the fact that our committee has already studied the subject matter prior to the supply bills arriving.

In this particular supply bill, we are dealing with \$55 billion, in round figures, as has been pointed out. That is the balance of the Main Estimates that were filed in March. In March, we gave interim supply to the end of June. We are now being asked to approve supply for the balance of this fiscal year, which will take the government around to the end of March 2009. The full supply will be given with the passage of this particular bill.

As I indicated to honourable senators, we have started to look at and we will continue to look at the Main Estimates throughout the year. That is the authority and direction that has been given to us. I will refer honourable senators later today to Report No. 15 of our committee, which outlines the work that we have done thus far in scrutinizing the Main Estimates.

I wish to bring to honourable senators' attention Bill C-58. The first thing we do is look at the attachment, schedule 1. Schedule 1 should be reflective of the schedule in the Main Estimates to ensure that we have, in fact, done a study of the same subject matter. I have confirmed that, honourable senators. I just received Bill C-58, but I have the Main Estimates here. I have confirmed that schedule 1 is, indeed, the same. It is pointed out at the beginning of schedule 1 that the total amount asked for in terms of non-statutory voted appropriations that come through a supply bill was \$74 billion; \$22 billion was given in interim supply; and now we are asking for full supply for the balance of \$55 billion.

The second point I wish to bring to the attention of honourable senators is paragraph 2 of this bill we are being asked to vote on. It seems to me that the wording is somewhat cumbersome. Before we complete third reading, I believe we should decide whether this, indeed, is the wording that we want.

Honourable senators, line 25, section 2, clause 2 of the bill, after "expenses," reads:

... the federal public administration not otherwise provided for, and being the aggregate of the total of the amounts of the items set out in the Main Estimates for the fiscal year ending March 31, 2009 being the aggregate of the total amount set out in ...

It appears as though there has been a repetition and that the first "being an aggregate of" should not appear.

I do not think there is any question that what is being sought is \$55 billion, but it is not the aggregate of the total amount claimed in the estimates for the fiscal year ending March 31, 2009; it is the aggregate as shown at the top of page 2, which is the full amount of the estimates less the amount that has already been approved in an interim supply in March.

• (1520)

Honourable senators, with that one caveat, I propose that we proceed with the debate on this particular matter. As I indicated to you before third reading, we will try to sort the wording out on that particular matter.

**Hon. Lowell Murray:** Has my honourable friend read the French version of the same article, which, I think, is a bit more clear?

**Senator Day:** Your honourable friend has not, as yet. I just received the bill a short while ago. That is a very good suggestion from the honourable senator, and it will help me to interpret the intention of this particular clause. I thank him for that suggestion.

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question? Is it your pleasure to adopt the motion?

Motion agreed to and bill read second time.

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

[ Senator Day ]

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

### APPROPRIATION BILL NO. 3, 2008-09

#### SECOND READING

**Hon. Terry Stratton** moved second reading of Bill C-59, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2009.

He said: Honourable senators, the bill before you today, Appropriation Bill No. 3, 2008-09, provides for the release of supply for Supplementary Estimates (A) 2008-09 and seeks Parliament's approval to spend \$3.6 billion in voted expenditures. These expenditures were provided for within the planned spending set out by the Minister of Finance in his February 2008 Budget.

Supplementary Estimates (A) 2008-09 were tabled in the Senate on May 13, 2008, and referred to the Standing Senate Committee on National Finance. These are the first supplementary estimates for the fiscal year that ends on March 31, 2009. These estimates were discussed in some detail with Treasury Board Secretariat officials in their appearance before the Standing Senate Committee on National Finance on May 28, 2008.

The 2008-09 Supplementary Estimates (A) reflect \$4.1 billion in budgetary spending. Of this amount, \$3.6 billion requires the approval of Parliament and includes such major budgetary items as \$557.3 million for a major capital equipment project to ensure tactical airlift capability; \$390.7 million for the Building Canada Fund, a component of the Building Canada Infrastructure Plan; \$169 million to implement the First Nations Water and Wastewater Action Plan to support the continued access for safe drinking water and wastewater services; \$120 million for the operating and capital costs to address regulatory and health, safety and security and environmental requirements at the Chalk River Laboratories, Ontario; and \$109 million to support the Global Fund to fight AIDS, Tuberculosis and Malaria. These supplementary estimates also include an increase of \$443.5 million in budgetary statutory spending that has been previously authorized by Parliament.

Adjustments to projected statutory spending are provided for information purposes only. They include \$254.4 million for transfer payments to provincial and territorial governments and \$180 million for provincial governments to eliminate capital taxes.

Honourable senators, should you require any further information, I will try to answer the questions. If I cannot, I will get the information for you.

**Hon. Joseph A. Day:** Honourable senators, Bill C-59 is the second supply bill that we typically handle at this time of year. Typically, the Supplementary Estimates (A), another large volume like the Main Estimates, would be forthcoming in October or November of this year.

Honourable senators will recall that we received the Main Estimates in March. Typically, we deal with interim supply, then main supply and then supplementary estimates later in the year when other expenses develop that were not foreseen at the time of the budget or have not been developed fully.

In this instance, for the first time in recent memory, we have a Supplementary Estimates (A) before we go home for our summer break. Bill C-58 and Bill C-59 will give the government full supply to the end of the fiscal year. In addition, Supplementary Estimates (A) will add to that full supply on other items that may not have been fully developed or fully anticipated at the time that the budget came down in February/March of this year.

Honourable senators, some cynics might say that the government is doing this for unstated purposes in coming forward with a Supplementary Estimates (A) with such haste. Others would thank the government for working with such due diligence to provide for these additional expenses that were not anticipated two or three months ago but are now fully developed in the Supplementary Estimates (A), which will allow for funds to flow based on these supplementary estimates.

The supply bill will, indeed, allow Treasury Board to advance the funds. If you approve this bill, you are approving not only full supply that appeared in the Main Estimates but also this additional amount that appears here of approximately \$3.6 billion.

In the normal process, honourable senators, we would have a report to deal with before we go to third reading. I anticipate that will be the case. There is before you the fourteenth report that is on the Order Paper. In that particular report, we will have the opportunity to deal with the items that appear in the Supplementary Estimates (A). I do not intend to go into the details of that report, other than to point out, again, that this supply bill in our normal custom will not be referred to committee but will rather proceed to third reading, and, in the interim, we will deal with the report that explains what your committee has done in relation to the Supplementary Estimates (A) that have been referred to us previously.

**Hon. Lowell Murray:** Honourable senators, I will not try to test Senator Day or Senator Stratton, the sponsor of the bill, on an area of which I am woefully ignorant. Perhaps Senator Stratton can obtain some information for us and put it on the record at third reading.

Where I am woefully ignorant is on exactly how this process plays out in the House of Commons. I think I am correct in saying that the estimates, whether any committee over there has ever opened the book, will be deemed to have been approved by those committees by the end of June.

• (1530)

May 31? It is done. There you go. I am woefully ignorant.

The estimates have been deemed to have been passed by the committees, and one assumes by the House.

There are in the House of Commons what they call “supply cycles.” I do not know whether these are related directly to interim supply bills that come along normally in the course of the

fiscal year. The supply cycles are the occasion for debates on opposition days in the House of Commons, all of which, I presume, offer an opportunity for the Commons to exercise its traditional prerogative of examining or of criticizing government spending and government policies, and some of those days are designated for non-confidence motions.

My friend points out that, as of tomorrow, if we pass these bills, or when they get Royal Assent, there will be presumably no more interim supply bills during the present fiscal year. We will have granted supply for the entire fiscal year. What is the relationship of this to the supply cycles, the opposition days, the non-confidence opportunities in the House of Commons?

I simply do not know. There may be, and probably is, a much simpler explanation than I am capable of imagining at the moment. Perhaps my friend, the sponsor of the bill, could find out for us and give us a paragraph or two when this legislation comes to third reading, unless, of course, he knows now and can extemporize authoritatively on this matter.

**Senator Stratton:** I thank Senator Murray for referring to me as an authority, but in this instance I am not. He and I have served on the Finance Committee for many years. If he does not know, I do not know how I could know, but I will find the answer to that for him.

We have had time to debate the budget here, as this bill has been in committee for quite some time. However, I do believe that in the House of Commons it was deemed to have been read the third time without having paid much attention to it. They use opposition days to have such debates.

I will get back to Senator Murray with the appropriate information.

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

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

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

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

## BUDGET IMPLEMENTATION BILL, 2008

### SECOND READING

**Hon. Terry Stratton** moved second reading of Bill C-50, An Act to implement certain provisions of the budget tabled in Parliament on February 26, 2008 and to enact provisions to preserve the fiscal plan set out in that budget.

He said: Honourable senators, I am thankful for the opportunity to speak at second reading to Bill C-50, a bill that seeks to implement certain measures from Budget 2008.

Budget 2008 contains measures that will improve the lives of all Canadians, measures we were able to deliver because our government has followed a plan that has placed Canada in a strong fiscal position.

I wish to outline some of the measures from Budget 2008 that are contained in Bill C-50 that help to illustrate what this government is doing to improve the lives of Canadians.

The first initiative I will mention is the proposal to help Canadians save for the future: the tax-free savings account, or TFSA. This measure has been well received. Indeed, the renowned economist Jack Mintz declared that the TFSA was "one gem of a fantastic idea. . ." He said, "This is a huge gift to Canadians."

Similarly, the C.D. Howe Institute also hailed the measure:

This tax policy gem is very good news for Canadians, and Mr. Flaherty and his government deserve credit for a novel program.

How will this program work? Starting in 2009, this initiative, described as "the most important savings vehicle since the introduction of the RRSP," will allow Canadians to invest up to \$5,000 a year in a new landmark TFSA. Investment income earned within the account, including capital gains, will not be taxed, and withdrawals from the account will be tax-free. The TFSA will allow Canadians to save for whatever purpose they want; a new car, a home, a child's education or retirement. The TFSA will also make it easier for lower- and modest-income Canadians to save because there will be no clawbacks from federal income tested benefits such as the Canada Child Tax Benefit, the GST credit, Old Age Security and the Guaranteed Income Supplement.

[Translation]

It is estimated that in the first five years, over three-quarters of the benefits of tax-free savings account will go to individuals in the two lowest tax brackets. Even Manitoba's Minister of Finance, New Democrat Greg Selinger, supported the existing measures, and I quote:

These new accounts should be especially helpful in encouraging lower-income Manitobans to save...

[English]

Bill C-50 will help to improve the lives of our seniors who are enjoying longer, healthier and more productive lives. For instance, to further increase the labour market participation of seniors, Budget 2008 is proposing to fully exempt the first \$3,500 of earnings, the average amount of earned income by seniors in receipt of the GIS. This will ensure that low-income seniors who work can realize greater benefits from their earnings through an increase in the Guaranteed Income Supplement exemption. In other words, the typical GIS recipient will be able to keep more hard-earned money without any reduction in GIS benefits.

This is one of the many senior-friendly measures in Budget 2008 that led the Canadian Association of Retired Persons to applaud the government for "listening to many of its recommendations over the years and taking steps in the right direction."

[ Senator Stratton ]

Honourable senators, Bill C-50 proposes to improve and update the application of the GST/HST to a range of health care services, prescription drugs and medical devices. Bill C-50 also proposes to expand the GST/HST exemptions for basic health and education services to include training that is especially designed to assist individuals to cope with the effects of a disorder or disability such as autism.

Nurses are increasingly providing their services outside institutional and residential settings. This situation has resulted in certain anomalies. To improve consistency in our health care system, Bill C-50 proposes to exempt from the GST/HST nursing services rendered to an individual within a nurse-patient relationship regardless of where the service is performed.

• (1540)

As honourable senators may know, to assist Canadians with disabilities, the GST/HST legislation lists a number of medical and assistive devices that are not subject to tax. Budget 2008 proposes to expand the list of GST/HST-free medical and assistive devices to include, for example, chairs specifically designed for use by an individual with a disability and service animals that are specially trained to assist an individual with a disability or impairment.

Honourable senators, I know you would all agree that the most vulnerable Canadian citizens should be able to live a full and active life with dignity. These Canadians include people who face complex challenges related to mental health disorders and homelessness. To help alleviate this situation, Budget 2007 provided funding to establish the Mental Health Commission of Canada, which acts as the catalyst for the reform of mental health policies and improvements in health and service delivery.

Our former colleague, the Honourable Michael Kirby, Chair of the Mental Health Commission of Canada, has proposed a number of innovative and demonstration projects in selected communities across the country. Bill C-50 proposes to provide the commission with \$110 million to support the proposed demonstration projects.

This support has been heralded by important organizations in the mental health field who recognize, as I am sure all honourable senators recognize, how extremely important the support is to mental health research. The Ontario Federation of Community Mental Health and Addiction Programs has called it "an important step in recognizing that complexity of addressing the needs of people with mental illness, particularly those facing substance abuse issues." The Centre for Addiction and Mental Health has stated that this is good news for mental health research and will help improve services for some of the most marginalized Canadians.

This year's investment in mental health research represents the tangible next step forward towards improved mental health care for all Canadians. What is more, the Canadian Mental Health Association has declared it a "great step forward."

[Translation]

Honourable senators, our well-being here in Canada also depends on an educated society. In its Advantage Canada plan, our government promised to increase the financial assistance offered to students by the federal government.

It kept its word in Budget 2007 by conducting a thorough review of the Canada Student Loans Program in consultation with the provinces and territories, students, other stakeholders and the general public.

[English]

Now Budget 2008 is launching a new consolidated Canada Student Grant Program. This program will take effect in the fall of 2009. All federal grants will be integrated into one program that will provide more effective support to more students for more years of study, assisting Canadian families who struggle with the cost of higher education.

Bill C-50 proposes an investment of \$350 million in 2009-10, gradually rising to \$430 million in 2012-13. This new program will be simple, transparent and broad-based, providing certainty and predictability for Canadian families. This new design is aimed at increasing post-secondary education participation and completion rates so that much-needed talent and energy can be actively engaged in the future of our country.

Bill C-50 also proposes \$123 million over four years to streamline and modernize the Canada Student Loans Program. The combination of the new Canada Student Grant Program and measures to streamline and modernize the Canada Student Loans Program will contribute to the well-being of Canadians by helping to develop a highly educated workforce, one that is well equipped to succeed in today's competitive global economy.

Indeed, as the College Student Alliance asserted, Budget 2008 "shows that the federal government is keeping an eye to the future and our future leaders of tomorrow."

What I have spoken to was merely a brief summary of only a few important proposals in Bill C-50, while leaving many other positive measures within this 140-page bill. I assure the Senate that those other measures demonstrate the continued leadership of this government to improve the quality of life for Canadians in a fiscally responsible manner; measures to improve the environment, help manufacturers and processors and encourage scientific research, experimental development and much more. The bill contains proposals to modernize our immigration system and to improve the management and governance of the Employment Insurance system. Bill C-50 also contains measures to improve the security of Canadians by helping provinces and territories recruit more police officers.

I encourage all honourable senators to support Bill C-50 so that Canadians can enjoy its benefits.

**Hon. Joseph A. Day:** Honourable senators, I do not intend to speak in detail on the provisions in Bill C-50 at this time. I will save my specific comments for third reading. However, I want to provide some background with respect to Bill C-50.

Honourable senators, we have dealt with two supply bills today, Bill C-58 and Bill C-59, and they are direct appropriations on behalf of various departments to draw on funds from the consolidated revenue of the Government of Canada.

Honourable senators will recall that when we discussed the Main Estimates and the Supplementary Estimates (A) we talked about voted appropriations in the supply bills and statutory

appropriations. The statutory appropriation is when a statute separate from a supply bill gives authority for Treasury Board to release funds based on the authority in that statute and the regulations that follow. Bill C-50 is a statute, a separate authority for the provisions that appear in this particular bill.

I will resist the invitation of my honourable colleague Senator Stratton to engage in a debate on what was in the budget and the policy initiatives that appeared there. I will restrict my comments to what is in this bill because that is what we are asked to consider at this stage. All of us are asked to consider Bill C-50 and the provisions therein that are supposed to flow from the budget.

My next point, honourable senators, is that we find several provisions in Bill C-50 that do not legitimately flow from the budget in the form of a budget implementation act for fiscal authority. We could make the argument that anything and everything flows from the government plan that appears in the budget.

However, traditionally, honourable senators, because we deal with Bill C-50 as a budget implementation bill in a like manner as we do supply bills in that we in the Senate, not being a house of confidence, sometimes tend to allow bills to pass if they are money bills, finance bills, that maybe on another occasion we would want to delve into it in more detail and propose amendments because they are matters of confidence. The temptation, therefore, appears to be a creeping temptation to add other items into money bills.

• (1550)

That is the first point I want to make. Honourable senators, we strongly object to this practice of including legislative measures that have no direct relationship to the budgetary matter and are found in budget implementation bills. This practice discourages in-depth study of some of those issues, as a result of the fact that we traditionally would let those items pass.

Therefore, knowing that we would receive this bill at the last minute — we received it only today — with a bill such as this, we should have been able to put many hours of study into it. We would typically do this after we received the bill. However, in this case we would not have had the time. There would have been pressures on us to move this bill through the Senate.

The government would say it is one of those bills the Senate will pass: The Senate will not bring down the government; the Senate will not embarrass the other House after they have passed this bill.

Therefore, we asked the permission of this chamber to study the subject matter of this bill before it was received here. That subject matter has been studied by our committee over the last three weeks.

At this stage, I thank all honourable senators who sat through many hours of hearings on this bill. I also thank Senator Stratton and the members on that side and the members on this side that attended those hearings and worked in an efficient and cooperative manner to help us understand what is in this bill.

The bill will be referred to our committee. However, when it is referred to our committee, we will have a background of information that we would not have otherwise. Normally, we do not like to undertake that kind of pre-study of subject matter unless there is some pressing reason.

I think there was a pressing reason in this instance because of the nature of this bill. There is also the history of receiving these bills at the last minute and being expected to force them through.

The argument against conducting pre-study is that it takes away from our ability to be a chamber of sober second thought. On balance, honourable senators, I think our approach in this particular case was the right one to take.

[*Translation*]

I will not talk about every clause of the bill as there are 164 clauses and 10 parts.

[*English*]

I will not go through each clause either at second or third reading. However, I want to share with honourable senators some of the subject matter that appears in Bill C-50, An Act to implement certain provisions of the budget tabled in Parliament on February 26, 2008 and to enact provisions to preserve the fiscal plan set out in that budget.

The second part of the title, presumably, is that broad net to capture all kinds of other things. I mention to honourable senators, and I want to repeat, that those who share the same view as me feel it is not appropriate to have non-fiscal matters in this budget implementation act.

Let me tell honourable senators some of the items that are in this bill.

On scholarships and grants, this bill basically provides for the sunset of the Canada Millennium Scholarship Foundation. The program has been in place for 10 years. It had somewhat of a rough start, and we learned that through the hearing. However, it has had an excellent record in the past several years.

We met with two student bodies. They are prepared to move on, but they point out, as did others, that the Millennium Scholarship Foundation had a research aspect that will be lost because there is no provision to continue that aspect.

The Millennium Scholarship Foundation also had provision for scholarships of merit. They are gone as well. All that will replace these scholarships is a new program of grants that supplement borrowing.

Honourable senators, we spoke with several different witnesses regarding Employment Insurance. Most people are prepared to accept government policy change. However, the concern of witnesses was in regard to the creation of a separate corporate body to administer and set rates for Employment Insurance for both the employee and the employer. The rates would be based on guidelines of how much has been dispensed the previous year.

[ Senator Day ]

Honourable, senators, the fund would have only \$2 billion available from the government. After that, there is a possibility of borrowing, but those people involved in the Employment Insurance program — employers and employees — will be required to repay any money borrowed.

Most witnesses were in agreement that there should be a larger reserve in the range of \$10 billion to \$15 billion for this new body that will be created. That funding also is not there.

There is also concern about who forms the board and the lack of representation of workers on this board. The people that would make up the board are all people with business and financial experience.

Honourable senators, immigration and the Immigration Refugee Protection Act is one element about which you have heard a lot of discussion. Many witnesses talked about this element and the excessive and unnecessary expansion of the discretion of the Minister of Citizenship and Immigration. Many witnesses told us that the policy reason stated by the Government of Canada for this particular legislation can be achieved through the normal regulatory process and through existing legislation.

Instead, the government has proposed in a budget implementation bill an amendment to the Immigration and Refugee Protection Act. It will give the minister the right to issue instructions — instead of regulations — determining the means to create categories and which category are favoured over others.

Those instructions have only to be published after the fact. There is no debate. There is no opportunity to say, this change may have unintended effects and consequences. There is no provision for any of that debate.

The Canadian Bar Association appeared before us and urged us, on that section, to say that it is excessive; it is contrary to due process; it is contrary to all the goodwill built up over many years in Canada with respect to immigration; and that section should not be adopted.

Honourable senators, I hope that if I touch on any one of these areas that is of particular concern to you, you will take the time to read those sections. As I indicated, there are 10 different parts in this bill. Do not be fooled by a heading such as “Part 10, Various Amendments.” That part has amendments to the Bank of Canada Act, honourable senators, that give the Governor of the Bank of Canada discretion far beyond anything we have ever seen before. The question is: why is that discretion necessary? Previously, objective tests would have been placed on the actions of a Governor of the Bank of Canada in respect of his powers and other instruments from various companies and organizations that he chooses to be involved in.

• (1600)

The question is: what if the governor, in his complete unfettered discretion, decides to use government money to invest in industry to maintain that industry when there has been a policy decision by cabinet and the executive to not provide support to that industry? The governor would not need to follow any objective test or



consult with anyone in respect of an investment in any operating entities. Previously, such an investment or other action could not take place without prior approval or without fitting into one of the objective published standards.

Honourable senators, a number of points come out of this budget implementation bill. I suggest that honourable senators satisfy themselves as to whether these are items of fiscal arrangement and fiscal management.

This house should send a strong message to the other place that senators do not want to see this kind of tagging on to make fundamental changes to legislation while not allowing a Senate committee to conduct a full-blown study on the bill, as could have been done on the Bank of Canada Act, had it been a separate amendment, or on the Immigration and Refugee Protection Act, had it been separate.

Those are my comments at second reading, honourable senators.

**Hon. Jeremiah S. Grafstein:** I thank Senator Day for that exposition. As the honourable senator knows, I have been interested in these amendments with respect to the Bank of Canada Act. I have asked the government on a number of occasions since the fall whether the Bank of Canada was within its mandate to enter into some extraordinary transactions last year until this current year.

Was any explanation given to the honourable senator by the Minister of Finance or by the Governor of the Bank of Canada as to why he would put in a piece of proposed legislation that he have the authority to invest in other instruments without any limitation?

**Senator Day:** I thank the honourable senator for that question. It is helpful when senators let the committee to which a bill has been referred know of concerns. The committee tried to have a representative of the Bank of Canada appear to explain why such extraordinary powers were needed but we were not favoured with an appearance. We heard from government officials, who indicated the necessity of this so the governor could act quickly in times of an emergency.

Honourable senators, clause 146(1) at page 125 proposes changes to the Bank of Canada Act at paragraphs 18(g) and (g)(i):

(g) for the purposes of conducting monetary policy or promoting the stability of the Canadian financial system,

(i) buy and sell from or to any person securities and any other financial instruments — other than instruments that evidence an ownership interest or right in or to an entity . . .

That was explained as an operating entity.

At the next page, it says that the governor shall publish his policy statements before he acts on them, which is a good, objective test. We have one exception for operating entities, and then there is an objective test. In times of emergency, the governor can do this, this and this.

However, another clause does not require publication of any policy in the *Canada Gazette*. That is of great concern and can be found as well in proposed subparagraph 18(g)(ii) to the Bank of Canada Act, which states:

(ii) if the Governor is of the opinion that there is a severe and unusual stress on a financial market or the financial system, buy and sell from or to any person any securities and any other financial instruments, to the extent determined necessary by the Governor;

There would be no consultation, no guidelines published and no information as to how he would exercise that discretion, and we were unable to solicit any answers to that, senator.

**Senator Grafstein:** Under the bill, the Governor of the Bank of Canada would have unquestioned authority to deal with “any other instruments in times of stress.” There is no definition of “limitation on any other instrument,” and we have no definition of “stress.” When I rise to speak in the Senate, I am under some stress. I am sure that at times other senators are under stress as well. Would that allow the Governor of the Bank of Canada, if he felt stress one morning, to enter into extraordinary transactions of this nature?

**Senator Day:** The good news is if the governor does this, we can find out after he has intervened. When he feels it is okay, he will let people know why he acted the way he acted.

**Senator Grafstein:** The bill proposes extraordinary powers at a time when there has been a crisis not only in Canada but also elsewhere. In the United States, as the honourable senator knows, there is a wide and capacious debate on whether the head of the Federal Reserve, the Bank of England and other similar central bankers should enter into these extraordinary powers or be on flex time. They roll out under unusual circumstances and then they retract so that the governors of these central banks, who are essentially quite independent of government, can have their powers curbed when they are unnecessary. Was there any thought by the Department of Finance that this should be the case here?

**Senator Day:** Thank you for that follow-up question. We have received no indication from the Department of Finance that they are interested in suggesting any other avenues. This is the one that they proposed and they explained how it would work. They agreed with me on the points that I made on the extraordinary discretion being given. However, they were the Justice Canada officials who talked about the extraordinary powers proposed for the Minister for Immigration and Refugee Protection. There is a pattern of the government moving away from due process and the checks and balances by giving full discretion without any form of objective test as to how that will be exercised.

If you cannot apply a test, there will be no openness or accountability on these items. With respect to refugee and protection, there is a clear, established process for pre-publication of regulations, to elicit reaction; the publication of the regulations; and the minister acting according to those. The additional check is provided by the Standing Joint Committee for the Scrutiny of Regulations to ensure that they flow.

Under this proposed legislation, there will be something called “instructions.” No one seems to know what they will be, but we know that they will not be published until after the fact.

The dangers are the same with the proposed changes to the Bank of Canada Act. The *Canada Gazette* publication for this extraordinary power would not have to be in place before the act so there would be no possible way that anyone could say that he acted beyond his power; his power would be limitless.

**Hon. Hugh Segal:** Honourable senators, I have a brief question for Senator Day. I call upon his vast experience as Chair of the Standing Senate Committee on National Finance and as a member of this place.

• (1610)

In his judgment, based on what he has seen in his vast service to the country on issues of public finance, does he think the Department of Finance, if given the chance, would dilute or amend the Magna Carta so they would be under no control whatsoever?

**Senator Day:** I have experience with the Standing Senate Committee on National Finance. I have virtually no experience with the Department of Finance, other than when they come to answer questions.

**Hon. Sharon Carstairs:** Honourable senators, I rise to speak to this bill. I must say that I would have preferred a little more time, but I understand that there is willingness in the Senate to proceed with this legislation on a rapid basis and get it into committee.

I begin with the comments made by the whip of the government and also the Deputy Chair of the Standing Senate Committee on National Finance. He went forth and indicated a number of what he saw as very important improvements to the life of Canadian citizens, and therefore a strong reason for why honourable senators should support this bill.

The honourable senator opened his remarks with some comments about the TSFA. Honourable senators, it is difficult to disagree with the principle of the TSFA, but if we think this will benefit the poorest Canadians, then I suggest we think again because the poorest Canadians do not have the capacity to save money. They live from paycheck to paycheck and frequently beyond that paycheck. One need only look at the deficit of average Canadian families in terms of their credit card debt to recognize that there is very little money to be put aside.

Who will benefit most from TSFAs? I will. I can save whatever amount will be the upper limit; I can make money on that money and I will not pay tax on it. That is a nice little benefit for me. However, I am not a legislator in order to reap financial advantage for myself. I am a legislator because I believe that I should represent those who have been much less fortunate than I.

When I look at the Employment Insurance changes, I feel compelled to chide the whip just a little bit.

**Senator Stratton:** Go ahead.

**Senator Carstairs:** In my three years of leadership, there must have been at least 25 questions posed by the honourable senator from Manitoba with respect to the reduction of premiums for a person receiving Employment Insurance who would be paying into that fund and also for businesses. Of course, we have seen no

significant reduction at any time under this administration with respect to the amounts paid, either by the employer or by the employee, into the EI fund.

The honourable senator spoke about the \$3,500 of earnings that would be exempt from the Guaranteed Income Supplement if those people eligible for the GIS returned to the workforce. I congratulate the government on this initiative. This is a very positive step forward.

There are many GIS recipients out there who are trying to make more money and, up to this point, they have seen a direct loss. If one earns anything, then one loses that amount on one's GIS, so there is very little incentive to earn additional money. This \$3,500 amount is a very positive measure.

I urge the government to look even further because, in our study on seniors, we have come across a situation in which there are some seniors who, even if they receive the OAS, the GIS and CPP, they could earn \$3,500 and still be below the poverty line in Canada. If there is any room in future budgets, then I suggest the government build on this excellent recommendation in this particular budget.

Clearly, all of us who read the mental health study conducted by our Standing Senate Committee on Social Affairs, Science and Technology would support the demonstration projects that are in the process of being launched across this country to provide better mental health projects.

In regard to the Canada Student Loans Program, I am extremely disappointed with this budget. I am disappointed because of the lack of dollars for research. I am disappointed that the grants will be tied to borrowings.

My experience as an educator tells me that children who come from families who have experienced post-secondary education are very likely to have some form of post-secondary education. I remember my daughter being asked when she was just a little one if she was going to go to university, and she said: "That is not the question; the question is where will I go to university." That, I think, is typical of families like mine, where both parents have a university education and only envisage the same type, if not more so, for their children's education.

What we need are incentives. This particular issue, and the way the government has dealt with it, has removed the incentive. I suggest that it is necessary for merit to be recognized for some children who have no other push for them to attain a post-secondary education. There is no familial push. There is no community push. The push is on their academic achievement. They have achieved well, therefore merit scholarships could be given to them.

To remove the merit scholarship and go to a grant system that is based on their borrowings is a negative. All of the emphasis in their lives is: "Why would you go \$10,000 or \$15,000 or \$20,000 in debt for a university education? Your mom did not go; your dad did not go; none of your aunts or uncles has gone, so why would you do this?" To remove that, I think, is a very negative thing.

Honourable senators, where I have the greatest difficulty with this bill — and that will be the reason I will vote against it unless we have significant amendments — is that I simply cannot support the immigration provisions of Bill C-50.

I believe that family reunification is the most important aspect of our immigration policy. We bring people to this country and they are frequently isolated. They want to be joined by their family members, and that is where family reunification becomes so important.

Last week in Vancouver, our committee heard a presentation made by a member of the Punjabi community. He talked about his parents working in farm fields long beyond an age when they should be doing so, but they had come to Canada to be with their family. They did not want to be a burden to that family, so they were picking up whatever work they could do. He also told us something very interesting, which was that it provided them with a sense of companionship. They were working the fields with people who had also come from the same region of India that they had come from, and that gave them an opportunity to socialize. There they were, out picking berries — some of them in their 70s — because family reunification had brought them to Canada to be with their family, and they wanted to contribute to that family well-being.

I am quite shocked at page 96 of Bill C-50 and the powers that Bill C-50 will give to the Minister of Citizenship and Immigration. I will read proposed subsection 87.3(3) of the Immigration and Refugee Protection Act because I believe that is critical:

For the purposes of subsection (2), the Minister may give instructions with respect to the processing of applications and requests, including instructions

- (a) establishing categories of applications or requests to which the instructions apply;
- (b) establishing an order, by category or otherwise, for the processing of applications or requests;
- (c) setting the number of applications or requests, by category or otherwise, to be processed in any year; and
- (d) providing for the disposition of applications and requests, including those made subsequent to the first application or request.

• (1620)

Honourable senators, this amendment has no business in a budget implementation bill. This amendment is a fundamental change to immigration laws in this country. It deserves to be a bill in and of itself, and yet it is not. It is tucked into a budget implementation bill. It is a dangerous precedent.

Senator Day has addressed this approach in his remarks. If the government is allowed to make these amendments in a budget bill why would we introduce any bills that we did not attach to a budget bill, so that the Prime Minister can say everything is a vote of confidence? A budget implementation bill is considered to be a motion of confidence.

Honourable senators, in 1992 I spent 27 hours on my feet in the Manitoba legislature. It was about an issue not identical but similar to this.

The Minister of Finance of the day wanted to bring down the estimates of the departments without having tabled his budget. Over those 27 hours, I argued that he could not do that. As an opposition member, how can I possibly judge the estimates of a particular department unless I know what the overall budget is? By the way, he was not depositing all the estimates but only individually, one at a time. If it was a 2 per cent increase for education, how would I know whether that was, overall, a reflection of good budget policy for the year? He finally decided that he would table his budget in the Manitoba legislature.

I feel the same way here. Why am I put in the dilemma in this chamber where we, generally speaking, support the budgetary policy of the government? I want to support the budgetary policy of the government, even though I have reservations about some aspects.

I cannot support it because a part of this bill is about immigration, which, in my view, has absolutely nothing to do with the budgetary policies of this government.

Honourable senators, we have an important role. I know the government does not believe we do. Regardless, we do have an important role. We have the role of sober second thought, that we will not be intimidated by a government when they try to do things outside of normal practice.

I suggest to the honourable senators that the immigration provisions of Bill C-50 are far outside the budgetary process of this government, far outside good policy-making and far outside the processes of democracy for which I take great pride.

Therefore, honourable senators, unless these sections are deleted from the budget implementation bill, I will not support the government.

**The Hon. the Speaker *pro tempore*:** Does the honourable senator have a question for Senator Carstairs?

**Senator Grafstein:** Listening to the honourable senator reminds me of an argument that I do not think I have heard from either the proponents of this measure or in committee. Perhaps the chair of the committee can correct me. The honourable senator has noted that it raises the question of equality before the law.

As I carefully listen to her and her analysis, there seems to be a two-class system before the immigration process: one for those who are able to sustain themselves financially, economically and prove that they are self-sustaining individuals, and the other for those who are not. I am not talking about refugees, which is another category; I speak of people that wish to immigrate to Canada who do not have the means to stand on their own two feet.

I refer you to the Constitution of Canada, subsection 15(1). I will put it on the record:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Affirmative action is under subsection 15(2):

Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

In my opinion, this amendment smacks of a lack of equality rights built into the act. The only way an individual can challenge the immigration statute, once their toe touches Canadian soil, is to go to the courts.

Is there not a better way to proceed?

**The Hon. the Speaker *pro tempore*:** Honourable Senator Carstairs, are you asking for more time?

**Senator Carstairs:** I would like five minutes to answer any questions.

**The Hon. the Speaker *pro tempore*:** Is the honourable senator granted five more minutes?

**Hon. Senators:** Agreed.

**Senator Carstairs:** The honourable senator raises an important question. Honourable senators, I suggest it is not a question that is the purview of this government only but belongs to previous governments, as well. We all must take collective responsibility here.

The immigration law has never been particularly equal. The act has not recognized the equality of individual applications. If we had that same policy now, I suggest I would not be here. My father was "potato famine" Irish. If we had those kinds of provisions in the 1840s, I would not be a citizen of Canada. In fact, I would not exist because he would not have met my mother, whose family came in the 17th century.

While the provision has nothing to do with this budget bill, I think it is an important provision: in hearings last week, what really concerned me was being told about the 10-year sponsorship rule. If honourable senators want to talk about things that I think may be unconstitutional, a person can be in this country for three years and apply for citizenship. However, if they are a sponsored immigrant, they remain under the obligation of the person who sponsored them for 10 years. They are full citizens. We have removed that for spousal relationships. We have made the time three years. However, with respect to the senior reunification program, it is 10 years. They are citizens but citizens without the same rights of other citizens in this country.

Many aspects of the Immigration and Refugee Protection Act need revision. Many ideas represented in this particular application are worthy of consideration. However, I suggest to honourable senators, they are not worthy of consideration in a budget bill.

**Hon. Lowell Murray:** Honourable senators, I will take a few minutes. I am speaking because I was interested in what Senator Carstairs had to say about this amendment. Let me begin by saying that I am intrigued by Senator Grafstein's suggestion that

there are aspects of this bill or, at any rate, the potentially regulatory authority of the minister conferred by this bill, that raise Charter problems.

• (1630)

This morning at the Standing Senate Committee on National Finance we heard representatives of the Canadian Bar Association. They are opposed to this section of the bill and want to see it severed from the legislation. I questioned them about the clauses that Senator Carstairs quoted, providing the minister the authority to give instructions with respect to the processing of applications and requests, including instructions. There are four matters that I will not repeat because the honourable senator has put them on the record. The minister will have quite broad authority to give instructions to establish categories and so on and so forth to take over the administration of applicants for immigration as of February 27 last. That subject was discussed, and the representative of the Canadian bar expressed her view in that regard. She then brought to my attention, and I bring to the attention of Senator Carstairs and Senator Grafstein, page 96 and proposed section 87.3(5):

The fact that an application or request is retained, returned or otherwise disposed of does not constitute a decision not to issue the visa or other document, or grant the status or exemption, in relation to which the application or request is made.

This witness from the Canadian Bar Association pointed out to me that if the government or some officer thereof decides to shred an application, it is not a decision and, if it is not a decision, the judicial recourse does not kick in.

**Senator Grafstein:** Exactly.

**Senator Murray:** That must be a Charter problem, and if it is not a Charter problem it should be because of due process, among other things. The government may be getting into rather more difficulty than it wants with this measure.

With regard to the point made by Senator Carstairs and many others, including myself, that these provisions relating to immigration do not belong in a budget implementation bill, I should say for the record, in case anyone thinks we do not know about it, that the budget plan tabled by the Minister of Finance with his budget does contain sections on education and a section on immigration in terms of the economy and the needs in the labour force and so on and so forth. That is his justification for putting this item in a budget implementation bill. We all know it does not really excuse such an approach and that the issues raised by the immigration provisions are sufficiently important and profound that they ought to stand alone in a separate bill before Parliament.

I heard it said before the committee, so I am assuming that it is true that the previous government tried to solve the problem they are getting at here, which is to try to prevent the backlog from growing further and, at the same time, to give the government or, in this case, the minister, sufficient discretion to pick and choose as he or she sees fit and as the needs of the labour market seem to dictate.

[ Senator Grafstein ]

Some of the witnesses before the committee were very clear that the government already has sufficient regulatory authority to achieve what they say they are trying to achieve in this section. The difference is that the minister is being given the authority to do it without consultation and without prepublication in the *Canada Gazette*. At the same time, the government is also trying to cut off at the pass, as I have indicated, judicial recourse by providing for non-decisions to be made. This approach is somewhat diabolical. I do not want to impute motives. The previous government tried and failed. I believe the courts threw out some of the things that government tried to do. Canada's new government has returned with this measure.

No one wants to take on in any profound way the entire Immigration Act and policy. No elected politician wants to touch it, and that is the problem we face. I do not know how we will get out of this. I do not know enough to know if my suspicions are correct that over a long period of time we have created a monster. There are almost 1 million people in the backlog with almost 1.5 million within a few years indicating that something is amiss. Simply appointing more officers to process applications is not really the answer. Somehow, somewhere, sometime, someone — perhaps the Senate — should take this on. If we are brave enough to take on health care and matters of that kind, perhaps we should take on the Immigration Act and policy and start from scratch and examine the assumptions and the entire field. It is a political minefield, as we all know. A number of interest groups hover about and exercise pressures. I am not only speaking about representatives of ethnic organizations but also immigration lawyers and agents and anyone else who will want to be heard from on the matter.

We are faced with a political minefield, but this legislation is trying by a few clever subterfuges to solve some of the problems. If what Senator Grafstein says and what we have heard from the Canadian Bar Association and others is correct, this will not produce the desired result and may indeed be counterproductive. We may have to start again from scratch.

**Senator Day:** Would the honourable senator accept a question?

**Senator Murray:** Yes.

**Senator Day:** The honourable senator mentioned the backlog of applicants for consideration of immigrant status at being close to 1 million, over 900,000 at the present time. The honourable senator will know that a provision in this bill says that these new provisions and amendments will come into effect as of February 27 of this year. Does the honourable senator have any comment on how these amendments will help to deal with that current backlog?

**Senator Murray:** My assumption is that the government is trying to prevent the backlog from accumulating, from increasing too much in the future, by giving themselves this considerable discretion to deal with applicants as how and when they see fit.

**Hon. Tommy Banks:** By way of advice, the honourable senator raised the matter of severability when he was speaking, and the subject has been raised by other senators as well. We have been told in the past that bills of a certain kind are not severable by this

place, but, in fact, with respect to a bill that tried at once to deal with animal cruelty and guns, we did sever, notwithstanding objections. I seek the honourable senator's advice as to whether he believes in this case that Part 6 of this bill could be severed, and particularly if it could be severed without it being seen or used as a matter of confidence by the government.

**Senator Murray:** I was intending to say something on this matter. The remedy was at hand for the opposition parties in the House of Commons, if not to have severed the bill, then to have taken that part out or defeated it or amended it. They did not do that. I am reluctant to do so here. I cannot offer procedural advice. If someone wanted to make a proposal along those lines, I would consider it favourably.

• (1640)

The other possibility would be with the proclamation dates. Part 6 could be proclaimed only at a future date after certain things had been done regarding the instructions, for example, the prepublication of the instructions or something like that.

There are various ways that would be procedurally correct if the majority in this house wanted to do them.

[Translation]

**Hon. Marcel Prud'homme:** Honourable senators, I have been working on immigration issues for 44 years. I was parliamentary secretary to the immigration minister and I had the honour to take part in general amnesties under the Trudeau government, the largest of which, called *Canada, my country*, took place on my birthday, November 30. All issues concerning immigration are very important to me, as everyone knows.

Initially, I represented a riding that was exclusively French-Canadian, but over the years, the boundaries have changed. Senator Nolin and I even made the necessary representations to have the electoral map modified under the Canada Elections Act. Together, we both won.

**Senator Nolin:** We joined forces.

**Senator Prud'homme:** In the end, I won the vote of an endless number of newcomers — which was a very educational experience. That is how I became more aware of all the problems facing immigrant communities in Canada.

My beloved sister, now deceased, was a judge at the time and was asked why it took five years to become a Canadian citizen rather than three, six or seven years, for example. After seven years of debates, I convinced Parliament to grant Canadian citizenship after only three years.

When I examine the bill, the same reasons cited by Senator Murray lead me to ask the following question: Why does the majority not make any attempt to split the bill? Part 6 could be a separate bill. Obviously, the bill would be amended and returned to the House of Commons.

However, I am informing you in advance that should the House of Commons again oppose our amendment and the bill be returned, I would defer to the will of the other place. I am not

one to take things to the bitter end. The members of the other place would understand the spirit that we would like to see guiding any matter pertaining to immigration.

For that reason, and because I will be busy with many other things in the coming weeks, I will wait and see if the debate continues until Friday. If there were such an amendment, I would not second it but I would certainly support it on the basis of the reason and the spirit cited by Senator Murray. I am quite interested to see how the majority here will deal with it if an amendment is not moved, the bill is not split and Part 6 is not withdrawn. This is a very important bill. I understand how the majority of members feel and the dilemma we face with what is almost an order from the government telling us to take it or leave it.

I would prefer that the Senate — in its usual sober second thought, which is very symbolic this afternoon — have the opportunity, in a day or two, to split the bill, knowing in advance that the House of Commons will reject it. At that point, we would be accepting the House of Commons' message but we would at least have demonstrated with vigour our feelings with respect to Part 6 of the bill.

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

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

#### REFERRED TO COMMITTEE

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

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

[English]

#### THE ESTIMATES, 2008-09

##### REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) ADOPTED

The Senate proceeded to consideration of the fourteenth report of the Standing Senate Committee on National Finance (Supplementary Estimates (A) 2008-2009), presented in the Senate on June 3, 2008.

**Hon. Joseph A. Day** moved the adoption of the report.

He said: Honourable senators, this report of the Standing Senate Committee on National Finance deals with Supplementary Estimates (A). As I indicated earlier this day when I discussed Bill C-58 and Bill C-59, the appropriation bills, we prepared this report which is, in effect, the report on our pre-study of the Supplementary Estimates (A).

Honourable senators, the Supplementary Estimates (A) report has been circulated. Normally, one would see the Supplementary Estimates (A) report in the fall, but we are seeing it in the spring this time. According to the information we obtained from the

Treasury Board Secretariat, 56 per cent of the new spending announced in Budget 2008 in March of this year is reflected in these supplementary estimates.

Therefore, honourable senators can anticipate that there will be a Supplementary Estimates (B). Historically, we have seen Supplementary Estimates (B) in the new year — in January or February — to clean up initiatives late in the year not reflected in earlier requests for appropriation of money to implement the government's planned activity.

The Supplementary Estimates (A) total \$4.1 billion that honourable senators are asked to examine. Of that total, \$3.6 billion is voted appropriation and the other portion is in other statutes that honourable senators will not need to approve.

There are no non-budgetary items in the Supplementary Estimates (A). Non-budgetary items are those that change the fiscal picture of the government, but they are not an expenditure. The item may be a loan or investment. That kind of non-voted item is listed as non-budgetary. However, there are none in this matter.

Major items in the list of voted estimates include: First Nations Water and Wastewater Action Plan, \$162.9 million. The next item is for a First Nations out-of-court settlement in the amount of \$163 million. These settlements reflect Canada's ongoing commitment to resolving outstanding grievances with the First Nations through negotiations rather than litigation where possible. Item X is for First Nations as well in the form of payment to the Quebec Cree to settle implementation issues respecting the James Bay and Northern Quebec Agreement and payments.

• (1650)

Honourable senators will know therefore that considerable money is going from the federal government with respect to James Bay and the Cree. The federal government therefore has an investment in the major hydroelectric projects of the province of Quebec.

As well, honourable senators will be interested in several National Defence expenditures. One is the first payment with respect to the acquisition of the C130 Hercules, which has been in the news recently as the government continues its efforts to resolve contractual problems.

There is also an annual approval for supplementary estimates for this year. The anticipation is that we will see this request in their general revenue requests in the future. The amount of \$60 million for this year goes to the army for soldiers in the field so that they receive the same pay when they are away from their home base doing field exercises. It is called "field operation allowance." The system already exists for the navy and the air force.

Next is Atomic Energy of Canada and the significant payments of \$120 million to Chalk River Laboratories and \$100 million for the advanced CANDU reactor, although none has been sold yet. It is one of the projects in mind for consideration by the Province of Ontario and the Province of New Brunswick. The federal government has a major investment in that new technology.

[ Senator Prud'homme ]

Honourable senators, those items are a few that appear in this extensive Supplementary Estimates (A). The Finance Committee will continue its study of the Supplementary Estimates (A) along with the Main Estimates, as mandated by the Senate. I urge honourable senators to adopt this report.

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

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

#### SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES ADOPTED

The Senate proceeded to consideration of the fifteenth report (interim) of the Standing Senate Committee on National Finance (Estimates 2008-2009), presented in the Senate on June 4, 2008.

**Senator Joseph A. Day** moved the adoption of the report.

He said: Honourable senators, the fifteenth report is brief and is needed to create the basis for going immediately to third reading and references two other reports that will be forthcoming. All the reports flow from the work done by the Finance Committee in respect of the Main Estimates for this fiscal year. Honourable senators will know that the committee has filed one report in addition to this summary report, and the other one will be filed soon. The thirteenth report pertains to progress on the Federal Accountability Act, former Bill C-2. The other report on infrastructure and regional development agencies has been adopted in principle by the committee.

Honourable senators, I urge adoption of the report.

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

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

[Translation]

#### NATIONAL FINANCE

#### COMMITTEE AUTHORIZED TO MEET DURING SITTINGS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government),** pursuant to notice of June 4, 2008, moved:

That the Standing Senate Committee on National Finance have power to sit from Monday, June 9, 2008, to Friday, June 13, 2008, even though the Senate may then be sitting, and that the application of rule 95(4) be suspended in relation thereto.

Motion agreed to.

[English]

#### THE ESTIMATES, 2008-09

#### REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES ADOPTED

Leave having been given to revert to Government Business, Reports of Committees, Item No. 1:

The Senate proceeded to consideration of the thirteenth report of the Standing Senate Committee on National Finance, entitled: *The Officers and Agents of Parliament created or modified under the Federal Accountability Act*, presented in the Senate on May 28, 2008.

**Hon. Joseph A. Day** moved the adoption of the report.

He said: Honourable senators, it was important that the work of the committee on the Main Estimates be before honourable senators prior to moving to third reading of Bill C-59, the supply bill for the balance of the Main Estimates. The thirteenth report deals with the agents of Parliament created under the Federal Accountability Act. We have an extensive analysis of the various positions and a comparison of agents of Parliament and officers of Parliament. I commend this report to honourable senators as a helpful document in understanding the various tests to categorize the agents and officers of Parliament, how they fit into the structure, what we should look for in terms of financial independence, reporting ability to Parliament and the ability to prepare other annual reports as the agent or officer sees fit.

• (1700)

All these positions, honourable senators, are designed to help parliamentarians hold the government to account. We want to ensure that these various positions are filled and properly equipped, in terms of structure in their office and their authority, to do what we are hoping that they will do for us.

Honourable senators will recall if you have looked at this report — and if you have not, I would commend it to you — that the position of Parliamentary Budget Officer was filled by Mr. Kevin Page on March 25 of this year. Since then, Mr. Page has appeared before our committee in order that we might get to know him and to speak about what he hopes to achieve. I look forward to the Parliamentary Budget Officer being a very valuable person in helping us to hold the Department of Finance and the government to account on issues. We look forward to that position being developed as Mr. Page works in his new portfolio.

I should point out that the delay that resulted in Mr. Page only being appointed in March of this year was because the search committee, including the Chief Librarian, recommended a person who was at a pay scale higher than the one the government had established for that position. We have made a recommendation that the position be made permanent at the higher level. Mr. Page will be in the position at his level throughout his appointment, but we are hopeful that the higher level of appointment will become permanent.

The position of Commissioner of Lobbying is still vacant, as is the position of the Office of Procurement Ombudsman and the Public Appointments Commissioner. The Director of Public Prosecutions position has someone who is in an acting position, and Christiane Ouimet was appointed on June 12, 2007, as the Public Sector Integrity Commissioner.

There is still some work to be done, honourable senators. However, I would ask you to support this report.

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

**Hon. Senators:** Question!

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

Motion agreed to and report adopted.

## CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Bert Brown** moved second reading of Bill C-33, An Act to amend the Canadian Environmental Protection Act, 1999.

He said: Honourable senators, I rise today to speak in support of Bill C-33, an Act to amend the Canadian Environmental Protection Act, 1999.

It was a little more than a year ago that the federal government first announced that it intended to introduce regulations as part of its national renewable fuel strategy. The regulations would require a 5 per cent average of renewable content in gasoline by 2010.

The government also signalled its intention to develop a similar requirement of 2 per cent for diesel fuel and heating oil by 2012. At the time, we indicated that the government would be introducing legislative changes to provide the additional authorities needed to make effective renewable fuel regulations.

Bill C-33, if passed, would give the government the authority to regulate fuels at the point at which conventional fuels are blended with renewable fuels. It would allow the government to track exports to make possible accurate calculation of the volume of renewable fuels as a percentage of the total fuel used in Canada. The legislation would also provide authority so that the small producers and importers need not be faced with the administrative burden that a renewable fuel regulation would impose on them. These elements will provide the framework to regulate the renewable content of fuel in an efficient manner and achieve emissions reductions.

Honourable senators, the introduction of a 5 per cent renewable fuel content in gasoline and a further 2 per cent in diesel and heating oil will make a real difference for the environment. Hitting these targets will be the equivalent of taking almost 1 million cars off the road.

Close to 3 billion litres of renewable fuels will be needed annually to meet the requirements of the new regulations. Supplying that demand will be a big job for the biofuel industry. Canadian biofuel products are already putting out close to 1 billion litres per year, and we are well on our way to producing nearly 2 billion litres.

This kind of expansion will represent a tremendous economic opportunity for Canada's 61,000 grain and oilseed producers. In fact, all of this presents an exciting new market for Canadian farmers. Biofuel production is helping farmers grow their businesses while creating new jobs, especially in rural communities.

The government is taking strong action on biofuels in very concrete ways. We have announced funding for the ecoAgriculture Biofuels Capital Initiative to encourage producer investment in biofuels production facilities. We have already announced three contribution agreements under the program for a new biodiesel plant in Alberta and ethanol plants in Saskatchewan and Ontario. We expect to sign multi-million-dollar agreements with several other plants, with farmer participation, in the very near future as interest in this funding is very high.

We have invested in the Biofuels Opportunities for Producers Initiative. This initiative supports more than 120 biofuels-related projects across Canada, with farmer representation.

These new plants are great news for farmers. They provide a new market source for their wheat, corn, canola and, potentially, other crops. Having biofuel plants in our rural communities will lower transportation costs that too often cut into our farmers' profits. At the same time, we are looking ahead to the next generation of biofuels development, such as wheat straw, corn stover, wood residue and switchgrass.

Last July, Prime Minister Harper announced ecoENERGY for Biofuels, an incentive program for producers of renewable alternatives to gasoline and diesel fuel. In total, we are investing \$2.2 billion over nine years in biofuels development through these initiatives.

This past January, we officially launched Canada's largest cold-weather demonstration of renewable diesel. The Alberta renewable diesel demonstration involves over 60 trucks of various sizes operating throughout Alberta, where the climate poses some of the most extreme challenges to renewable diesel use. The demonstration will provide hands-on, cold-weather experience for fuel blenders, distributors, long-haul trucking fleets and drivers. The Canadian and Albertan governments are investing \$2.6 million in this project. Road testing began in late 2007 and will continue until October 2008.

Recently, Budget 2008 committed \$10 million over 10 years. This money will be used to support scientific research and analysis on biofuels emissions to support the development of regulations. Some of this money will also be used for demonstration projects to verify that new, blended, renewable diesel is safe and effective for the Canadian climatic conditions. Budget 2008 also committed \$3 million over two years to improve access to E85 fuels.



Honourable senators, Bill C-33 is essential to moving forward to implement our commitment to renewable fuels. While Bill C-33 itself does not impose any renewable fuel requirements, the amendments we are putting forward will ensure this government has the necessary tools to develop an effective and workable national regulation requiring the use of renewable fuels.

• (1710)

The authorities we are seeking include authority to regulate at point of fuel blending, authority to track reports and exemption for small-volume producer importers. By doing so, we can maximize those benefits enjoyed from the use of renewable fuels in this country.

Honourable senators, Canada is not alone in turning to renewable fuels as a means of reducing their greenhouse gas emissions. The United States and European Union have also set biofuel targets. This is not a passing phenomenon. Biofuels are here to stay and are an important mix for future fuel and energy needs.

Honourable senators, this government has never claimed that its biofuels initiative will be the ultimate solution to reducing greenhouse gases linked to climate change. We have said it is an important piece of the puzzle. We know that using renewable fuels means less greenhouse gas emissions.

Over the past seven years, Natural Resources Canada has developed and maintained a model named GHGenius. GHGenius estimates life cycle energy use and GHG emissions from both conventional and alternative fuels. This model is the only one of its kind in Canada and one of the only few such models in the world. Using this model, we estimate that under typical Canadian conditions corn-based ethanol can reduce life cycle energy use and GHG emissions by about 40 per cent compared to crude oil-based gasoline.

Beyond these environmental benefits, this requirement will help stimulate the growth of the renewable fuels industry in this country. That means economic benefits for farmers and rural communities across Canada.

When it comes to biofuels, the facts are clear: a strong, biofuels sector will contribute to a stronger foundation for farmers, lead to better usage of agriculture products from beginning to end and protect our environment for future generations. Our investment in biofuels is a double win: it is good for farmers and it is good for the environment.

I would urge my fellow senators to expeditiously pass this bill before the end of this session. It will be extremely helpful to farmers and Canadians at large.

Honourable senators, I will conclude my comments on Bill C-33, an Act to amend the Canadian Environmental Protection Act, 1999, with a recent remark by Greg Weston. On CTV's *Question Period* on June 8, Greg Weston was asked where we are proceeding from here. He said:

I think we are going to start getting into a debate about cap-and-trade. I would point out cap-and-trade was put in place in 2005 in all 27 European countries. So far, it has

been a grand disaster. Gas prices are up, people are rioting in the streets and carbon emissions are up. The only good news is the energy companies are making record profits.

Honourable senators, the developed world has a problem and cap-and-trade is obviously not the answer. In Canada, the answer to reduce energy is to reduce energy consumption, not trade money for ongoing pollution. More fuel-efficient vehicles and alternative fuel cars take time and money. We need to stop the rhetoric of panic and engage our engineers and researchers in developing renewable biofuels from non-food agriculture waste, building wind turbines where practical, building hydro and, quite possibly, nuclear plant expansion.

Thank you, honourable senators. I move that Bill C-33, an Act to amend the Canadian Environmental Protection Act, be read a second time.

**Hon. Lillian Eva Dyck:** Would the honourable senator take a question?

**Senator Brown:** Yes.

**Senator Dyck:** Senator Brown, I wonder if you would make some comments with regard to the effect of biofuels on food production and food consumption in Third World countries. In a recent meeting of the Food and Agriculture Organization, they spoke about biofuels. What is your analysis of what came out of that meeting?

**Senator Brown:** In answer to the honourable senator, I believe that biofuels are definitely in their infancy, especially in Canada. I know that in the United States an awful lot of rhetoric about the dangers of global warming accelerated the process of biofuel in America. I am told they built 100 biofuel plants. Then, coincidentally, after seven years of less agriculture production than the world requires, they ran right smack into perhaps one of the worst food shortages in the world.

The United States, the largest producer of biofuel, uses only a very small fraction of the corn they grow for the production of ethanol. The U.S. produces 80 per cent of its corn for animal consumption — hogs and cattle — and 20 per cent for human consumption. Furthermore, the amount of corn used for export is negligible compared to the amount of wheat that it exports. My understanding is that most of the people suffering from a lack of food supply are dependent more on rice than on corn or any other crop.

**Senator Dyck:** May I ask a supplementary?

Ethanol production certainly was touted as a strong economic factor for Saskatchewan. However, it does not seem to have really taken off. Is that due to the change in the price of wheat so that ethanol production is no longer seen as a viable option for grain farmers?

**Senator Brown:** Again, the production and use of ethanol is in its infancy. There are two or three plants in Saskatchewan, but we need time to prove that ethanol and biodiesel are better in many ways. They are better concerning lower greenhouse gas emissions. They also produce more horse power for the same amount of

fuel. As we move forward with this 5 per cent, we will find a number of things will happen. First, we will be able to use other things than the actual grain itself; we will be able to use the stalks of corn called corn stover. We will be able to use canola that is frozen because of an early frost. Frozen canola turns very bitter and is not suitable for humans, but the oil can be used as fuel.

Concerning wheat grains, there are a number of soft wheats that can be used in ethanol production. These wheat varieties have a high yield and are not the type that we would use for making bread; they are more suited to animal feed.

There is ample proof, both from the horse power standpoint and from the lower emissions standpoint, that renewable fuel products, like ethanol or biodiesel, are certainly worth pursuing a ways down the road. That will allow us to prove whether we can produce them without using up farmland that produces food for people to whom we export. It will allow us to prove whether such crops are worthwhile, not just from the standpoint of lower emissions but economically as well.

I do not think you can judge economics from the small pilot plants that we have in Canada.

• (1720)

I know Americans are quite enthusiastic about the economics of biofuels, but I believe the government has put a considerable subsidy into the actual price of the product. That makes it more difficult to decide what the final economics will be.

**Hon. Francis William Mahovlich:** Honourable senators, during my recent visit to the United States I spoke with officials who mentioned algae. In all of the supplements mentioned, the honourable senator said that algae had more oil than any other supplements. Has he heard anything about algae?

**Senator Brown:** The only thing I have read about algae is in reference to what they call algae blooms, which are surfacing in different areas of the world. They are a phenomenon that no one really understands or knows what causes them. Whole sections of the ocean close to shorelines will all of a sudden turn a brilliant green. That is because the algae are growing at an incredible rate. Testing is being done on algae blooms. There would need to be more testing conducted on how to economically harvest the algae bloom from the ocean and how to actually produce something.

On motion of Senator Tardif, debate adjourned.

## CANADIAN HUMAN RIGHTS ACT

### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Consiglio Di Nino** moved second reading of Bill C-21, An Act to amend the Canadian Human Rights Act.

He said: Honourable senators, thank you for this opportunity to express my support for Bill C-21, An Act to amend the Canadian Human Rights Act. This legislation proposes to strike down section 67 of the Canadian Human Rights Act and, in the process, protect the rights of all Canadians.

[ Senator Brown ]

From a legal perspective, section 67 is quite straightforward. It exempts from the Canadian Human Rights Act decisions taken under the auspices of the Indian Act. However, the practical effect of section 67 is significant in that it will effectively assign different levels of rights protection to particular groups of citizens.

One group that will be left particularly vulnerable is the residents of most First Nations communities. Many of these men and women already face unique challenges. Section 67 will only compound the problem by denying them access to the remedies available to other citizens. The truth is that, as long as section 67 remains the law of the land, all Canadians are not equal before the law. Bill C-21 corrects this fundamental wrong.

**Senator Segal:** I'll say.

[Translation]

**Senator Di Nino:** This bill is a key component of our government's strategy to improve the quality of life of Aboriginals and to follow through on a commitment made last October in the Speech from the Throne.

For 30 years, section 67 has prevented a group of citizens from accessing the mechanisms other Canadians use to protect their rights. We must put an end to this injustice.

There is a great deal of support for repealing section 67. In a report on children's rights presented in April 2007, the Standing Senate Committee on Human Rights stated that it was in favour of this measure, as did a study on matrimonial real property rights on reserves carried out by a House committee in June 2005. Similar recommendations came out of the regulatory review of the Canadian Human Rights Act published in 2000 and out of two other studies carried out by the Canadian Human Rights Commission.

Parliament has tried to pass legislation to repeal section 67 three times, but no legislation has ever made it through.

[English]

This government took an unequivocal approach to the repeal of section 67 with the introduction of Bill C-21. However, a committee of the other place made numerous amendments to the bill that made it almost unrecognizable. The government became concerned that these changes could have the real effect of reinstating some aspects of section 67, thereby leaving the First Nations no further ahead when it came to the defence of their rights and protections.

Although not initially supportive of these amendments, the government's resolve to ensure access to fundamental human rights and human rights protections is available to every Canadian was once again demonstrated by its willingness to compromise rather than subject Bill C-21 to further delay. In the spirit of responding to the testimony of witnesses, the government accepted some of these amendments and offered some improvements to others. The version of the legislation now before us eventually earned all-party support.

Bill C-21 proposes to phase in the repeal over three years. For 36 months following Royal Assent, decisions taken by First Nations governments under the Indian Act would remain exempt from the Canadian Human Rights Act. During this phase-in period, a study would be conducted to examine capacity and readiness issues with the repeal. I am confident that this incremental and studied approach to full implementation will ensure that all parties can make adequate preparations.

[Translation]

Within five years after Bill C-21 receives Royal Assent, the federal government must conduct a comprehensive review of the effects of the repeal in cooperation with First Nations representatives. This review will therefore look at five years of the application of the act within the federal government and two years in First Nations, given the 36-month transition period requested by opposition members of the House of Commons committee.

During those periods, we can expect some complaints to be laid against the Government of Canada and First Nations, and those cases, as well as any other repercussions that could result from the repeal, will set the tone for the statutory review. The defences mounted, the investigations completed and the decisions handed down by the courts, as well as their repercussions, will be carefully reviewed.

[English]

This bill also includes a non-derogation clause, to provide that the repeal of section 67 should not be construed so as to abrogate or derogate existing Aboriginal treaty rights from section 35. Furthermore, an interpreted provision provides that consideration must be given to the legal traditions and customs of First Nations to the extent that they are consistent with the principles of gender equality when considering complaints against First Nations governments related to the Indian Act.

I recognize that some critics initially claimed that not enough consultation had taken place on the legislation before introduction in the other place. While I appreciate this view, it should not diminish our support for Bill C-21.

• (1730)

The fundamental conclusion reached by several parliamentary debates, scholarly studies and authoritative reports is that section 67 must go. Importantly, amendments made in the other place respond to the issues raised by stakeholders. Honourable senators, now is the time to pass this bill and begin the important work of implementation.

The Canadian Human Rights Commission has a key role in the implementation process. After all, the commission supports the repeal of section 67 and possesses the expertise needed to meet the challenges associated with Bill C-21.

The commission has, in fact, already begun to work on issues associated with repeal. Several research projects are underway. Last year, the commission published a report on alternate dispute resolution in the Aboriginal contexts. The commission has

established a national Aboriginal initiative headquartered in Winnipeg and is already working with First Nations groups to prepare for the repeal of section 67.

Honourable senators, the Canadian Human Rights Act empowers the commission to establish rules governing how the act is applied to a particular class or group of complaints. If determined necessary, the commission has clearly indicated it will exercise this power and develop guidelines for complaints relating to decisions made pursuant to the Indian Act. The commission fully recognizes that these processes must respect local traditions. It also appreciates that processes developed in partnership with the residents of a community are more likely to be relevant and useful. This is why it has already begun to work with First Nations.

[Translation]

The Canadian Human Rights Commission will do its best to come up with appropriate measures in partnership with the First Nations. As with everything the commission does, it hopes that its efforts will effectively address the underlying causes of discrimination and quickly resolve conflict. The concept is based on the absolute certainty that an ounce of prevention is worth a pound of cure.

In my opinion — and I hope many honourable senators will agree — our ultimate goal should be to prevent discrimination altogether. There is no question that the commission has achieved considerable progress towards that goal.

As my colleagues study the merits of Bill C-21, I hope they will not lose sight of the fact that the commission defends the interests of Canadians. The citizens of this country understand what is at stake. We know that legally-sanctioned discrimination has a negative effect on a society: it devalues the rights of individuals, compromises our democracy and robs us of our humanity and our dignity.

[English]

Honourable senators, Canada moved to combat these effects some 30 years ago by enacting the Canadian Human Rights Act and establishing an independent commission and tribunal. These actions counter the influence of outdated views, harmful prejudice and simple ignorance. The act envisions Canada as a beacon of justice in the world, a place where all citizens are considered equal before the law.

Yet, as long as section 67 stands, all Canadians are not equal before the law. Today we can take a significant step toward eliminating this injustice. Bill C-21 represents a pragmatic and fair way to extend an essential component of Canadian citizenship — rights protection — to all citizens, particularly to residents of most First Nations communities.

The time has come to repeal section 67 and to put an end to three decades of legally sanctioned discrimination. I urge all honourable senators to join with me and support Bill C-21.

On motion of Senator Jaffer, debate adjourned.

## CRIMINAL CODE

### BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C., for the third reading of Bill S-210, An Act to amend the Criminal Code (suicide bombings).—(*Honourable Senator Prud'homme, P.C.*)

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I understand Senator Prud'homme was planning to speak on this matter this afternoon. He had a visit from the new ambassador for Cuba, and the former ambassador for Cuba had to leave. As a matter of fact, I had a picture taken with the ambassadors a few moments ago.

Senator Prud'homme wanted to be in the chamber today. I understand he wishes to speak on this bill tomorrow. If we could continue the adjournment, I will take it under Senator Prud'homme's name.

On motion of Senator Comeau, for Senator Prud'homme, debate adjourned.

## LIBRARY AND ARCHIVES OF CANADA ACT

### BILL TO AMEND—SECOND READING— ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Corbin, for the second reading of Bill S-233, An Act to amend the Library and Archives of Canada Act (National Portrait Gallery).—(*Honourable Senator Stratton*)

**Hon. Jerahmiel S. Grafstein:** Honourable senators, I wish to call the question.

**Hon. Terry Stratton:** Honourable senators, this item is at day two. I would like to speak to it.

**Senator Grafstein:** I have no objection to the honourable senator speaking to any motion. There is some urgency to this bill because of the government's measure to move forward with respect to an auction dealing with competing cities for this gallery. I wish to put this matter before the Senate so that honourable senators may opine on it and ultimately for Parliament to opine as to whether there should be a change in the location of the National Portrait Gallery from the National Capital Region to some place else.

I hope that if the honourable senator intends to speak, he will do it now or in the next day or so, so that we can have the will of the house on this matter.

**Senator Stratton:** There are other senators on this side who wish to speak to the bill. I think the honourable senator should respect that. We try to respect his side when debates are adjourned on

issues and bills; they do it all the time. They need to do that for this side. I know of two others besides me who wish to speak to this bill.

**Senator Grafstein:** I do not question the senator's sincerity. I do not question the sincerity of any senator who wishes to speak on this bill, but the matter has been before the Senate for the better part of six months. Before this bill was introduced, there was a resolution that I placed on the Order Paper that allowed any senator to speak on the same subject matter. It is not a question of preventing or obstructing another senator who wishes to speak, but "If it were done when 'tis done, then 'twere well it were done quickly."

**The Hon. the Speaker:** The item was called and it is standing in Senator Stratton's name. He has said "stand," which has the effect of moving a motion to adjourn.

Shall the item stand in Senator Stratton's name?

**Hon. Senators:** Agreed.

Order stands.

• (1740)

## FOREIGN AFFAIRS

### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

**Hon. Consiglio Di Nino:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Foreign Affairs and International Trade have the power to sit at 5:30 p.m. today, Tuesday, June 10, 2008, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

**Hon. Senators:** Agreed.

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

Motion agreed to.

[Translation]

## CITIZENSHIP ACT

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Meighen, for the second reading of Bill S-231, An Act to amend the Citizenship Act (oath of citizenship).—(*Honourable Senator Comeau*)

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, this bill has now been on the Order Paper for 15 days. I believe that if His Honour the Speaker were to seek a consensus, he would find that there is agreement that rule 27(3) be suspended and that the item remain on the Order Paper and Notice Paper for 15 additional, consecutive sitting days.

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

**Hon. Senators:** Agreed.

On motion of Senator Comeau, debate adjourned.

[English]

## FINANCIAL ADMINISTRATION ACT

### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Lowell Murray** moved second reading of Bill S-236, An Act to amend the Financial Administration Act (borrowing of money).—(*Honourable Senator Murray, P.C.*)

He said: Honourable senators, the immediate background to this bill is to be found in Bill C-52, the Budget Implementation Act, 2007, which received third reading in this place almost a year ago and was given Royal Assent on June 22, 2007.

The Budget Implementation Act, 2007 was an omnibus bill, like most budget implementation bills. There were 154 clauses in the bill in 14 parts on 134 pages. The bill amended over 25 other acts of Parliament. It was a large bill.

Most of us here and in the House of Commons were preoccupied with a major issue raised by the bill: the changes to the Atlantic Accord and the relationship of those changes to the equalization program. That was our preoccupation and that is what consumed our time and attention in the Standing Senate Committee on National Finance and here in the chamber.

Meanwhile, softly and quietly — almost invisibly — there was passed into law the following amendment to the Financial Administration Act. New section 43.1, added under the heading “Power to Borrow,” states:

The Governor in Council may authorize the Minister to borrow money on behalf of Her Majesty in right of Canada.

It is very simple; very direct. The law as it stood, up until that point, was that borrowing by the government had to be expressly authorized by act of Parliament. As recently as 2001, that provision had been strengthened or, some would say, clarified to ensure that certain departments and agencies of government that in their own legislation were otherwise exempted from the provisions of the Financial Administration Act would not use that administration as a way to do an end-run around Parliament and the government and borrow money in the amounts from the sources and at the time that suited them. They were “cut off at the pass” by clarification to the FAA in 2001.

Until that point, the minister’s authority had been restricted to refinancing existing loans and to temporary loans not to exceed

six months. Bill C-52 repealed these provisions with the simple explanation, to quote from the clause-by-clause explanation:

Given the proposal to provide the minister with a general authority to borrow, these provisions are no longer necessary.

To that I say: Just so. The amendments also tweaked section 49 of the Financial Administration Act which required the minister to report on the management of the public debt after every fiscal year and in anticipation of every new fiscal year. The main change made by Bill C-52 in that respect is that the report following a fiscal year will now have to be presented 30 days after the publication of the public accounts rather than 45 days.

I looked at the legislative history of Bill C-52 and, for the record, it was introduced in the House of Commons on March 29, 2007. There were five days’ debate at second reading, five days’ consideration at the House of Commons Standing Committee on Finance, two days’ debate at report stage and four days at third reading. It came to the Senate where we debated for two days, spent three days on it in committee and another two days at third reading.

I have not read those debates word for word but I have scanned them and have had others look at them for me. I cannot find, in those debates in the House of Commons or in Senate or in the committees thereof, any substantive reference to the fact that the bill cancelled Parliament’s authority over government borrowings.

• (1750)

The government did not exactly advertise the provision in the explanatory notes that they sent around. If the honourable senator had a copy of the bill and looked on the inside front cover, where the legislative summary of what they were doing with this provision is listed, it says:

Part 7 amends the *Financial Administration Act* to modernize Crown borrowing authorities.

Is that not lovely? These people are masters of the euphemism, no doubt about it.

In the bumph — the loose-leaf folder that is put out with omnibus bills, with which the government tried to defend what they were doing — the department congratulated itself on this provision by saying that it would provide:

... greater transparency and accountability about the government’s borrowing activities while increasing flexibility to meet future borrowing needs, particularly with respect to the consolidation of Crown corporation borrowing. It provides a more flexible, simplified and streamlined framework that consolidates the borrowing authority into one general provision under the authority of the Governor-in-Council.

Honourable senators, whenever one hears the words “transparency,” “accountability,” “flexibility,” “simplified” or “streamlined” from a government official, one knows that they are arrogating themselves more authority and discretion and that

they are cutting someone out of the action. In most cases, the body they are cutting out of the action is Parliament, and that was the case with this bill.

**Senator Segal:** Shame, shame!

**Senator Murray:** While we are speaking about indebtedness, I should acknowledge my debt to Senator Banks, who was the person who brought this to my attention. In a letter from November 2007, he drew my attention to the amendment. He said:

In that section, the power to borrow on behalf of Her Majesty in right of Canada is given to a minister.

Senator Banks continued:

That seems, on the face of it, a reasonable thing, but this ability to authorize must, since it is contained in an amendment to the FAA, be new. Is this as innocuous as it looks?

Well, no, Virginia, it is not as innocuous as it looks, as further research demonstrates.

Anyway, honourable senators, we have no one to blame but ourselves. They put it over on us once more, but the remedy is at hand. Bill S-236 will do no more than to restore the status quo. The minister, with the approval of the Governor-in-Council, will be able to borrow under limited, specified circumstances — refinancing existing loans, temporary loans — as before; but the general rule, as before, will be, if this bill passes, that the government must come to Parliament with a borrowing bill.

In the past, in the years when deficits were being run, there was at least one borrowing bill every fiscal year. These were the occasions for debate on financial management, on economic policy and on borrowing strategy. It was another occasion in which the government was accountable to Parliament.

I will not take the time of honourable senators further on this subject, but if you are interested, I have done two things in preparation for this debate. Perhaps we can get into it if the bill is passed and gets second reading and goes to committee. First, I looked up the relevant provisions in provincial legislatures and also in three Commonwealth countries — the United Kingdom, Australia and New Zealand. While the situation is different from one jurisdiction to the other, for the most part the government is required, subject to certain restrictions, to go to the legislature, to go to Parliament before it borrows money. That seems to be the general rule and we can delve into further detail in committee if anyone wishes.

The second thing I did, more for entertainment than anything else, was to look back at borrowing bill debates. I was looking at one today from 1886 in which Sir Charles Tupper was the Minister of Finance. He came to Parliament looking to borrow \$30 million for the purposes of the government. His chief tormentor on the opposition side was Alexander Mackenzie, a former Prime Minister. However, Wilfrid Laurier, a future Prime Minister; John Thompson, a future Prime Minister; and John A. Macdonald, who was still in office, got very much into the action. It was a very entertaining debate for those who want to do the research.

[ Senator Murray ]

Anyway, the decision to cut Parliament out of the borrowing process was not part of the political platform of the present government, or of any other party of which I am aware. There was certainly nothing about it in the Speech from the Throne. The references to it in the budget documents were sufficiently anodyne so as not to raise any suspicions on the part of parliamentarians, who are not naturally or instinctively suspicious.

In my view, this bill to correct the situation should not be a matter for partisan division. I think we should be together on this — all political parties in both Houses of Parliament.

Some time ago, we passed the Accountability Act. We appointed a Parliamentary Budget Officer, for heaven's sake. What kind of accountability is it if we allow an omnibus bill like Bill C-52, a provision to cancel our authority over borrowing, to be slipped in?

Tom Axworthy and others have put out papers on parliamentary reform — more money, more research, more resources for parliamentarians, all that kind of thing — but what is the point of that if we allow our own authority to be dismantled piece by piece by piece without even knowing what we were doing?

This is not a question of confidence in this or any government; it is a question, I think, of confidence in ourselves. It is a question of respect for the historic rights of parliamentary institutions, of which we are, for the time being, custodians. We have no business to weaken the very foundation which is the power of the purse. I commend this bill to the favourable attention of honourable senators.

**Some Hon. Senators:** Hear, hear!

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

**Senator Murray:** Yes.

**Senator Day:** I wish to thank the honourable senator for his initiative on this matter. I want to clarify that the honourable senator indicated this was a section in a budget implementation bill from last year, Bill C-52, similar to Bill C-50 this year. That being the case, assuming that I heard correctly, we would have been under the same pressure last year as we are now — and we heard the debate here today on Bill C-50 budget implementation — when there are clauses in there not to amend a budget implementation bill with clauses we wonder whether or not they should be there.

The same pressure would have been there last year with Bill C-52 as it is this year with Bill C-50, is that correct?

**Senator Murray:** That is true, with this reservation: This year, we have had prestudy of Bill C-50. Having attended those deliberations the week before last and again this week, I think what the committee has done on Bill C-50 demonstrates the usefulness of prestudy. Perhaps if we had prestudy of Bill C-52 last year, someone's attention would have been drawn to that apparently harmless little provision that cancelled our legislative authority over borrowings.

**Senator Day:** I agree that we did not do a prestudy. It is somewhat of a *mea culpa* because I was chair of the committee that dealt with that bill and we should have seen it. Subsequent to the bill having been passed, I became aware of it and I congratulate the honourable senator on this initiative.

It is interesting that the provision, as part of a bill that we are expected to deal with and which we are told is a matter of confidence and thus cannot make any changes, can be lifted out later on and we say it is not a matter of confidence. I am wondering if it ever was in the first place.

Is there any reason we should not be lifting out offensive clauses like this when we see them although they may be in what is called a budget implementation bill?

• (1800)

**Senator Murray:** As I suggested earlier today in answer to a question by Senator Banks, no question of confidence really ever comes before this house. We are not a confidence chamber.

If we choose to amend a bill and send it back to the House of Commons, the question of confidence only arises if the government declares that vote to be a matter of confidence. I do not think it is up to us to either anticipate what they may do or to defer in advance to expressions on their part that everything is a matter of confidence.

I placed on the record some time ago the history of tax bills in the House of Commons and how many of these have been amended without raising the question of confidence.

As I also tried to suggest in reply to Senator Banks earlier, we do not have to sever the bill.

**The Hon. the Speaker *pro tempore*:** Honourable senators, I am sorry to interrupt Senator Murray. I must draw the attention of honourable senators to the clock. It is now six o'clock.

Is it your desire not to see the clock, honourable senators?

**Hon. Senators:** Agreed.

**Senator Murray:** I will simply finish the thought.

We could introduce an amendment to state that the particular clause of the bill dealing with immigration would be proclaimed at a date after the instructions had been pre-published in the *Canada Gazette*, et cetera. Then we would have due process and would know exactly what we were dealing with.

**Hon. Wilfred P. Moore:** First, I wish to commend the honourable senator for this initiative.

Has the honourable senator thought about proceeding by way of an amendment to Bill C-50, the budget implementation bill, rather than the course he is following?

**Senator Murray:** Yes, I did. I was advised by the procedural experts that there were not amendments to the Financial Administration Act in Bill C-50 upon which I could base the provisions that I eventually incorporated into my bill. Therefore, I made the decision to go with a separate bill.

On motion of Senator Segal, debate adjourned.

## CANADA MARINE ACT CANADA TRANSPORTATION ACT PILOTAGE ACT

BILL TO AMEND—THIRD READING—  
DEBATE ADJOURNED

Leave having been given to revert to Government Business, Bills, Item No. 2:

**Hon. Donald H. Oliver** moved third 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, first and foremost I wish to thank Honourable Senator Bacon and my colleagues on the Standing Senate Committee on Transport and Communications for advancing Bill C-23 so quickly. I know that the industry was extremely pleased to learn that the bill had the full support of the committee and that it would be moved forward expeditiously for third reading. They are anxiously awaiting the finalization of these amendments.

It is no secret that Bill C-23 contains provisions that the Canadian port authorities and the marine industry have been waiting to see for a very long time. With the exception of a couple of minor drafting revisions put forward by the government, the text of the bill is exactly as introduced in the House of Commons.

The National Marine Policy of 1995 and the succeeding Canada Marine Act set the policy framework for major ports. Established as an outcome of program review in the 1990s, the National Marine Policy focused both on eliminating overcapacity and separating the operation of major ports from government. The context in which this policy was developed no longer corresponds to the operating environment of national ports, which is not centred on overcapacity but rather on whether Canadian port authorities have the tools they need to respond to emerging trade demands and opportunities.

While very much respecting the fundamental tenets of the reform — commercialization and local autonomy — there is a need to modernize the framework to take into account emerging global trade patterns and related national transportation and infrastructure requirements that are so critical to the Canadian economy.

Honourable senators, Bill C-23 will better position Canadian port authorities to take advantage of the projected growth in trade with the Asia-Pacific region and other global trading blocks. Canadian port authorities need to be better able to respond to capacity pressures, aging infrastructure and increased pressure on land to be used for transportation in urban settings.

The marine environment has changed dramatically and Canadian port authorities need to be equipped with the tools to respond to these market forces in a timely manner in order to support Canada's international and domestic trade. Canada's ability to compete in this new global environment is highly

dependent on the efficiency of our port authorities, particularly the larger ports, such as Vancouver Fraser, Montreal and Halifax. Our port authorities are the key to the success of trade gateways.

Canadian port authorities need a modernized framework to be able to respond to the increasing demands related to globalization and to fulfill the important role of the importance of Canadian port authorities in supporting national trade objectives.

Bill C-23 addresses issues that date back to the statutory review of the Canada Marine Act that was completed in 2002. This review included extensive cross-country consultations. In fact, the marine industry presented the review panel with thousands of pages of detailed and substantive submissions and recommendations for improving the Canada Marine Act.

The message was clear. On the one hand, stakeholders acknowledged that the act contributed to the improvement of marine transportation and that port authorities have enjoyed increased autonomy and efficiency in many areas of their management and operation. However, changes are required to further achieve the original goals and objectives set by the Canada Marine Act.

A number of recommendations of the Statutory Review Panel were reflected in Bill C-61, which was a comprehensive bill flowing from the statutory review. That legislation was tabled in 2005 and died on the Order Paper in November of that year due to a pending election. Bill C-23 was built on the solid foundation of Bill C-61 and reflects more recent consultations with the industry.

Bill C-23 would provide the much-needed financial flexibility to large ports by allowing them to borrow within a commercially-based regime where financial institutions will determine the borrowing capacity of ports similar to the airport borrowing regime. This would allow port authorities to respond to business opportunities in a more timely and market-driven manner. The ability of ports to borrow without advance federal approval would increase as their financial capacity allows them to do so in a much more seamless and responsive manner.

A complementary parallel policy initiative is being advanced and will also provide Canadian port authorities with new tools, under their letters patent, to generate more revenues from lands under their management to meet current needs and as the means of encouraging them to preserve lands for future port purposes consistent with established guiding principles. Such land could be put into productive revenue generating use on an interim basis in a way that is consistent with future port operations.

Honourable senators, Bill C-23 would also create a more level playing field with respect to modes of transportation. The existing act prohibits Canadian port authorities access to federal funding with some exceptions with respect to grants. This is now viewed as inconsistent with the new government objectives with respect to accountability. Grants do not typically involve conditions or reporting requirements and they are complex to implement as the availability of grant authorities is circumscribed. In addition, the current restriction may limit growth opportunities, particularly for those associated with burgeoning Asia-Pacific trade. It also creates inequities between marine and other

transportation modes — airports, rail and road — where there are no equivalent legislative restrictions. The marine transportation industry performs an essential service to Canada's resource, manufacturing and service sectors. Much of Canada's wealth has been built on and continues to depend upon marine transportation for its continued prosperity.

• (1810)

Bill C-23 would provide explicit recognition of the role of marine transportation as part of the Canada Marine Act objectives. This proposed amendment is symbolic and very important in the eyes of marine stakeholders, signifying the government's recognition of this sector's vital contribution to Canada's economy, especially by ports that are critical to international trade.

The Standing Committee on Transport, Communications and Infrastructure advanced this bill quickly after hearing witnesses from the membership of the Association of Canadian Port Authorities and written submissions from the Shipping Federation of Canada and the Chamber of Marine Commerce. This bill is endorsed by the entire marine industry. It is good-news legislation and a bill that I am proud to support.

Honourable senators, as I noted earlier, the issues dealt with in this bill have been the subject of extensive consultations and consensus-building, including a statutory review. I thank honourable senators for giving such solid support to Bill C-23 and for recognizing the need to move this bill forward as expeditiously as possible. I also thank the Minister of Transport, Infrastructure and Communities, Transport Canada officials and the Association of Canadian Port Authorities and other industry stakeholders for their dedication and hard work. It has taken a long time to get here, but we now have Bill C-23, an excellent piece of legislation. Now we need to see the results of these efforts realized with Royal Assent and the implementation of Bill C-23.

I invite honourable senators to join me in enthusiastically supporting the quick passage of this bill. I take this opportunity to thank again Senator Bacon, Chair of the Standing Senate Committee on Transport and Communications, for her helpful leadership.

On motion of Senator Tardif, debate adjourned.

## NATIONAL SECURITY AND DEFENCE

### BUDGET—STUDY ON NATIONAL SECURITY POLICY—REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on National Security and Defence (budget—release of additional funds (study on the national security policy)), presented in the Senate on May 29, 2008.  
—(Honourable Senator Kenny)

**Hon. Colin Kenny** moved the adoption of the report.

**Senator Stratton:** Honourable senators, I move the adjournment of the debate. My intention is not to delay it interminably but to speak to it tomorrow or Thursday.



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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

On motion of Senator Stratton, debate adjourned, on division.

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### EIGHTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Committee on Internal Economy, Budgets and Administration (committee budget—legislation), presented in the Senate on May 29, 2008.—(*Honourable Senator Furey*)

**Hon. Joan Cook** moved the adoption of the report.

Motion agreed to and report adopted.

### NINTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Committee on Internal Economy, Budgets and Administration (economic increase), presented in the Senate on May 29, 2008.—(*Honourable Senator Furey*)

**Hon. Joan Cook** moved the adoption of the report.

Motion agreed to and report adopted.

## THE SENATE

### MOTION URGING GOVERNMENT TO NEGOTIATE WITH THE UNITED STATES FOR THE IMMEDIATE REPATRIATION OF OMAR KHADR— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Dallaire, seconded by the Honourable Senator Day:

That the Senate call on the Government of Canada to negotiate with the Government of the United States of America the immediate repatriation to Canada of Canadian citizen and former child soldier Omar Khadr from the Guantánamo Bay detention facility;

That the Senate urge the Government of Canada to undertake all necessary measures to promote his rehabilitation, in accordance with this country's international obligations on child rights in armed conflicts, namely the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict; and

That a message be sent to the House of Commons to acquaint that House with the above.—(*Honourable Senator Goldstein*)

**Hon. Yoine Goldstein:** Honourable senators, I had not intended to address this motion by Senator Dallaire dealing with Omar Khadr, and I certainly had not intended to address the issue to so intimate and sparse a gathering. Having listened quite attentively to Senator Di Nino's intervention on this motion two weeks ago, I adjourned the debate in my name having remarked, "Human rights are indivisible."

Let me start, honourable senators, with an admission of bias. I was one of 23 current and former parliamentarians who joined scores of American and Canadian law professors and a host of national and international bar organizations, including the Paris Bar, the Law Society of England and Wales, the Commonwealth Lawyers Association and many others, in submitting a brief before the Supreme Court of the United States to seek the proper protection of Omar Khadr and to urge that court to grant Mr. Khadr's request for relief.

In addition to that assertion, I must also say that Mr. Khadr's devotion to the philosophy of al Qaeda and the devotion of his family, to this very day, to the cause of international terrorism, which includes but does not limit itself to the destruction of Israel and the killing of Jews, does not make it easy for me to defend Mr. Khadr's rights.

However, I couch my intervention today in precisely that language: we are not dealing with Mr. Khadr's ideas or with his character or with his personality or with his friends or with his family. He is not on trial in the United States for those ideas. We are dealing with his rights and with the protection to which he is entitled under international law. As well, we are dealing with the special obligation that Canada has to Mr. Khadr because, notwithstanding the fact that this is distressful and distasteful to many, he is a Canadian citizen.

It is useful to review the facts: Mr. Khadr is currently on trial before a U.S. military commission at Guantanamo Bay in Cuba. He is a Canadian citizen being detained and prosecuted, and I could say persecuted, for his alleged acts of violence against U.S. Armed Forces in Afghanistan in June and July 2002. He is the only citizen of a Western state still detained in Guantanamo. Every other Western democracy, without exception, has arranged for the repatriation of its citizens from Guantanamo Bay — every one except Canada.

The U.K. has repatriated all of its citizens as well as four of the five British residents in Guantanamo who are not citizens and is working actively to repatriate the fifth person. As I said, every other Western nation has sought and obtained the repatriation of its citizens, and Mr. Khadr stands alone, symbolically and factually, as a metaphor of the child soldier caught in the web of an angry United States that has been told by its own Supreme Court time and again in connection with its Guantanamo activities that it is denying human rights to the people it holds there. A further indication of the blatant disregard of the U.S. government for the most fundamental principles of the rule of law is the fact that two weeks ago the judge hearing the Khadr case was summarily dismissed by the U.S. government. Why? Because he was being too soft on Khadr by granting some well-founded defence motions.

If any further proof is needed, it can be found in the report of the United Nations Committee on the Rights of the Child, in which Canada participated, which last Friday, June 6, issued its specific report in connection with detainees in Guantanamo and reported in the following terms:

... the Committee is seriously concerned that children who were recruited or used in armed conflict, rather than being considered primarily as victims, are classified as "unlawful enemy combatants" and have been charged with war crimes and subject to prosecution by military tribunals, without due account of their status as children.

• (1820)

The report goes on to suggest the following as a principle to be used and applied:

The conduct of criminal proceedings against children within the military justice system should be avoided;

At the time of the commission of the alleged act of violence against U.S. armed forces in Afghanistan that culminated in the death of an American soldier, Mr. Khadr was 15 years old. That fact is not in dispute. That age makes him a child and, under the applicable international law, he was a child soldier. That fact, too, is not in dispute. That he was a child soldier is not a matter of opinion, a matter of judgment or a matter of discretion; it is a matter of straightforward definition. The applicable statute does not admit of interpretation. Someone who is 15 years old and engaged in armed conflict is a child soldier.

As a child soldier, under international law by which Canada is bound, Mr. Khadr cannot be tried before the tribunal before which he is currently being tried. That assertion, too, is not a matter of interpretation, nor a matter of opinion, nor a matter of discretion. It is a matter of fact, and that fact is absolute. It does not admit of exception.

The treatment of child soldiers under applicable international law is not a criminal treatment and cannot be a criminal treatment. It is not a prosecutorial treatment and cannot be a prosecutorial treatment. It is required by law to be a rehabilitative process, not a prosecutorial one and not a criminal one. It is required not to condemn but rather to heal, to teach, to help the child soldier reintegrate into an accepting and forgiving society. Child soldiers, honourable senators, under applicable international law are not to be tried, convicted and punished. They are to be taught, certainly pitied and rehabilitated.

This is not merely my opinion, nor that of Honourable Senator Dallaire, nor the mere opinion of other scores of parliamentarians who signed the *amicus curiae* brief, nor the mere opinion of almost 60 law professors from Canada and the United States, nor the mere opinion of the various bars throughout the civilized world. It is not at all an opinion. It is not a contestable interpretation. It is not a matter of discretion. It is a matter of strict law, and it is a matter of clear fact.

Now, what factually is happening? Contrary to universally accepted international law, Mr. Khadr is being tried as a war criminal and, if convicted, will be subject to terrible punishment. There is virtually no one in the civilized world who has any association with, or any knowledge of, international human rights

who does not assert that the United States, in trying Mr. Khadr, is committing an abuse of human rights and is flouting applicable international law. Every Canadian human rights expert who has dealt with the issue has asserted that Canada is declining to exercise its obligations vis-à-vis this Canadian citizen and is participating in the denial of human rights.

Let me be clear about the nature of this issue. It is not partisan politics. Governments of both stripes are to blame for lack of action on Canada's part.

Honourable senators, the protection of human rights and the respect of international human rights law are not options. They are not a choice. They are an obligation. It is incumbent upon the state and upon all governments, whatever their stripe, to respect these obligations, to honour them and to act upon them.

There was a time, honourable senators, when the concept of sovereignty of states served as a barrier to outside interference in the affairs of those states, no matter what kind of abuses were perpetrated by those states within their borders. That kind of thinking spawned the chauvinism of patriots who believed the dictum, "My country, right or wrong." We can all say with pride that Canada took a leading role in the development only a few short years ago of the doctrine of the responsibility to protect, the responsibility of the world human rights community to intervene even by armed force, if necessary, in the internal affairs of the state whenever that state refused, declined or was unable to defend the citizens or inhabitants of that state, or where the state itself participates in the denial of human rights to citizens or inhabitants of that state.

Honourable senators, the evolution of the concept of the responsibility to protect reflects a remarkable advance in the affairs of human society. It reflects an awareness that we are all responsible for each other, and we are not permitted to shirk, deny or ignore that responsibility, no matter how distasteful the performance of that responsibility might be.

Omar Khadr's beliefs at that time, to the extent that a child can be considered to have formed beliefs, are distasteful to us. They are particularly distasteful to me because those beliefs, aside from their various other horrors, are also avowedly and radically anti-Semitic. We do not have the right to allow universal condemnation of those beliefs to influence in any way the nature of our obligations towards this child. Those obligations are clear. They are not in any way varied or diminished by our thoroughly justifiable condemnation of his beliefs. His beliefs are irrelevant for purposes of accepting our international and human rights responsibility.

I come now, honourable senators, to a consideration of the remarks of the Honourable Senator Di Nino two weeks ago today. His speech, delivered with the sincere conviction for which he is so well and justifiably known, is marked by sincerity and by utmost good faith. With great respect, however, that conviction, that sincerity and that good faith characterized the earnestness of his opinions but do not make them correct. Let me tell you why, again, with the utmost of respect.

Senator Di Nino started with a quotation from the judgment of our Supreme Court on May 23, which is contained in paragraph 35 of the reasons for judgment. He cites a piece of that paragraph verbatim, and he draws from that citation the

apparent conclusion that Canada and Canadians should not deal with the judicial aspects of the process against Mr. Khadr, which may be, to use the words of the Supreme Court, “beyond Canada’s jurisdiction and control,” and he stops there.

However, that is not the complete quote. The Supreme Court goes on to say in the same paragraph:

However, to the extent that Canada has participated in that process, it has a constitutional duty to disclose information obtained by that participation to a Canadian citizen whose liberty is at stake.

In the immediately following paragraph dealing with the disclosure of documents to Mr. Khadr, the Supreme Court says:

The remedy of disclosure being granted to Mr. Khadr is for breach of constitutional duty that arose when Canadian agents became participants in a process that violates Canada’s international obligations.

Throughout that judgment, our Supreme Court makes it abundantly clear, by the unanimous decision of nine judges, that Canada violated its constitutional obligations and violated the norms of international law in its dealings with respect to Mr. Khadr, as did the United States, if one is to believe the Supreme Court of the United States, which I do.

• (1830)

Therefore, it is not correct to imply, as did Senator Di Nino, that we as Canadians should not be involved in judicial issues affecting Mr. Khadr’s treatment in the United States. On the contrary, our Supreme Court issued very specific orders as to what Canada must do with respect to the disclosure of certain documentation and use the occasion, to which I will return later, to point out that Canada, in its dealings in this connection, had breached international law.

Senator Di Nino went on in his speech on May 27 to address the responsibility of the Khadr family who had raised him as an apostle for terrorism. I cannot but be reminded of the Biblical dictum that the iniquity of the father is visited upon the children. I do not accept that dictum.

It is true that Mr. Omar Khadr was indoctrinated by his family, but as true as it is, it is also irrelevant. How Mr. Khadr got to Afghanistan, why he went to Afghanistan, what his parents did to him or what they taught him, what other relatives had done to him or tried to do to him and to others does not change one simple, fundamental, basic, incontrovertible fact: Mr. Khadr was a child. He was a child by international law standards when he was alleged to have committed the offence of which he is accused.

No judgment is required in this respect, no opinion is necessary in connection with his education and no opinion is necessary with respect to his upbringing. The sole dimension to be considered is whether he was a child by international law standards at the time, and he was.

Senator Di Nino went on to criticize Senator Dallaire for supposedly equating Canada to al Qaeda during the course of a hearing before the Subcommittee on International Human Rights in the other place on May 13.

**The Hon. the Speaker *pro tempore*:** The speaking time for the honourable senator has expired. Are you asking for more time?

**Senator Goldstein:** I would ask for five more minutes, Your Honour.

**The Hon. the Speaker *pro tempore*:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**Senator Goldstein:** Senator Dallaire did not say that. I will come back in a moment to analyze what he did say.

Our honourable colleague then suggested that Senator Dallaire should apologize for what he supposedly said. He went on to say that he would not support the motion of Senator Dallaire. That is his absolute right and I do not quarrel with him about the exercise of that right. With respect, however, I take issue with his characterization of what Senator Dallaire did say at the subcommittee hearing.

Before I address that, one thing must be clear: Human rights are not relative. They cannot be dispensed at the discretion of anyone. Two weeks ago, when I took the adjournment of this debate, I said that human rights are absolute and depend on no one’s discretion or judgment. They are not a privilege granted to anyone by anyone else. They are an absolute right to be enjoyed by everyone, even those whose ideas we do not like and, in fact, probably especially by those whose ideas we do not like. That is the first element we must take into consideration.

There is a second element. A breach of human rights by anyone is a breach of human rights. A breach of international law is a breach of international law. All abuses and denials of human rights are illegal both under domestic and international law. However, the fact that they are illegal does not make each offender equally culpable. Running a red light is a breach of the law, as is murder. Both are breaches of the law, but the breaches are not morally equivalent. Murder is horrific and running a red light is dangerous and illegal but does not bear the ethical overtones of murder.

Therefore, when Senator Dallaire said that, effectively, Canada, the United States and al Qaeda had all breached the law, he was absolutely right by international law and by human rights standards. What he did not say — and what he certainly would have said had the Honourable Jason Kenney given him the opportunity to do so — is that while all three were in breach of international law, the nature of the breaches is manifestly and radically different.

That is the concept of lack of moral equivalency. On a scale of 1 to 10, al Qaeda is certainly a 10, while Canada may be at 0.5 or 0.7 or 2 or 3 — it does not matter. Senator Dallaire did not ascribe moral equality to Canada or to the United States on the one hand and al Qaeda on the other. He owes no one an apology for having stated a correct principle of international law and human rights practices.

In French, we say: “Il a gagné ses épaulettes”; Senator Dallaire has earned his stripes. He is a Canadian hero, he is certainly my hero and I suggest he is the hero of every single member of this august chamber. He has earned the right to be so considered.

I return to the motion. Our Supreme Court has unanimously said that Canada has breached international law in this case. The Supreme Court of the United States has unanimously said that the United States is in breach of international law in connection with this adventure.

We have the absolute obligation as Canadians, as human beings who respect the law, as members of the family of nations and the family of man, to uphold international law. Therefore, we have the obligation to do everything we possibly can to have Mr. Khadr treated as the child soldier that he was and have

him subject, therefore, to rehabilitation and not to criminal prosecution.

Honourable senators, Canada should bring Mr. Khadr home now, and I will support Senator Dallaire's motion.

On motion of Senator Jaffer debate adjourned.

The Senate adjourned until Wednesday, June 11, 2008, at 1:30 p.m.

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