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Tuesday, November 22, 2005



THE HONOURABLE DANIEL HAYS
SPEAKER

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THE SENATE

Tuesday, November 22, 2005

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

Prayers.

[Translation]

SENATORS' STATEMENTS

THE LATE ROBERT FORTIER, Q.C.

Hon. Dan Hays: Honourable senators, Mr. Robert Fortier, former Clerk of the Senate, died on Saturday, November 5, at the age of 91. Mr. Fortier, Queen's Counsel, was named Clerk of the Senate and Clerk of the Parliaments on February 1, 1968.

[English]

In February 1982, shortly after his retirement the previous year, Robert Fortier was made an honorary officer of this house. During his years as clerk, he served many Speakers, leaders and senators from whom he earned high regard for his integrity, judgment, impartial professionalism and cordiality.

A lawyer, Robert Fortier was called to the Quebec bar in 1937 before embarking on a distinguished career in the public service. From 1942 to 1953, he served as private secretary to the Minister of Public Works, and he went on to serve the department as secretary and director of administrative services. In 1950, he took a leave of absence from the department to serve as private secretary to the chairman of the Canadian delegation to the United Nations Economic and Social Council.

[Translation]

Right up until his retirement in 1981, Robert Fortier played an active role in advancing his profession, particularly as vice-president, from 1968 to 1969, of the Association of Clerks-at-the-Table in Canada.

On behalf of all senators, the Clerk of the Senate, the Clerks at the Table and all the employees of the Senate, I extend our sincere condolences to his wife Monique, his children, Claude and Anne-Marie, and their families.

[English]

QUESTION OF PRIVILEGE

NOTICE

The Hon. the Speaker *pro tempore*: Honourable senators, this morning we received notice of a question of privilege from Senator Spivak.

Hon. Mira Spivak: Honourable senators, pursuant to rule 43, I give notice that I intend to raise a question of privilege today with respect to the clear contradictions in the response to questions

I placed on the Order Paper regarding the boundaries of Gatineau Park and the response to similar questions placed on the Order Paper in the House of Commons by the member of Parliament for Ottawa Centre.

NATIONAL CHILD DAY

Hon. A. Raynell Andreychuk: Honourable senators, November 20 is National Child Day in Canada, marking the adoption by the United Nations of the Convention on the Rights of the Child. The convention recognizes, on virtually a worldwide basis, that children have basic human rights. The convention talks to the needs of children, including the need for a family. If we are truly committed to the convention, then the convention could play a useful role in identifying rights and responsibilities for children and recognizing them as true citizens of Canada.

Honourable senators will remember that the Standing Senate Committee on Human Rights, chaired by myself and Senator Pearson, as deputy chair, filed a report entitled, *Who's in Charge Here?* It points out that Canada has signed and ratified the Convention on the Rights of the Child but simply uses it as a guiding principle. In the Senate's report, it was stated:

All levels of government across Canada have a responsibility and the capacity to protect children's rights; the question is simply of how effectively they are accomplishing this task. Canada's courts have begun to move toward referring to the Convention on the Rights of the Child in a variety of areas of the law — from immigration to child protection issues. But what is needed to push both the issue and respect for the democratic process further is enhanced accountability, increased parliamentary and public input, and a more open approach to compliance that promotes transparency and enhanced political will.

Therefore, honourable senators, it is our responsibility to ensure on this National Child Day that if we have, as a country, embraced the convention and children's rights, we cannot use the convention as simply a guiding principle; we must afford children the same opportunity to exercise those rights and responsibilities as adults have done for themselves in other pieces of legislation.

Honourable senators, we have the opportunity, as the committee continues its work, to make every day "Child's Day."

Hon. Senators: Hear, hear!

THE HONOURABLE LANDON PEARSON

TRIBUTE ON RETIREMENT

Hon. Marilyn Trenholme Counsell: Honourable senators, I was in Moncton for a literacy event when many of you paid tribute to Senator Landon Pearson, but today is an equally wonderful occasion — the day we are celebrating National Child Day on Parliament Hill.

[*Translation*]

Since September 15, 1994, the children and young people of Canada have had a strong voice in Ottawa and throughout Canada. The Honourable Senator Landon Pearson has been that voice.

• (1410)

There are not enough words to express the gratitude we owe Senator Pearson for championing Canada's children and youth in the areas of human rights, youth criminal justice and, more recently, early childhood development.

Senator Pearson has worked relentlessly throughout Canada and around the world, and is still their voice.

[*English*]

Long before I came to the Senate of Canada, the publication *Children and the Hill* came to me regularly. Senator Pearson connected Canadians with the Senate and with the Parliament of Canada in a way that is a model for us all to emulate. During my first week in the Senate I was invited to the children's caucus. Senator Pearson was there, and I felt instantly at home. Sadly, the parliamentarian who chaired this caucus moved on to another area of responsibility and the children's caucus ceased to exist. I hope we can have a new beginning with colleagues who share my passion for children. Senator Pearson leaves us with an enormous legacy of work on behalf of Canada's children and youth. Her work will continue at Carleton University. It falls to us to keep children's issues alive here.

National Child Day causes us to rejoice in the fact that the majority of Canada's youngest citizens are excelling, giving us confidence and hope for the future of this great country. Yet, sadly, this day is a reminder of the little ones amongst us from sea to sea for whom all is not well. Poverty, disorders such as learning disabilities — fetal alcohol syndrome, fetal alcohol effects, autism and attention deficit hyperactivity disorder — family violence, addiction, mental illness and suicide are no longer hidden behind walls of silence. They confront us with the absolute necessity of doing more now to give each child in Canada the chance to reach his or her full potential. The Government of Canada has made its greatest commitment ever to children. Senator Landon Pearson made the greatest commitment humanly possible to children and youth. We must take up the torch.

[*Translation*]

INTER-PARLIAMENTARY UNION

MEETING AT UNITED NATIONS HEADQUARTERS

Hon. Andrée Champagne: Honourable senators, two weeks ago I had my first opportunity as a senator to take part in a delegation. Senators Smith, Dallaire and I attended a meeting of the Inter-Parliamentary Union at the United Nations in New York City.

I did not, of course, share their familiarity with the UN Security Council resolutions and their contents. The resolution numbers by themselves meant nothing to me. I was extremely humbled by their extremely well prepared presentations. Having always been a curious person, I came back with my knowledge enriched.

I will, therefore, give a brief overview of some of the subjects discussed, subjects on which we were all in agreement, regardless of our continent of origin.

Terrorism has become a pandemic, but we are all prone to say, without any hesitation, that terrorism affects other people. We all want to see the end of this scourge, but we have trouble accepting that there are no winners in this fight. Still, it is important to be proactive.

The democratic countries, diverse as they are, tend to readily forget that unity is needed to achieve their goals. As a result, the need to reach agreement on the wording of a definition of terrorism is keeping the UN member states from signing a convention that would cover everything that previous resolutions had left out. They continue to agree to disagree.

As we come back to our respective parliaments, we must continue to remind our colleagues of the importance of proper preparation in our efforts to eradicate terrorism, to protect our citizens, to help them in times of crisis, and also, and perhaps most important, to take steps together to avoid preventable disasters and to build and maintain peace.

Ultimately, we did not solve all the problems of the world during these two days, but we left knowing that, if everyone involved puts in the necessary effort, great strides can be made toward a better world; a world where the human race will endeavour to create bonds of friendship instead of tearing one another to pieces; a world where the most vulnerable and at risk will be protected, where ecology will be part of everyone's credo, and where, as openly wished for by Senator Dallaire, conflicts will be resolved at negotiating tables, and not on battlefields; a world where the courts will punish those who violate the most fundamental law: "thou shalt love thy neighbour"; a world where anger, and even rage, would not necessarily translate into revenge; a world in which the media will be hard pressed to find earth-shattering headlines.

Honourable senators, it will probably come as no surprise to you if I say that we were there as the celebrations —

The Hon. the Speaker: Honourable senators, Senator Champagne's speaking time has now expired.

Senator Champagne: Honourable senators, could I be allowed to finish?

The Hon. the Speaker: Honourable senators, I am sorry, but that will not be possible at this stage of the proceedings.

[English]

THE HONOURABLE TOMMY BANKS

CONGRATULATIONS ON RECEIVING JAZZ WINNIPEG INC. COOL AWARD FOR OUTSTANDING CONTRIBUTION TO JAZZ

Hon. Maria Chaput: Honourable senators, on Saturday, November 12, 2005, I had the privilege and great pleasure of attending the gala fundraiser for Jazz Winnipeg Inc. in Winnipeg, Manitoba. I was accompanied not only by my husband, Louis Bernardin, but also by one of our former colleagues, the Honourable Viola Léger, a great artist in her own right and someone very dear to my heart.

There is a vibrant artistic community in Manitoba and jazz is part of its culture and community. The language of music is universal, and it does not matter which language you speak, English, French or Italian; we are all on the same wave length, smiling, nodding and swaying.

During the evening, the Cool Award for Outstanding Contribution to Jazz was presented to one of our distinguished senators, the Honourable Tommy Banks. The Cool Award honours one Canadian each year who has made an indelible mark on Canada's music scene through the art of jazz. It was presented to Senator Banks in recognition of his incomparable work as a jazz musician and advocate. He is an exceptional jazz musician and a great person.

Congratulations Senator Bank and thank you for your performance.

CITIZENSHIP AND IMMIGRATION

CHINESE HEAD TAX AND EXCLUSION ACT

Hon. Lillian Eva Dyck: Honourable senators, 120 years ago, on November 7, 1885, near Revelstoke, British Columbia, the last spike was driven to complete our nation's first transcontinental railway. Chinese workers in Canada played a major role in building this railway through the Canadian Rockies. Between 1881 and 1885 some 17,000 Chinese arrived in Canada. As many as 9,000 of them worked at building the railway for the federal government. The work was especially dangerous and, unfortunately, many Chinese workers perished in completing the railway. The Chinese workers were very much unwelcome. The B.C. government of the day pandered to racist elements in the population and tried to ban Chinese workers. Such actions proved untenable because no one else could be found to do the work. Even the first prime minister of Canada, Sir John A. Macdonald, recognized this fact when he stated that without this Chinese labour there would be no railway.

Upon completion of the railway, the Government of Canada thought it no longer needed the workers. Immediately after the last spike was driven, Canada passed a law requiring Chinese immigrants to pay a \$50 head tax. This tax was raised to \$100 in 1900 and to \$500 in 1903. At that time, \$500 was equivalent to two years' wages. More than 81,000 Chinese immigrants paid approximately \$23 million to the Canadian government. In 1923,

the head tax was repealed but the Chinese Exclusion Act was instituted. Wives and families could not join the men, and immigration was stopped until 1947 when the Chinese Exclusion Act was repealed.

• (1420)

Honourable senators, for 62 years, from 1885 until 1947, the Chinese in Canada were victims of legislated racism in the form of the head tax, the Chinese Immigration Act and the Chinese Exclusion Act. As a consequence of these acts, Chinese families in Canada had to endure financial hardships, deprivation and disintegration of family units, with some families never reuniting, including my own.

While the government has recognized the need to start the reconciliation process with Chinese Canadians by including \$25 million in the 2005 budget for commemorative and educational initiatives, this is not enough. It is time for the Government of Canada to acknowledge its actions and make reparations. Apology and reparations to the descendants of the Chinese who worked on the railway and the descendants of the Chinese who paid the head tax would give real meaning to the sacrifices that our ancestors made for the creation of the Dominion of Canada.

Finally, any group with which the Canadian government signs agreements should have had and continue to have substantial and meaningful input from the descendants of the Chinese railway workers or the head tax payers.

ROUTINE PROCEEDINGS

LIBRARY OF PARLIAMENT

APPOINTMENT OF LIBRARIAN—DOCUMENT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, a certificate of nomination for the Parliamentary Librarian.

AUDITOR GENERAL

NOVEMBER 2005 REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Auditor General's annual report to the House of Commons.

NUCLEAR WASTE MANAGEMENT ORGANIZATION

REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Nuclear Waste Management Organization's document entitled, *Choosing a Way Forward: The Future Management of Canada's Used Nuclear Fuel*.

STUDY ON ISSUES RELATED TO MANDATE

INTERIM REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ON STUDY TABLED

Hon. Tommy Banks: Honourable senators, I have the honour to table, in both official languages, the eleventh report of the Standing Senate Committee on Energy, the Environment and Natural Resources.

TELECOMMUNICATIONS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Joan Fraser, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, November 22, 2005

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

NINTH REPORT

Your Committee, to which was referred Bill C-37, *An Act to amend the Telecommunications Act*, has, in obedience to the Order of Reference of Wednesday, November 2, 2005, examined the said Bill and now reports the same with the following amendments:

1. *Page 2, clause 1:* Replace line 28 with the following:

“before each House of Parliament on any of the”.

2. *Page 5, clause 2:* Replace lines 12 to 16 with the following:

“commits the violation is liable

(a) in the case of an individual, to an administrative monetary penalty of up to \$1,500; or

(b) in the case of a corporation, to an administrative monetary penalty of up to \$15,000.”.

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

Respectfully submitted,

JOAN FRASER
Chair

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

Your Committee notes that a three-year review of this legislation will be conducted by Parliament and that the Canadian Radio-television and Telecommunications Commission (CRTC) will be engaging in wide-ranging consultations in preparation for the implementation of the

legislation. As part of this exercise, the CRTC should gather information and prepare recommendations for ways in which the legislation could accommodate calls based on personal relationships, business-to-business calls, and calls based on referrals.

Your Committee further notes that particular attention must be given, in the CRTC regulation-development process, to clarifying what constitutes a “pattern of abuse” which would be considered a violation of this legislation. This issue was raised by a witness from the CRTC during your Committee’s hearings.

Finally, your Committee emphasizes the importance, in preparing for the three-year review, of the CRTC collecting statistics on complaints made under the legislation, including complaints about calls that are exempt.

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

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

[*Translation*]

FOOD AND DRUGS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lucie Pépin, for Senator Kirby, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, November 22, 2005

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

FIFTEENTH REPORT

Your Committee, to which was referred Bill C-28, *An Act to amend the Food and Drugs Act*, has, in obedience to the Order of Reference of Tuesday, November 1, 2005, examined the said bill and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY
Chair

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

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

[English]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SEVENTH REPORT OF COMMITTEE TABLED

Hon. David P. Smith: Honourable senators, I have the honour to table the seventh report of the Standing Senate Committee on Rules, Procedures and the Rights of Parliament, pertaining to the participation of honourable senators by video conference during committees.

THE ESTIMATES, 2005-06

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) PRESENTED

Hon. Donald H. Oliver, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, November 22, 2005

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

SEVENTEENTH REPORT

Your Committee, to which was referred the Supplementary Estimates (A) 2005-2006, has, in obedience to the Order of Reference of Tuesday, November 1, 2005, examined the said estimates and herewith presents its report.

Respectfully submitted,

DONALD H. OLIVER
Chairman

(For text of report, see today's Journals of the Senate, Appendix, p. 1285)

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

On motion of Senator Oliver, with leave of the Senate notwithstanding rule 58, report placed on the Orders of the Day for consideration later this day.

BUSINESS OF THE SENATE

NOTICE OF MOTION TO EXTEND WEDNESDAY SITTING AND AUTHORIZE COMMITTEES TO MEET DURING THE SITTING

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

That, notwithstanding the order of the Senate of November 2, 2004, when the Senate sits on Wednesday, November 23, it continue its proceedings beyond 4 p.m. and follow the normal adjournment procedure according to rule 6(1); and

That committees of the Senate scheduled to meet on Wednesday, November 23, be authorized to sit even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

NOTICE OF MOTION TO AUTHORIZE SATURDAY SITTING

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting I will move:

That when the Senate adjourns on Friday, November 25, it do stand adjourned until Saturday, November 26, at 9 a.m.

NOTICE OF MOTION TO AUTHORIZE MONDAY SITTING TIME

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting I will move:

That, notwithstanding rule 5(1), when the Senate sits on Monday, November 28, 2005, it shall meet for the transaction of business at 9 a.m.

LIBRARY OF PARLIAMENT

MOTION TO REFER TO STANDING JOINT COMMITTEE APPOINTMENT OF MR. WILLIAM ROBERT YOUNG AS LIBRARIAN ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(f), I move:

That the certificate of nomination for William Robert Young, Parliamentary Librarian, tabled in the Senate on November 22, be referred to the Standing Joint Committee on the Library of Parliament for consideration and report; and

That the committee submit its report no later than December 16; and

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

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

Hon. Senators: Agreed.

The Hon. the Speaker: Senator Prud'homme, you have a question. Did you want to put a question as to why leave is requested?

Hon. Marcel Prud'homme: Honourable senators, I understand that there will be no occasion for the full Senate to question the new librarian. That is an opportunity that we are given sometimes to acquaint ourselves with this person, as we do with other officers of Parliament.

I am to understand that in this instance we will not be given this opportunity? He is a great officer. I do not know how old he is, but he could be in that position for 20 or 25 years. Mr. Spicer was in his position for over 30 years. Only a committee will have the opportunity to look into this matter, and it will then report no later than December 16. However, since it has been proposed that we sit on Saturday and Monday, there must be something in the air that will ensure that we will not be here on December 16. Therefore, to whom will this report be tabled? There will be no discussion here on the matter so it will be accepted by a committee rather than by the full Senate. Is that the preferred process?

• (1430)

Senator Rompkey: That is the process to be followed, but any senator can attend the committee hearings, of course. Perhaps the committee could be advised of the suggestion of Senator Prud'homme. It is in the hands of the committee, and I think we should leave it to the committee to decide on process.

Senator Prud'homme: I regret that we were not given notice of this proposal previously. It would have been a great occasion to have this officer of Parliament appear before the Committee of the Whole.

I can foresee a stampede in the Senate this week to which we should not be subjected. What happens in the other chamber should not affect us.

I will let this go, but I want to register my strong disagreement.

The Hon. the Speaker: As leave is granted, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[Earlier]

PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

NOTICE OF MOTION TO REFER TO BANKING, TRADE AND COMMERCE COMMITTEE

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

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to undertake a review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, pursuant to section 72 of the said act; and

That the committee submit its final report no later than June 30, 2006.

ENERGY COSTS ASSISTANCE MEASURES BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-66, to authorize payments to provide assistance in relation to energy costs, housing energy consumption and public transit infrastructure, and to make consequential amendments to certain Acts.

Bill read first time.

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

Hon. John G. Bryden: With leave, later this day.

Hon. Noël A. Kinsella (Leader of the Opposition): I would indicate that leave is granted by the official opposition.

The Hon. the Speaker: I take it, honourable senators, that leave is granted.

On motion of Senator Bryden, 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.

Senator Prud'homme: I know that I am far from your chair, Your Honour, as you told me some time ago.

The Hon. the Speaker: I cannot see you on a point of order, Senator Prud'homme, and we have disposed of the matter. I am sorry that I did not see you. However, I have another bill to read and if you are standing then, you will have a chance to speak.

Senator Prud'homme: I like to proceed logically.

The Hon. the Speaker: Is leave granted, honourable senators, for Senator Prud'homme to make a comment or ask a question?

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted.

Hon. Marcel Prud'homme: I know that what I am about to say will not be welcome, but I find it surprising that a government that was defeated last night can put forward these bills today. Last night's vote should be an indication that the introduction of any bills is rather strange at this time. I am surprised that the official opposition saw fit to agree in the circumstances.

CRIMINAL CODE CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-53, to amend the Criminal Code (proceeds of crime) and the Controlled Drugs and Substances Act and to make consequential amendments to another Act.

Bill read first time.

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

Hon. Bill Rompkey (Deputy Leader of the Government): With leave, at the next sitting of the Senate.

Hon. Pierre Claude Nolin: We are prepared to speak to this bill later this day.

Senator Rompkey: The sponsor of the bill is still working on a speech and will be ready tomorrow.

Senator Nolin: I can be the sponsor later this day.

Senator Rompkey: If leave is granted to discuss it later this day, we would be prepared to hear Senator Nolin.

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted.

On motion of Senator Rompkey, 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.

FIRST NATIONS OIL AND GAS AND MONEYS MANAGEMENT BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-54, to provide first nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving moneys otherwise held for them by Canada.

Bill read first time.

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

On motion of Senator Rompkey, 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.

[*Translation*]

WAGE EARNER PROTECTION PROGRAM BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-55, to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts.

Bill read first time.

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

On motion of Senator Rompkey, 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*]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Marjory LeBreton presented Bill S-47, to amend the Criminal Code (impaired driving) and other Acts.

Bill read first time.

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

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

• (1440)

INTER-PARLIAMENTARY UNION

PARLIAMENTARY PANEL ON INNOVATIVE SOURCES OF FINANCING FOR DEVELOPMENT, JUNE 10, 2005—REPORT TABLED

Hon. Donald H. Oliver: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canadian group of the Inter-Parliamentary Union respecting its participation at the Parliamentary Panel on Innovative Sources of Financing for Development held in New York, June 10, 2005.

ONE HUNDRED AND TWELFTH ASSEMBLY, MARCH 30 TO APRIL 5, 2005—REPORT TABLED

Hon. Donald H. Oliver: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canadian group of the Inter-Parliamentary Union respecting its participation at the one hundred and twelfth assembly and related meetings of the Inter-Parliamentary Union held in Manila, Philippines, March 30 to April 5, 2005.

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

SOUTHERN LEGISLATIVE CONFERENCE FIFTY-NINTH ANNUAL MEETING, JULY 30-AUGUST 3, 2005— REPORT TABLED

Hon. Jeremiah S. Grafstein: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Southern Legislative Conference fifty-ninth annual meeting in Mobile, Alabama, July 30 to August 3, 2005.

CANADIAN-AMERICAN BORDER TRADE ALLIANCE
CONFERENCE, SEPTEMBER 11-13, 2005—
REPORT TABLED

Hon. Jeremiah S. Grafstein: Honourable senators, pursuant to rule 26, I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Canada-American Border Trade Alliance Conference: The Canadian/U.S. Border — A Unified Focus, held in Washington, D.C., September 11 to 13, 2005.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

MEETING OF STANDING COMMITTEE OF
PARLIAMENTARIANS OF ARCTIC REGION,
SEPTEMBER 29-30, 2005—REPORT TABLED

Hon. Lorna Milne: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association respecting its participation in meetings of the Standing Committee of Parliamentarians of the Arctic Region held in Oslo, Norway, September 29 to 30, 2005.

AGRICULTURE AND FORESTRY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY RURAL POVERTY

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

That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report on rural poverty in Canada. In particular, the committee shall be authorized to:

- (a) examine the dimension and depth of rural poverty in Canada;
- (b) conduct an assessment of Canada's comparative standing in this area relative to other OECD countries;
- (c) examine the key drivers of reduced opportunity for rural Canadians;
- (d) provide recommendations for measures mitigating rural poverty and reduced opportunity for rural Canadians; and

That the committee submit its final report no later than December 31, 2006.

[Translation]

YEAR OF THE VETERAN

CONTRIBUTIONS OF ABORIGINAL
VETERANS—NOTICE OF INQUIRY

Hon. Aurélien Gill: Honourable senators, I give notice that, on Wednesday, November 23, 2005:

I shall call the attention of the Senate to the occasion of the Year of the Veteran and to the contributions of Aboriginal veterans.

[English]

ISSUES OF IMPORTANCE
TO GRANDE PRAIRIE, ALBERTA

NOTICE OF INQUIRY

Hon. Grant Mitchell: Honourable senators, I give notice that on Thursday next:

I will call the attention of the Senate to issues of importance to the regions in Alberta, with particular emphasis on Grande Prairie.

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS
TERMINALS—PRESENTATION OF PETITION

Hon. Michael A. Meighen: Honourable senators, I have the honour to present petitions from 121 residents in New Brunswick and elsewhere asking our government to refuse the right of passage to LNG tankers through Head Harbour Passage.

QUESTION PERIOD

INDUSTRY

INVESTMENT CANADA—NOTICE OF NET BENEFIT
REGARDING SALE OF TERASEN GAS
TO KINDER MORGAN

Hon. Pat Carney: Honourable senators, my question is for the Leader of the Government in the Senate. Industry Canada has given final approval to the \$7-billion sale of B.C. oil and gas transmission company Terasen Gas to the Texas energy giant Kinder Morgan. Nearly 8,000 Canadians expressed concern about the proposed sale of a Canadian energy transmission company to a foreign owner during the earlier provincial approval process before the B.C. Utilities Commission.

Under the Investment Canada Act, as the minister knows, the federal government may approve a foreign takeover in a sensitive industry if it can be shown that there will be net benefits to Canadians in terms of economic, employment and productivity benefits, among others. Nothing in the act prohibits the net benefits negotiations from being made public.

Can the minister now tell us what benefits were negotiated by the feds as a result of the Investment Canada review and what penalties will apply if the benefits are not produced?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have a delayed answer for Senator Carney today, but I will, with consent, respond to the question on the basis of the information given to me in that delayed answer.

I am advised that section 36 of the Investment Canada Act precludes the minister or any government official from disclosing any information that has been obtained through the administration of that act.

More specifically, section 36 states:

... all information obtained with respect to a Canadian, a non-Canadian or a business by the Minister or an officer or employee of Her Majesty in the course of the administration or enforcement of this Act is privileged and no one shall knowingly communicate or allow to be communicated any such information or allow anyone to inspect or to have access to any such information.

In addition to section 36, section 20 of the Access to Information Act protects from disclosure confidential, financial or commercial information that belongs to a third party. Pursuant to that act, this information can only be communicated with the consent of the third party.

Minister Robillard, acting for Minister Emerson, who recused himself from acting on this file, announced her approval of the acquisition of the Terasen Inc. by Kinder Morgan Inc. on November 16, 2005.

During its review under the Investment Canada Act, the federal government negotiated a wide range of enforceable commitments with the investor, and these commitments assisted the minister in determining that the investment is of net benefit to Canada.

Minister Robillard, in announcing her approval, also advised, with the consent of the parties, that a number of commitments made to the government as part of the review process included the following: first, that Kinder Morgan would pursue over \$1.4 billion in major infrastructure projects involving expansion of the Trans Mountain and Corridor pipelines in British Columbia and Alberta — it is estimated that these projects will add hundreds of new jobs in British Columbia and Alberta; second, capital expenditures to maintain the infrastructure in order to continue to provide safe and reliable service to customers and supply customers with oil, gas and water products and services in accordance with service agreements; third, to maintain head offices for Terasen Gas in Vancouver, British Columbia, and for Terasen Pipelines in Calgary, Alberta, and for Terasen Utility Services in British Columbia, with significant resident Canadian leadership in all of these businesses; and fourth, to add two Canadian citizens to Kinder Morgan's board of directors. That is the parent company in the United States.

Honourable senators, I want to inform the chamber that this matter was submitted to the Governments of British Columbia and Alberta for their review, and the Government of Canada received no dissent.

• (1450)

Honourable senators were previously informed that over 96 per cent of the shareholders of Terasen voted to approve this transaction.

Senator Carney: Honourable senators, I point out that the customers are not necessarily the shareholders of Terasen. I am grateful for the information we have been given, but the minister is aware that several multi-billion-dollar transactions are expected to take place in the energy and pipeline sectors as global interest in Canada's energy resources increases. Kinder Morgan does have a history of safety infractions in its U.S. system and there are concerns voiced by the Canadian communities affected by the sale.

Our understanding is that the details of the net benefit review are very much subject to ministerial discretion. Nothing prohibits making this information available. Why can Canadians not know the terms negotiated by the federal government and the sanctions and penalties that would apply if these benefits are not met? What is the big deal about disclosing net benefits?

Senator Austin: Honourable senators, I would like Senator Carney to reflect on the provisions of the two statutes to which I have referred. I am at a loss to believe that she can maintain that there should be access to this information given the answer I have given her, but she can consider the written answer.

The B.C. Public Utilities Commission reviewed this matter, received briefs and recommended the acceptance of this file. I find Senator Carney's questions interesting, coming as they do from a former member of a government whose leader said Canada was open for business.

Senator Carney: I was a member of the government that brought in the Investment Canada Act. That act specified that net benefits had to be shown in the sale of sensitive Canadian infrastructure, including oil and gas pipeline transmission and cultural industries. We are open to such sales, but we want to be assured of Canadian content in sensitive issues.

FISHERIES AND OCEANS

BRITISH COLUMBIA— DECOMMISSIONING OF FOG HORNS

Hon. Pat Carney: Honourable senators, I now want to switch to another subject dear to the minister's heart.

Last December, federal Fisheries Minister Geoff Regan decommissioned B.C. coast foghorns on the grounds that there was not enough fog on the B.C. coastline to justify keeping them in operation. As a member of an island community, I and my other coastal colleagues call this decision ludicrous.

The minister shortly afterwards, in the face of laughter up and down the coast, recommissioned three foghorns at Cape Mudge, Pulteney Point and Chatham Point. Now I have information that the Department of Fisheries and Oceans plans to announce, as a

special Christmas present, that they will reconnect the 12 foghorns on the B.C. west coast. I understand that includes: Cape Beale on the west coast of Vancouver Island; Langara Point on the north end of the Queen Charlotte Islands; Dryad Point on the northeast end of Campbell Island; Addenbroke Island on the Inside Passage; Bonilla Island, south of Prince Rupert; Egg Island, north of Port Hardy; Nootka Island on the west coast of Vancouver Island; Triple Island, west of Prince Rupert; Pachena Point, south of Bamfield; Estevan Point, northwest of Tofino; and Quatsino, at the entrance to Quatsino Sound. Cape Scott is under consideration at the northwestern tip of Vancouver Island. The B.C. maritime community would be very supportive of this Christmas present and would welcome a decision to reconnect the foghorns.

Can the Leader of the Government in the Senate confirm this information at this time?

Hon. Jack Austin (Leader of the Government): Honourable senators, I would like to be in a position to confirm the information at this very moment, but I will have to make inquiries.

NATIONAL DEFENCE

PROGRAM TO REPLACE TACTICAL AIR FLEET

Hon. J. Michael Forrestall: Honourable senators, my question has to do with the pre-election goodies being announced. It is widely believed and understood that the government today will announce a control process that will replace our C-138 series tactical air lift with new aircraft. Can the minister give us some indication of the scope and time period of this probability?

Hon. Jack Austin (Leader of the Government): Senator Forrestall has constantly maintained that equipment operated by the military, particularly aircraft equipment and naval equipment, needs to be replaced. I am pleased to say that the Government of Canada is announcing today that it will move forward with competitive procurement of a new tactical air fleet for the Canadian Forces. The tactical air fleet project will see the purchase of a minimum of 16 new aircraft valued at between \$4 billion and \$5 billion, including a 20-year inservice support contract. This purchase is a priority for the Canadian Forces.

As Senator Forrestall has so often said, the aging Hercules fleet needs to be replaced. Senator Forrestall is being listened to, and I am sure the other side appreciates that fact.

Honourable senators, this new tactical air lift aircraft will replace 13 older CC-130 Hercules, which have been the workhorses for the Canadian Forces transport fleet. There will be a competitive procurement process for these aircraft, and it will begin immediately without compromising operational requirements, quality or cost.

The procurement approach, a solicitation of interest and qualification, will be pursued to select the right aircraft for the Canadian Forces. A solicitation of interest and qualification is a new approach to procurement that invites potential suppliers to

indicate their interest and demonstrate their ability to meet mandatory criteria. We believe this is a fair, competitive and transparent process.

Some Hon. Senators: Hear, hear!

Senator Forrestall: It will not be the J series of our current equipment, will it?

By the way, where is our replacement for the Sea Kings? Could the Leader of the Government tell us why the government has not announced when it will award a contract to replace not just the fixed-wing aircraft, represented by the Hercules, but the Buffalo fleet as well so that our fixed-wing search and rescue capabilities will not be further impaired?

Senator Austin: Honourable senators, I would like to be in a position to say that the entire \$13.5-billion package, which included helicopter replacement and fixed-wing aircraft replacement, was also proceeding at this particular time.

There are factors with respect to supplier information, mandatory criteria and the determination of a procurement process that have not yet been settled. Senator Forrestall asked me some three weeks ago a very perceptive question regarding a tradeoff of the needs of our Canadian Forces and the requirement, through procurement processes, that suppliers be given a fair and transparent opportunity to meet those mandatory criteria.

Senator Forrestall: Does the minister know the age of the J series aircraft?

Senator Austin: Honourable senators, I have been advised by General Hillier that it is the oldest Hercules fleet in operation today anywhere.

Senator Forrestall: Does he know that its likely successor is as old?

• (1500)

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

MANITOBA—SWAN LAKE FIRST NATION— PROCESSING OF LAND CLAIM

Hon. Gerry St. Germain: Honourable senators, my question for the Leader of the Government in the Senate concerns the Swan Lake First Nation in Manitoba.

For up to 10 years, and since the passage of Bill C-14, the Manitoba Claim Settlements Implementation Act, the Swan Lake council has been working to have three parcels of land added to their reserve lands. I am informed that an agreement in principle has been concluded and sent to the Minister of Indian Affairs and Northern Development. I understand as well that the Government of Manitoba is about to sign, or has just signed, an Order-in-Council to transfer the title to the federal Crown. The bottom line is simply this: The remaining step to make these parcels reserve land requires the signature of the Minister of Indian Affairs.

What is the status of the transfer and registration of these lands as reserve lands for the use and benefit of the Swan Lake First Nation? Swan Lake has a number of economic development plans that are on hold as a result of this delay.

To be fair, honourable senators, one cannot reasonably expect the Leader of the Government to have an answer today, but perhaps he will report his findings to the chamber as soon as possible. It is to be hoped that the minister will resolve the matter post-haste. After all, this is something that, nine years ago, was supposed to take six months.

Hon. Jack Austin (Leader of the Government): Honourable senators, I appreciate Senator St. Germain noting that I did not have notice of his question. It is a question seeking a particular set of facts and information, and I will pursue it.

There have been a number of delays in addition to the one to which Senator St. Germain refers. The department has not moved as quickly as it could have with respect to the circumstances that the honourable senator described in his question; that is to say, legal agreements entered into, the territory to be transferred defined, but the transaction not closed. The department is now very much aware that this matter is to be at the head of its list of priorities.

Senator St. Germain: Honourable senators, I thank the honourable minister for his response. I am looking forward to a follow-up.

AUDITOR GENERAL'S REPORT—
ABSENCE OF MANAGEMENT FRAMEWORK
TO ADDRESS FIRST NATIONS LAND CLAIMS

Hon. Gerry St. Germain: The Auditor General's report, which was released earlier today, looked into the broader issue of the mismanagement of treaty land entitlement agreements. The Auditor General found inadequate planning, incomplete data, the absence of a management framework, and that the department has limited formal and informal communications with the First Nations involved in the land conversion processes.

The Auditor General has also found many serious deficiencies in how the Department of Indian Affairs and Northern Development manages process requirements that are within its control, such as delays in land surveys. As a result, the progress has been quite limited, despite the fact that the federal government has committed \$500 million to meeting the obligations of First Nations in Manitoba and Saskatchewan since 1992.

These are lands to which these people are entitled. The lands were granted to them under treaty, and then were removed from them. When will the federal government begin addressing this problem in managing the program, given that there have been so many delays? The honourable minister has referred to them. I think that he is being candid and open with us. However, there must be a starting process.

Hon. Jack Austin (Leader of the Government): Honourable senators, I appreciate the reference to the Auditor General's report, which was tabled just a short time ago here in the chamber. I believe the Auditor General has given profile to an

issue that needs to be dealt with in an accelerated way. I am told by the Minister of Indian Affairs and Northern Development, the Honourable Andy Scott, that he intends to give this matter aggressive attention.

DISMANTLING OF DEPARTMENT

Hon. Gerry St. Germain: Honourable senators, the management problems described by the Auditor General today are further proof of the widespread systemic problems in the department.

Last year, the Auditor General told us that the gap between Aboriginal educational levels and the general population had grown. Apparently, the gap is at 28 years. Today we see that the federal government is not really living up to its obligations as it should in converting the lands to reserve status.

When will the government take a serious look at dismantling this huge bureaucracy that is not servicing its clients, namely, our Aboriginal peoples? This is the question that many Aboriginal peoples put to Senator Sibbeston and me as we travelled across the country with the other able members of the Standing Senate Committee on Aboriginal Peoples.

I am not trying to put the Leader of the Government on the spot. However, he is the government spokesman in this place. He is the messenger. Kindly take the message back and let us start the process of dismantling this organization that was designed to service a certain clientele but which provides no service whatsoever.

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator St. Germain is overly argumentative when it comes to the performance of the Department of Indian Affairs and Northern Development. The department delivers solid services and its performance level is to be admired. However, its task is one of the most difficult in Canada.

I would like to draw to the attention of honourable senators my answer to the question which Senator St. Germain has asked here today, and which has been asked before in another forum. The Government of Canada is launched on the most significant program ever to deal with relations between Aboriginal and non-Aboriginal society in Canada. Starting on Thursday of this week we are to hold in Kelowna, British Columbia a first ministers' meeting, including premiers of provinces and territories, along with Aboriginal leaders of the five major Aboriginal organizations, as well as regional Aboriginal leaders. We are about to launch a commitment process that commits to federal-provincial-territorial programs and the necessary funding for those programs in education, health, housing, economic development and governance.

Nothing should stop the holding of that meeting and the commitment which the Government of Canada has put itself in a position to make to the Aboriginal communities of this country. This is the most meaningful step from the point of view of the Assembly of First Nations and other Aboriginal leadership. They were eager that the parliamentary process not interfere with this particular meeting, and it appears that the parliamentary process will not do so.

I want to make it clear to honourable senators that at this conference the minister will be in a position to make commitments on behalf of the Government of Canada which will be very substantial in these areas. I look forward, as I hope all honourable senators do, to the success of this conference and to the success of the trilateral cooperation which has been developed in the last two years of this government.

I want to make it clear that the change of culture that was required to move forward was a true partnership between governments on the one hand and Aboriginal leaders on the other. That partnership has resulted in the programs that are now being discussed and which will be committed to, I hope, in Kelowna this week.

Honourable senators, it is not easy — and Senator St. Germain knows it as well as anyone in this chamber — to change, gradually but perceptively, the attitudes of the non-Aboriginal communities of Canada toward the Aboriginal communities, and the Aboriginal communities of Canada toward the non-Aboriginal communities. That is the process that we have underway. Only through that process will we achieve the goals that we would like to achieve.

Senator St. Germain: Honourable senators, my question is not meant to be argumentative. However, the Department of Indian Affairs and Northern Development is responsible for education for our native peoples, and there is a 28-year gap. We heard in committee this morning in regard to tourism that they are 40 years behind. We need only look at the problems in relation to health and the water situation on many of our reserves. These, too, are under the direct auspices of this department.

• (1510)

We should have done away with this department when we were in government. We should have commenced with the dismantling of this department because it was not providing the services then, nor is it now. That is the question, and I do not mean to be argumentative.

I hope that this conference will be a real success. If there is anything I hope the government succeeds in, it is to resolve the Third World conditions of our Aboriginal peoples. I am sincere in that. However, how do we dismantle the problem of this dismal lifestyle for our Aboriginal peoples with respect to education, housing, et cetera?

Senator Austin: Honourable senators, it is the way that I have just described with respect to the process that takes us to the Kelowna meeting. I hope Senator St. Germain will be able to attend that meeting and see for himself what takes place.

[Translation]

INDUSTRY

RIGHTS OF LOBBYISTS REGARDING LEGISLATION BEFORE PARLIAMENT

Hon. Madeleine Plamondon: Honourable senators, my question is for the Leader of the Government in the Senate. When a bill has been introduced in Parliament, can a lobbyist work directly for a

minister? Conversely, can someone who works for a minister leave their job and become a lobbyist?

[English]

Hon. Jack Austin (Leader of the Government): The honourable senator is asking for answers to legal questions. I would refer her to the Law Clerk of the Senate for the information she is seeking.

PUBLIC WORKS AND GOVERNMENT SERVICES

AUDITOR GENERAL'S REPORT—ACCURACY OF PUBLIC OPINION SURVEYS— SPIN-OFF DISCOUNTS TO LIBERAL PARTY

Hon. David Tkachuk: Honourable senators, the Public Opinion Research Directorate of the Department of Public Works manages the public opinion surveys undertaken by government departments each year. The Auditor General has found serious problems with the way in which the directorate manages these surveys in particular, and heavily criticizes it for not ensuring that the methodology of these surveys is correct. Departments are paying up to \$15 million per year for surveys that may not be adequate, with these same departments, in turn, offering inadequate information to Parliament and the public.

Could the Leader of the Government advise the Senate as to why the government continues to issue public opinion survey contracts to its friends without ensuring that such basic survey issues as population coverage and response rates are addressed? Why is the government more concerned with rushing these contracts out the door than with ensuring that what comes back is accurate?

Hon. Jack Austin (Leader of the Government): Honourable senators, I cannot accept the accuracy of the allegations contained in Senator Tkachuk's question. However, I will look at the report of the Auditor General, which I have not yet seen, and to the extent that I am able to answer questions on behalf of the government with respect to this area of the Auditor General's report, I will try to do so.

Senator Tkachuk: In the past nine years, the amount of public opinion research carried out has jumped by 300 per cent. What justification is there for carrying out 600 public opinion projects each and every year?

Senator Austin: Honourable senators, often when Senator Stratton looks at me I can hear his thinking. He says basically, "You are lecturing," and, unfortunately, the answer that I would want to give would be a bit long and a bit of a lecture, but I will try to do it very simply in Senator Stratton's style and say that a government or any institution, whether it is academic or a business performing services for the public, needs to know what services the public see as priority interests, what services they want addressed and what concerns they want the government to address. It is natural and normal, and all governments consult the public through polls.

Senator Tkachuk: I would hope that members of Parliament would be able to provide most of that service. Considering the quality, quantity and volume of the research, can the minister assure the Senate that the Liberal Party did not receive any discounts for their own polling, in whole or in part, by any of these polling companies that did work for the Liberal government?

Senator Austin: Honourable senators, I want to address the two points that I heard. First, elected members of Parliament are people who offer advice and information from the perspective of their particular political interests. It is hoped that these polls do not reflect that particular screen. However, with respect to the question of discounts, I would answer the question again by saying that if Senator Tkachuk has any information or wishes to make any charges, he should do so.

[Translation]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

PRIVY COUNCIL OFFICE— GOVERNOR-IN-COUNCIL APPOINTMENTS

Hon. Bill Rompkey (Deputy Leader of the Government) tabled the answer to Question No. 20 on the Order Paper—by Senator Downe.

SERVICE CANADA

Hon. Bill Rompkey (Deputy Leader of the Government) tabled the answer to Question No. 22 on the Order Paper—by Senator Downe.

[English]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting delayed answers to eight oral questions raised in the Senate.

The first is in response to an oral question raised on October 20, by Senator Comeau, regarding the privatization of resources and the use of offshore labour.

The second is in response to an oral question raised in the Senate on November 3, by Senator Dyck, regarding compensation to Aboriginal veterans for unequal benefits package.

The third is in response to an oral question raised in the Senate on November 2, by Senator Segal, concerning comments made by Iranian president Mahmoud Ahmadinejad.

The fourth is in response to an oral question raised in the Senate on October 25, by Senator Keon, regarding first ministers' conference benchmarks for wait times.

The next one is in response to an oral question raised in the Senate on Thursday, October 20, by Senator Forrestall, regarding the sovereignty of Hans Island.

The sixth one is in response to an oral question raised in the Senate on October 26, by Senator Tkachuk, regarding access to information and privacy.

The seventh is in response to an oral question raised in the Senate on November 3, by Senator Adams, regarding Nunavut consultations — turbot.

The eighth is in response to oral questions raised in the Senate on November 1 and 2, by Senators Carney and Murray, regarding the Investment Canada Act.

FISHERIES AND OCEANS

PRIVATIZATION OF RESOURCES— USE OF OFFSHORE LABOUR

(Response to question raised by Hon. Gerald J. Comeau on October 20, 2005)

The Department of Fisheries and Oceans' role with regards to the fisheries resource is to maintain the productivity of Canada's fisheries and oceans, protect marine and freshwater resources, and safeguard the long-term viability of the resource base by ensuring that it is exploited sustainably. The fishery is a common property resource to be managed for the benefit of all Canadians, and DFO recognizes that fisheries management decisions can have broad impacts on the socio-economic status of coastal communities.

DFO does not have jurisdiction over fish processing decisions. The Department's focus is on — and relationship is with — fish harvesters. The Department endeavours to provide the best possible circumstances for fish harvesters to harvest the resource within the resource's constraints as a naturally fluctuating, common property resource that is impacted by a wide range of economic, ecological and social factors.

Over the past decade, the fishing industry and fishery managers have been dealing with numerous changes at an exceptionally fast pace including new technologies, new species, new values on existing species, and new markets; emergence and expansion of other industries that interact with commercial, Aboriginal and recreational fisheries; addressing court decisions respecting Aboriginal and treaty rights; and, increased resource user expectations regarding participation in decision-making and resource management.

In order to develop a cohesive plan to modernize fisheries management practices to reflect the new characteristics of the industry, DFO has engaged resource users, Aboriginal groups, Provinces and Territories, and others with an interest in the fisheries resource in extensive policy and program reviews. These reviews have included the Atlantic Fisheries Policy Review, Pacific New Directions and Pacific Fisheries Reform, and the Aboriginal Fisheries Strategy Review. Through these reviews, DFO has developed and confirmed a clear direction for the future of fisheries management which it is implementing through Fisheries Management Renewal (FMR), a package of program

renewal undertakings that promote predictability, stability and transparency, and a strong and healthy fisheries resource. The overarching goal for FMR is to develop a new fisheries management governance model that will enable DFO and resource users to meet conservation objectives of the fishery, and that will also enable resource users to respond to the economic forces that impact their industry. A major element of FMR is shared stewardship which promotes a renewed relationship with resource users based on shared responsibility, decision-making and accountability. Shared stewardship is fundamental in order to hold resource users accountable for their actions, which have a direct impact upon conservation objectives, the status of the resource and the socio-economic status of fisheries-dependent communities.

The position of the Department with regard to individual quotas is consistent with the direction being pursued under FMR. Individual quotas (IQs) are regarded by DFO as only one of many management tools that can be used to meet the objectives of the fishery, and are an acceptable management regime that has wide support from stakeholders involved in the commercial fisheries on the Atlantic and the Pacific coasts. As long as conservation requirements are met, the position of the Department is that fleets may voluntarily adopt an individual quota regime. Individual transferable quotas are also a powerful tool to maintain capacity in balance with the resource, and to allow industry to rationalize on its own without the need of expensive licence retirement programs. It should be noted that individual quotas are only conditions attached to licences and are thus a privilege granted at the discretion of the Minister of Fisheries and Oceans. Licences and individual quotas are not property and their issuance does not represent the privatization of the fishery.

On the question of fish caught being transported to other countries for processing, fish become the property of the harvesting fisher or company, and thus fall under provincial jurisdiction as property.

As for export of goods to foreign countries or use of labour in other countries, this falls under the purview of the Department of International Trade.

VETERANS AFFAIRS

COMPENSATION TO ABORIGINAL VETERANS FOR UNEQUAL BENEFITS PACKAGE

(Response to question raised by Hon. Lillian Eva Dyck on November 3, 2005)

The Government of Canada is grateful to all Aboriginal Veterans for their wartime sacrifice and dedication and is committed to fairness and equity in providing for all Canadians who served their country in wartime.

From file reviews, research and discussions during the National Round Table on First Nations Veterans Issues in 2000, it is clear that most First Nations Veterans received the demobilization benefit for which they were eligible after

the wars. However, some First Nations Veterans who chose to return to their reserve communities after the wars had to deal with an extra layer of bureaucracy in order to receive their demobilization benefits. It is unclear whether all of these Veterans received their demobilization benefit.

This is why, on June 21, 2002, the Government of Canada responded to the National Round Table Report and grievances of First Nations Veterans with the offer of ex-gratia payments of \$20,000 to each living First Nations Veteran or their surviving spouse who returned to reserves after the wars.

Although there was and still is, outstanding litigation by First Nations Veterans on this issue, the offer was not based on any legal liability. The Government of Canada believes that it is a fair offer and is comparable to other ex-gratia payments offered to Merchant Navy Veterans and Hong Kong Prisoners of War.

The situation for Métis and Non-Status Indian Veterans is different because they were not affected by the same administrative realities that applied to First Nations Veterans who settled on reserves after the wars, though there remain deeply held views by Métis Veterans that they too were treated unfairly upon their return from the wars. Research, conducted to date, has not substantiated allegations of differential treatment in terms of the benefits provided to Métis and Non-Status Indian Veterans. Offers have been made by the Minister of Veterans Affairs Canada to review the individual files of Métis Veterans who feel they did not receive any demobilization benefits after the wars.

Veterans Affairs Canada (VAC) is broadening its outreach strategy for Aboriginal Veterans in order to facilitate communication and ensure veterans and their spouses benefit from the full range of VAC programs and benefits. In keeping with the outreach strategy, VAC has established a senior officer who will be the first point of contact within the department for Aboriginal Veterans, spouses and organizations.

FOREIGN AFFAIRS

IRAN—COMMENTS BY PRESIDENT WITH REGARD TO ISRAEL

(Response to question raised by Hon. Hugh Segal on November 2, 2005)

Statements by Iranian spokespeople made clear that they were well aware of the Prime Minister's and Minister of Foreign Affairs' condemnations on October 26, 2005.

In addition, the Iranian Chargé d'affaires was called in to Foreign Affairs Canada to be asked for an explanation. A further demarche in Tehran was unnecessary.

The Government of Iran is in no doubt as to Canada's reaction to the verbal attack on Israel by the Iranian President.

The Canadian Embassy in Tehran has no ability to force the Government of Iran to accept a message, which is why these kinds of messages are officially delivered by the Ministry of Foreign Affairs to a resident embassy.

All of our like-minded international partners delivered messages of condemnation in their capitals. Very few chose to repeat the message from their embassies in Tehran.

Canada tabled a resolution in the UN General Assembly on 2 November addressing Canadian and international concerns about the human rights situation in Iran.

HEALTH

FIRST MINISTERS CONFERENCE— BENCHMARKS FOR WAIT TIMES

(Response to question raised by Hon. Wilbert J. Keon on October 25, 2005)

Governments agreed in the 10-Year Plan to establish evidence-based benchmarks as well as comparable indicators of access by December 31, 2005. Governments agreed to the commitments in order to inform Canadians of the progress made in reducing wait times. At the recent Health Ministers Meeting, Ministers reaffirmed their FMM commitments, and announced that evidence-based benchmarks in all five areas as well as comparable indicators of access will be established prior to the December 31, 2005 deadline.

What is key to also highlight, is that governments are working to reduce wait times, reflecting their different starting points and priorities, by transforming the way access is managed involving improvements in the way wait times are monitored, measured and managed such as: developing improved information systems enabling policy decisions based on reliable wait times data; ongoing research to develop more benchmarks; funding additional procedures; adding new spaces in medical schools; posting wait times on web sites; developing standard prioritization systems; and, communicating information to Canadians.

The Health Minister's Meeting communiqué states that all jurisdictions will establish, by December 31, 2005 a first set of evidence based benchmarks in the five priority areas. Work with respect to establishing the benchmarks is currently being finalized. Details will be forthcoming.

Health Ministers are committed to demonstrating progress to Canadians in the reduction of waiting times for medically necessary health services. Inspired by the 10-Year Plan, governments are not only setting evidence based benchmarks in the five priority areas where evidence exists but, in the absence of evidence, setting access targets as well as committing to a joint research program to further inform the development of benchmarks.

Building on the work already undertaken by the Canadian Institutes of Health Research, this research program will develop a body of clinical evidence demonstrating how wait times affect patients' health to

support additional benchmarks and refine existing ones. December 31, 2005 is the first deadline of the 10-Year Plan, a starting point for benchmarks and a first step to a long-term process.

More importantly for Canadians, all P/T governments agreed to improve the management of access and achieve reductions in wait times in priority areas by March 31, 2007. Wait times in some areas are already dropping and the Government of Canada is confident that Canadians will continue to see wait times shrink as governments work to transform the way access is managed and report to Canadians on progress made.

The 10-Year Plan provides a framework, including additional funding, upon which governments are introducing numerous initiatives to improve access to health care services which build on the ongoing structural reforms in our health system.

Throughout this process, Canadians will be informed of governments' progress in reducing wait times with benchmarks based on rigorous research, access targets and comparable indicators. Given such a comprehensive package to improve access, Canada will be a world leader in dealing with wait times.

FOREIGN AFFAIRS

DENMARK—HANS ISLAND SOVEREIGNTY CLAIM

(Response to question raised by Hon. J. Michael Forrestall on October 20, 2005)

As Canada has always treated Hans Island as Canadian sovereign territory, no notice was sent to Denmark before or subsequent to any Canadian visit. In recent years, when Canada has visited Hans Island, we have received diplomatic notes of protest from Denmark after the fact. Similarly, Canada protested unauthorized visits to, or activities on, the island by Danish officials.

In July 2002, the Department of Foreign Affairs and International Trade received a request from the Danish Embassy in Washington DC for diplomatic clearance for the Danish Naval Inspection Vessel "Vaedderen", noting that "during its expedition to Hans (Hans Island) in August 2002 weather might force the vessel to pass through Canadian waters and possibly anchor there." In its reply to the Danish request, Canada used the opportunity to reinforce its legal position concerning Hans Island by informing Denmark that Canada had approved the proposed visit and granted permission to the "Vaedderen" to travel through Canadian waters as necessary to reach and to visit Hans Island, and for a helicopter from the "Vaedderen" to fly across Canadian waters for the purpose of ice reconnaissance.

In 2003 Department of Foreign Affairs and International Trade received a similar request from Denmark for diplomatic clearance for another one of its vessels, the "Triton". Canada again used the opportunity to reinforce its position concerning Hans Island by responding that Canada

had approved the proposed visit and had granted permission to “HMDS Triton” to travel through Canadian waters as necessary to reach and to visit Hans Island, and for a helicopter from the HMDS Triton to fly across Canadian waters for the purpose of ice reconnaissance for the HMDS Triton.

Having learned that Danish officials raised the Danish flag on the island during both the 2002 and 2003 visits, Canada protested these actions by diplomatic note in July 2004.

No diplomatic notification was sent to Denmark in advance of the Canadian Ranger visit or the visit by the Minister of National Defence which occurred earlier this year.

In the Joint Statement issued by the Honourable Pierre Pettigrew, Minister of Foreign Affairs and his Danish counterpart Minister Moller after their meeting on the margins of the United Nations General Assembly (UNGA) on September 19, 2005, there is a commitment to continue to work towards a long term resolution of this dispute. Canadian and Danish officials have met once since the UNGA meeting, and will meet again in the new year.

The Joint Statement of September also commits the parties, without prejudice to their respective legal claims, inform each other of activities related to Hans Island. Likewise, all contact by either side with Hans Island will be carried out in a low key and restrained manner.

PRIVY COUNCIL OFFICE

RESOURCES TO RESPOND TO ACCESS TO INFORMATION REQUESTS

(Response to question raised by Hon. David Tkachuk on October 26, 2005)

Privy Council Office has allocated more resources to the Access to Information and Privacy Office (ATIP), which is in the process of staffing by means of secondments and deployments from other departments, an in-house development program, appointments from current programs such as PCO’s “Career on the Move”.

For the period 1998 to 2004, the period the Information Commissioner has published his report cards, the Privy Council Office has received an F, an A, a D, a C and most recently, another F. It is clear that the PCO’s report card has fluctuated based on volume of requests received and the number of resources available to manage them. In 1999, the year the “A” grade was received, 202 requests were received. In 2004-2005, 480 requests were received, more than double the 1999 figure.

Thus it is clear that for most years of the Report Cards, not just the previous fiscal year, PCO has been struggling to meet its Access deadlines. PCO is committed to improving,

and will continue to review its resourcing of the ATIP office so that, as the Prime Minister’s department, it can meet its Access commitments to all its clients in a fair and timely manner in the years to come.

FISHERIES AND OCEANS

NUNAVUT—CONSULTATION WITH STAKEHOLDERS ON NEW QUOTA

(Response to question raised by Hon. Willie Adams on November 3, 2005)

Industry stakeholders, provinces, Nunavut and the Nunavut Wildlife Management Board (NWMB) were asked to provide comments on the 0A turbot increase through written correspondence between the dates of October 25 and November 1, 2005.

This includes the following industry stakeholders in Nunavut:

- Baffin Fisheries Coalition
- Qikiqtaaluk Corporation
- Pangnirtung Fisheries Ltd./Cumberland Sound Fisheries Ltd.
- Hunters and Trappers Associations
- Other groups active in the turbot and shrimp fisheries

It is expected that the key groups or individuals consulted will discuss the issue with their respective members in order to provide a position on the issue.

Pursuant to section 15.3.4 of the Nunavut Land Claims Agreement

“Government shall seek the advice of the NWMB with respect to any wildlife management decision in Zones I and II, which would affect the substance and value of Inuit harvesting rights and opportunities within the marine areas of the Nunavut Settlement Area (NSA). The NWMB shall provide relevant information to Government that would assist in wildlife management beyond the marine areas of the NSA.”

If individuals or groups of individuals from Nunavut who receive allocations of quota through the NWMB or other stakeholder groups wish to submit separate comments on the issue of the proposed 0A turbot increase, these will be taken into consideration in recommendations provided to the Minister of Fisheries and Oceans.

INDUSTRY

INVESTMENT CANADA—KINDER MORGAN TAKEOVER OF TERASEN GAS—DUKE ENERGY TAKEOVER OF WESTCOAST ENERGY—NOTICES OF NET BENEFIT—PUBLIC DISCLOSURE OF DECISIONS

(Response to questions raised by Hon. Pat Carney and Hon. Lowell Murray on November 1 and 2, 2005)

Section 36 of the *Investment Canada Act* (the “ICA”) precludes the Minister or any government official from disclosing any information which has been obtained through the administration of the ICA. More specifically, section 36 states that “...all information obtained with respect to a Canadian, a non-Canadian or a business by the Minister or an officer or employee of Her Majesty in the course of the administration or the enforcement of this Act is privileged and no one shall knowingly communicate or allow to be communicated any such information or allow anyone to inspect or to have access to any such information.” This provision has been strictly interpreted since 1985 and investors have come to rely on this strict interpretation when they provide confidential commercial information during the review process.

In addition to s. 36 of the ICA, s. 20 of the *Access to Information Act* (the “ATIA”) protects from disclosure confidential financial or commercial information that belongs to a third party. Pursuant to the ATIA, this information can only be communicated with the consent of the third party.

These rules have been established in recognition of the sensitive nature of the confidential business information which is provided by investors during the review process.

Any information which the investor agrees in writing to make public, however, can be made public, as can information already been made public by the investor.

Minister Robillard announced her approval of the acquisition of the Terasen Inc. by Kinder Morgan Inc. on November 16, 2005. During its review, under the *Investment Canada Act*, the federal government negotiated a wide range of enforceable commitments with the investor. These commitments assisted the Minister in determining that the investment is of net benefit to Canada.

Kinder Morgan has ambitious plans for major infrastructure projects to expand pipeline capacity in British Columbia and Alberta, and has the financial resources required to realize its plan. Kinder Morgan has made public a number of the commitments it has made to the government as part of the review process, these include the following:

- to pursue over C\$1.4 billion in major infrastructure projects involving the expansion of the Trans Mountain and the Corridor pipelines in British Columbia and Alberta. It is estimated that these projects will add hundreds of new jobs in British Columbia and Alberta;

- to capital expenditures to maintain infrastructure in order to continue to provide safe and reliable service to customers and to supply customers with oil, gas and water products and services in accordance with service agreements;
- to maintain head offices for Terasen Gas in the Vancouver, British Columbia area, for Terasen Pipelines in Calgary, Alberta and for Terasen Utility Services in British Columbia, with significant resident Canadian leadership in all of these businesses; and,
- to add two Canadian citizens to Kinder Morgan’s Board of Directors.

You should also be aware that any Canadian operation of foreign enterprises is required to conform to all Canadian rules and regulations. The pipelines acquired by Kinder Morgan continue to be regulated by both the British Columbia Utilities Commission and the National Energy Board. Also, Kinder Morgan will be required to conform to all Canadian environmental legislation for its Canadian operations.

It should be noted that decisions under the ICA are published on the Investment Review Division Internet site at <http://strategis.ic.gc.ca/epic/internet/inica-lic.nsf/en/hlk00014e.html>. The names of the investor and the Canadian business, and a short description of the latter’s business are published.

Established precedents going back to the time in which this legislation was put in place by the Mulroney government.

Section 36 of the *Investment Canada Act* (the “ICA”) precludes the Minister or Industry Canada’s officials from disclosing any information which has been obtained through the administration of the ICA. This provision has been strictly interpreted since 1985 and investors have come to rely on this strict interpretation when they provide confidential commercial information during the review process.

There are exceptions to the confidentiality provisions of the ICA. These include the possibility of disclosing information obtained in the course of the administration of the ICA, where the Minister deems it to be in the public interest:

- information for the purposes of legal proceedings relating to the administration or enforcement of this Act;
- information contained in any written undertaking given to Her Majesty in right of Canada relating to an investment that the Minister is satisfied or is deemed to be satisfied is likely to be of net benefit to Canada;
- information to which the public has access;

- information the communication or disclosure of which has been authorized in writing by the Canadian or the non-Canadian to which the information relates;
- information contained in any receipt, notice or demand sent by the Minister; and,
- information to which a person is otherwise legally entitled.

Although the above provides the possibility of disclosing certain information, in practice information will only be disclosed with the consent of the investor, or once the investor has made the information public. For example, the government has issued press releases after the approval of certain high profile acquisitions, with the consent and approval of the investor. The press release contains a statement indicating that an application has been approved and a summary of the more important benefits of the acquisition or a summary of the undertakings the investor has provided. In such cases, the press release can be issued by the government because the investor has provided consent in writing.

OFFICIAL LANGUAGES ACT

BILL TO AMEND—MESSAGE FROM COMMONS—AMENDMENTS CONCURRED IN

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-3, to amend the Official Languages Act (promotion of English and French), and acquainting the Senate that they had passed this bill with certain amendments.

(For text of amendments, see Appendix A, page 2135.)

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

- (1520)

Hon. Marcel Prud'homme: Honourable senators, I have a difficulty with the French that was given to us by the House of Commons, so I will refer to those who are good in French.

[Translation]

In French it reads:

Le bureau du conseiller en éthique —

— that is us —

— et le commissariat à l'éthique...

If Senator Nolin says it is written that way in the legislation, that is good enough for me.

[English]

The Hon. the Speaker: The clarification is duly noted.

Hon. Gerald J. Comeau: Honourable senators, I have had the opportunity to discuss this message with Senator Chaput, who is the sponsor of the bill. She has been extremely interested in the evolution of this bill. With that in mind, I move that these amendments be concurred in now, without further amendment, and that a message be sent to the House of Commons to inform that House accordingly.

Hon. Senators: Hear, hear!

The Hon. the Speaker: I probably do not need to do this, but I want to remind honourable senators of rule 59(8), which states with respect to this type of message from the House:

Consideration forthwith or at a future sitting of Commons amendments to a public bill —

— can be proceeded with without notice.

It is moved by the Honourable Senator Comeau, seconded by the Honourable Senator Chaput, that these amendments be concurred in and no further amendments be proposed, and that a message be sent to the House of Commons to inform that House accordingly.

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

Motion agreed to.

CRIMINAL CODE CULTURAL PROPERTY EXPORT AND IMPORT ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-37, to amend the Criminal Code and Cultural Property Export and Import Act, and acquainting the Senate that they had passed this bill without amendment.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, earlier today under Notices of Inquiries, Senator Gill gave notice that on November 23 he would draw the attention of the Senate to the Year of the Veteran. The Notice of Inquiry requires two days' notice under our rules, and I put it that way. On behalf of Senator Gill, there is a request that it be done on one day's notice. Is leave granted, honourable senators?

Hon. Senators: Agreed.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, we have with us today guest pages from the House of Commons. Malia Mercer of Kingston, Ontario, is studying at the University of Ottawa's School of Management.

[*Translation*]

Andrée Carpentier is studying at the University of Ottawa in the School of Management. She is majoring in international trade. Andrée comes from Regina, Saskatchewan.

Welcome, both of you.

[*English*]

ORDERS OF THE DAY

ENERGY COSTS ASSISTANCE MEASURES BILL

SECOND READING

Hon. John G. Bryden moved second reading of Bill C-66, to authorize payments to provide assistance in relation to energy costs, housing energy consumption and public transit infrastructure, and to make consequential amendments to certain Acts.

He said: Honourable senators, I rise to speak in support of Bill C-66. In doing so, I will also attempt to put the specific actions in this bill in context.

On October 6, 2005, the government announced measures to address the impact of higher energy costs. In making the announcement, Minister of Finance Ralph Goodale, Acting Minister of Natural Resources John McCallum, Minister of Industry David L. Emerson, Minister of Labour and Housing Joe Fontana, and Minister of the Environment Stéphane Dion announced a package of short-term and longer-term measures to help Canadians deal with high energy costs.

The plan is intended to accomplish three objectives and is implemented by Bill C-66: first, provide timely and direct financial assistance to low-income seniors and low-income families with children; second, help families lower their future household heating costs by making their homes more energy efficient and fast-tracking money to municipalities for investments in public transit, moves that will bring lasting environmental benefits over the longer term; and, third, enhance market transparency and accountability.

Minister Goodale stated:

This comprehensive approach provides timely, short-term relief to millions of low-income Canadians while also setting the stage for a more energy-efficient future.

• (1530)

I will next outline, in summary form, the provisions in the bill that apply to each objective. The first is the direct payments to low-income families and low-income seniors. Payments under the proposed energy cost benefit will be as follows: \$250 to families entitled to receive the National Child Benefit Supplement in January 2006; \$250 to senior couples, where both spouses are entitled to receive the Guaranteed Income Supplement in

January 2006; and \$125 to single seniors entitled to receive the Guaranteed Income Supplement in January 2006. Approximately 3.1 million payments, totalling \$565 million, will be sent.

The second provision will promote energy efficiency, conservation and innovation. These measures include \$500 million to provide direct financial assistance of \$3,500 to \$5,000 to low-income households to defray the costs of items such as draft-proofing, heating system upgrades and window replacement under the new EnerGuide for Low-Income Households program. For multiple-unit buildings and rooming houses, financial assistance will range from \$1,000 to \$1,500 per unit. Cost savings will average about 30 per cent per household. Additional measures to promote energy efficiency include the following: \$170 million to enrich the EnerGuide for Houses Retrofit Incentive, which is similar to the proposed low-income households program but is not limited to low-income families and will result in almost 750,000 homes being retrofitted by 2010, instead of the 500,000 homes projected in Budget 2005, the last time this program's funding was increased; strengthening financial incentives for best-in-class energy-efficient oil and gas furnaces by an average of \$150 per unit; corresponding financial incentives averaging \$250 per household for homes heated with electricity; and increasing retrofit incentives for public sector institutions such as hospitals, schools, municipalities and provincial governments.

In recognition of the growing importance of public transit in the face of rising energy costs and to give municipalities greater certainty for their planning purposes, Minister Goodale confirmed that \$400 million, previously provided for under Bill C-48, plus \$400 million in the next fiscal year will be freed up for municipalities to boost investment in urban transit infrastructure.

The third provision will include actions to improve energy market transparency and accountability: creating the Office of Petroleum Price Information to monitor energy price fluctuations and to provide clear, current information to Canadians, for which the Minister of Natural Resources will be accountable to Parliament; and giving Canada's Competition Bureau more powers to strengthen the Competition Act to deter anti-competitive practices. These changes will increase the fines for those convicted of price-fixing to \$25 million from \$10 million. As well, the changes will provide the Competition Bureau with the ability to assess the state of competition in particular sectors of the economy. In that way, the Competition Bureau would be able to act more quickly when it suspects anti-competitive behaviour.

Payments under the proposed energy cost benefit and the EnerGuide for Low-Income Households program would be used only after the bill has received Royal Assent. I would now like to discuss each of these three areas in more detail, beginning with an energy cost benefit analysis of the amount of relief. Energy cost benefit payments will be made to low-income families and children and to seniors. The amounts will be as follows: \$250 to families entitled to receive the National Child Benefit Supplement in January 2006; \$125 to seniors entitled to receive the Guaranteed Income Supplement in January 2006; and \$250 to senior couples, where both spouses are entitled to receive the GIS in January 2006.

[The Hon. the Speaker]

The total amount of relief will be \$565 million. There will be about 3.1 million payments under the energy cost benefit program, with 1.5 million of those to families receiving the National Child Care Benefit supplements and 1.6 million payments to seniors receiving the Guaranteed Income Supplement. Eligibility in the first category includes families with children that are entitled to receive the National Child Care Benefit Supplement in January 2006 based on 2004 family net income. The income thresholds are as follows: A family with one, two, or three children would receive the benefit up to a net income of \$35,595. The income threshold increases by \$4,316 for the fourth and each additional child.

To be eligible for the energy cost benefit in the second group, seniors must be entitled to receive the Guaranteed Income Supplement in January 2006, based on 2004 family net income. A single senior will receive benefit up to an income of approximately \$19,300, including Old Age Security benefit. A senior couple, where both spouses receive the GIS, will receive the benefit up to approximately \$29,000, including OAS benefits. A couple in which only one spouse receives the GIS will receive benefit up to approximately \$38,700, including OAS benefits.

In addition to being available to low-income individuals aged 65 and older, the energy cost benefit will also be available to those aged 60 to 64, who are entitled to receive payment in January 2006 under the Allowance Program or Allowance for the Survivor Program. These individuals receive the benefit for incomes up to \$25,536 and \$18,744 respectively. At the end of my presentation, I will set out a detailed accounting of all elements of the plan.

In the last category, energy efficiency incentives for homes and buildings, a new program will provide financial assistance to low-income Canadians to help them retrofit their homes. It is an expansion of the existing EnerGuide for Houses Retrofit Incentive that will seek to improve the energy efficiency of about 750,000 homes. A new incentive will encourage the purchase of high efficiency home heating systems. EnerGuide for Low-Income Households is a \$500 million federal initiative over five years that will help about 130,000 low-income Canadians to make energy efficient retrofits.

The Canada Mortgage and Housing Corporation will deliver the program through its Residential Rehabilitation Assistance Program. Energy evaluations will be performed through Natural Resources Canada's EnerGuide for Houses Service, and assistance for energy audits on existing large apartment buildings will be provided through EnerGuide for Existing Buildings.

This initiative will be available to owners of homes, multiple-unit buildings and rooming houses built prior to 1980, and might be used for energy retrofits such as draft-proofing, heating system upgrades and window replacement.

For single, row and semi-detached housing, financial assistance will be from \$3,500 to \$5,000. For multiple-unit buildings and rooming houses, financial assistance will be from \$1,000 to \$1,500 per unit. Applicants will need to meet existing RRAP income qualifications, which take into account household size and variations in local housing market costs.

• (1540)

The Government of Canada is investing an additional \$170 million over five years to expand the successful EnerGuide for Houses Retrofit Incentive. This funding is in addition to the \$225 million extension announced in Budget 2005. The expanded program will help retrofit up to 750,000 houses.

Since its launch in October 2003, the EnerGuide for Houses Retrofit Incentive has paid out close to 30,000 grants totalling \$20 million. The EnerGuide for Houses Retrofit Incentive was expanded to include owners of low-rise rental properties and assisted housing in June of 2005.

In the case of high-efficiency home heating proposals, the High Efficiency Home Heating System Cost Relief program, a five-year, \$105-million initiative, will provide incentives to Canadians to install modern, efficient heating systems to offset heating costs over the long term. These incentives will average \$150, ranging from \$100 to \$300. Details of the program will be developed in discussion with utilities and other partners to build on existing initiatives and explore the most cost-effective way to deliver the new initiatives. Programs targeted at existing buildings are being renewed and expanded with a \$210-million investment over five years.

In relation to the actions taken to increase market transparency and accountability, the Government of Canada is prepared to strengthen Bill C-9, the Competition Act, by increasing criminal fines and providing the Competition Bureau with additional tools. Increasing the fine level under the conspiracy provisions of the Competition Act from a maximum of \$10 million to \$25 million will serve as a deterrent for unlawful cartel behaviour in all industries, including the gasoline industry. The expected costs for engaging in cartels should outweigh the benefits.

Providing the Competition Bureau with a power under the Competition Act to assess the state of competition would enable the bureau to collect all relevant data, including commercially sensitive data that is not in the public domain, in order to conduct in-depth analysis of various industry sectors. This measure will enhance transparency for businesses and consumers.

The Office of Petroleum Price Information, or OPPI, will provide timely information to Canadians on crude oil and petroleum product prices and allow for single-window access to consumer information and relevant government programs in areas such as energy efficiency. The primary mandate of the OPPI will be to collect and disseminate pricing information on crude oil and other petroleum products such as gasoline and furnace oil.

The Government of Canada has allocated \$15 million over five years for the Office of Petroleum Price Information. Information will begin to be made available in the coming weeks by drawing upon existing Natural Resources Canada resources until the office is fully operational.

The office will rely on a combination of existing information such as federal-provincial data and will provide information to Canadians on how markets work through ongoing analyses of the factors that affect the supply and demand of petroleum products.

The Office of Petroleum Price Information will work in collaboration with the provinces and territories to gather data on existing surveys to ensure consistent data reporting and provide a national perspective. The office will also seek the advice of industry, consumers and other stakeholders to identify data needs and determine the timelines for reporting.

The Office of Petroleum Price Information will have a strong web presence and provide links to other information sources where consumers can find energy-saving tips to make information choices on energy usage.

I now want to deal with the fiscal impact of the government's response to higher energy costs. The total cost of the Government of Canada's response to high energy costs is \$2.438 billion over five years. Of this amount, \$1.333 billion is newly committed funding, while the remainder is from existing sources of funding.

I have a table here that shows the cost of each element in the package, and a further table that illustrates the sources of the funds.

I am almost finished. I know how stimulating this whole speech is. However, I do want it to be complete so that no one will say, "What is it all going to cost?"

The costing of the package: The cost of direct payments to low-income families and low-income seniors, as you heard, is \$565 million in the current fiscal year. Under the energy efficiency heading "EnerGuide for Low-Income Households" there is indicated \$500 million over five years. This is new funding.

The EnerGuide for Houses Retrofit Incentive: \$170 million. That is for an expansion of an existing program. The High Efficiency Home Heating System Cost Relief program: \$105 million. That is a new program. Accelerated Standards Action Program to obtain energy efficient homes: \$60 million. That is an extension of an existing program. EnerGuide for buildings; that is, municipalities, universities, schools and hospitals: \$210 million. That is an expansion of an existing program.

Public transit infrastructure: \$800 million over two years. Those two years are the fiscal years 2005-06 and 2006-07. The Enhanced Market Transparency, or the Office of Petroleum Price Information, has a cost of \$15 million. That is a new expenditure. The administration of the Competition Act changes is an additional \$13 million. These expenditures total \$2.438 billion.

As to the source of funding, \$100 million comes from the low-income retrofit program and \$800 million over two years comes from the public transit program, both provided for in Bill C-48. Sixty million dollars comes from the Accelerated Standards Action Program and \$145 million from the municipal, university, schools and hospital retrofit program, both of which are part of the Climate Change Review Reallocation initiative. That is \$1.333 billion in new funding for a total of \$2.438 billion.

In conclusion, I would like to say a couple of words about how important this piece of legislation is and how important it is that it be timely. The money should move to the people that need it as

soon as is reasonably possible. That is why the urgency was seen on both sides of this chamber and was evident in the other place.

This benefit had to meet a couple of criteria. I believe the government wanted to assist as many low-income Canadians and Canadians in need of help as possible, and to do so in a timely fashion. Therefore, it chose those families receiving the child benefit allowance, because they are identifiable, and seniors receiving the Guaranteed Income Supplement.

There are other people who could benefit from these payments. The problem with getting these payments into the hands of the people is that putting together a system that identifies everybody but does not include people who should not be included would take a long time. The decision was made to do this for people in need now, and to look at other things at some point in the future.

- (1550)

As you know, there was a program a number of years ago comparable to this. Payments were made to people who received rebates on GST. One result was that some people who received these benefits were not entitled to them. People in penitentiaries and people who had moved out of the country received cheques. There were all kinds of problems.

This is a situation in which the two universes that would be reached by this program are identifiable and, therefore, it is possible to reach those people. Thank you for your patience in listening to all of this. I ask you to help us expedite this process and get the money into the hands of the people before the real cold weather strikes.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I am pleased to participate in the debate on this bill at second reading because it speaks to proposals that we have brought forward only a matter of some weeks ago.

As Senator Bryden has concluded, with the price of fuel having risen so dramatically since the past summer, the cost of fuel that is processed from the oil-base went up dramatically. We live in an environment during the winter months that requires heat, and many Canadians' source of heat is from oil-fired devices such as furnaces, et cetera. A lot of heating is done through electricity, but that, in turn, is often generated by oil-based fuel.

This bill is obviously important within the context of the increase of energy costs that has concerned all of us. We have a motion before the chamber to also deal with the issue of automobile fuel, particularly for those people earn near minimum wage, do not tend to live in urban centers and therefore cannot use the transit system and must drive a little further. Work becomes marginal when they pay a dollar plus per litre of gasoline.

This bill focuses on a specific program that Senator Bryden has accurately outlined as contained in the bill before us. Senator Bryden, again by speaking of the context in which the bill is before us, and I have alluded to the fuel cost context as well.

Another context perhaps speaks to why the bill is before us this afternoon with a kind of urgency that goes beyond the nearness of winter. That context is the talk on this Hill about election. Suddenly, when you consider that context, the government, with no money for tax relief a few months ago, has found the means all of a sudden to announce some modest tax relief and to at least pretend that it is concerned about the impact of high energy costs on low- and modest-income Canadians. What was not urgent a month or two months ago is suddenly urgent. We have to recognize also that part of the context in which this bill finds itself.

The urgency of the bill is the energy cost benefit of \$250 to recipients of the National Child Benefit Supplement, as has been explained, and \$125 to recipients of the Guaranteed Income Supplement.

We were also asked through this bill to vote the government \$838 million on initiatives to reduce housing energy consumption and to allow the government to spend \$800 million of the public transit money from the NDP budget bill more quickly.

I will say a few words on those other measures in a moment, but first it is important to bury misleading information that has come from the government ranks over the past few weeks. To listen to ministers of the Crown, all manner of new initiatives will come to a grinding halt if the government falls within the next few days.

Honourable senators may recall that there was a heating rebate program five years ago, announced on the eve of a pending election. That sounds somewhat familiar. Parliament was dissolved before the government had even introduced a bill to authorize those rebates. Somehow, miracle of miracles, people got their cheques that winter. How is that possible? It was through special warrants signed by the Governor General on recommendation of the cabinet. Who was the Minister of Finance when cabinet recommended the warrants for this program? It was none other than Paul Martin.

Honourable senators, from the perspective of Parliament, it would be preferable that such payments be authorized through legislation, but the fact remains that the option of warrants remains open to the government for the heating rebates should it feel, as it did five years ago, that this meets the test of being urgently needed for the public good.

The heating rebates, however, are not the only area where we have seen inaccurate spin about what happens if the government falls. On Wednesday, the Prime Minister appeared on *Canada AM* and said that the raises to the military were in jeopardy if the estimates did not pass. That is in direct contradiction to the testimony of Treasury Board officials who appeared before our Standing Senate Committee on National Finance where it was confirmed that those wages for the military have, in fact, been in place since the beginning of the year. They are not in jeopardy and there are no new raises authorized by the supplementary estimates. The same is true of public service wage increases. All we have to do is read the transcripts of that particular meeting of the Standing Senate Committee on National Finance to understand the nature of that spin.

The estimates replenish the money that has already been spent, allowing the government to pay for other things. The reality is that because of the House of Commons rules governing when estimates are presented and passed, an election held at almost any point other than the summer or early fall will interfere with the process of Parliament granting supply. For example, if the Prime Minister did not call an election until 30 days after Justice Gomery's final report, Parliament would be dissolved during the time that we would normally consider the March set of supplementary estimates. One way or another, Parliament will be unable to vote for at least one set of supplementary estimates this year — if not now, then in March. That is why the government has the ability to use special warrants during an election. The test is whether something is urgently needed for the public good. If an item is important enough for the government to spin that it might be lost if the estimates fail, then it is likely important enough to meet the twin tests for warrants of urgency and the public good.

- (1600)

Beyond the items normally voted in the estimates, there are also statutory items outlined in the blue books for information purposes only. This includes the cost in the coming increase in the Guaranteed Income Supplement, which Parliament passed early last summer as part of Bill C-43, the Budget Implementation Act, as well as \$600 million in gas tax infrastructure money. These statutory items never have to be voted again. They are only in the Supplementary Estimates book for information purposes and are not part of the draft schedule to the supply bill. Yet, we have seen the Government House Leader in the other place spin that these are somehow lost if the supplementary estimates do not pass. That is not factual; that is not how our system works.

Honourable senators, the political context of this bill is well known. Over the course of the summer and early fall energy prices rose dramatically, creating pressure on the government to respond. That response included the energy tax benefit for low-income seniors and low-income families with children, subsidies to help Canadians make their homes more energy efficient, and speeding up planned spending for public transit infrastructure. These measures constitute the subject matter of Bill C-66, which is before us.

In speaking to the inquiry on energy costs, I had the opportunity to outline some of the shortcomings of the heating rebate program. They mainly concerned the limited scope of this measure and its inequities.

Less than one third of Canadian households, or roughly one Canadian in 10, will receive anything from this rebate. The bill arbitrarily sets a line of \$36,000 as the level above which families with children are deemed not to be in need. Less than half of all senior citizens will qualify.

There is a bizarre inequity where if only one spouse in a couple receives the Guaranteed Income Supplement, then the income ceiling is just under \$39,000, but if both partners receive the GIS,

the ceiling is \$29,000. A single senior has the same heating expense as a couple, yet receives only half the benefit of a couple. I do not know whether that is a paradox or whether it is something the committee might wish to study.

Single persons under the age of 65 and childless couples will receive nothing, regardless of income or need. Parents caring for disabled adult children will not qualify.

Families whose 2005 income is significantly lower than in 2004 do not qualify, while those whose income has risen dramatically will still benefit. There are no guarantees that the provinces will not claw back the benefits. A senior needs to be in receipt of the Guaranteed Income Supplement to receive the heating benefit. However, as Senator Downe has pointed out on several occasions, a substantial number of eligible seniors have not applied or have not renewed their application.

Honourable senators, we would be cynical if we were to wonder if this one-time benefit will be delivered a few days prior to an election call with an insert from the Prime Minister boasting about the wonderful job his government is doing to look out for Canadians. The heating rebate program of five years ago had a number of flaws, one of which is that it sent 16,000 cheques to prisoners, people no longer in the country and to people who were no longer alive. Let us hope that the government is being truthful when it says that this will not happen again.

There are two other broad measures in this bill beyond the energy rebates. First, there is the \$800 million for public transit infrastructure that we are told will replace money already voted as part of the NDP budget bill. Thus, it is not new money but, rather, removes the requirement that there be a surplus of at least \$2 billion. The bill allows for \$400 million to be spent this year and \$400 million next year. However, unlike the funds voted under Bill C-48, this bill adds the requirement that public transit funds be spent on public transit infrastructure, potentially prohibiting it from being used for new rolling stock to alleviate rush-hour crowding. Ottawa, rather than local municipalities, will decide how public transit dollars are to be spent. While we are told that this will allow the government to advance public transit funds more quickly, the authority to spend money in Bill C-48 is not touched by Bill C-66.

As both bills use the word "may" to grant spending authority, the government could pick and choose when to spend the money or could choose not to spend it at all. This may allow the government to advance spending announcements that it did not expect to make until next year. Would we be cynical to wonder if this will also advance the ability of the Liberal Party to have MPs make local announcements during an election campaign?

While we fully agree with the need to fund more infrastructure, there is also the matter of encouraging Canadians to use public transit. That means more than just providing more of it and more than just building light rail lines to replace buses. While public transit is usually a less costly and less stressful way to travel for

many Canadians, it also has drawbacks, typically measured in time, convenience and personal comfort levels. For those reasons, the existing service is not always used to its fullest potential.

Honourable senators, we must, therefore, do more to encourage Canadians to use that service. One way to do this would be through a tax credit for monthly or annual transit passes as suggested by the Leader of the Opposition in the other place, Mr. Harper. This would serve as an incentive to commute by bus, rail or metro, a made-in-Canada solution to the challenges of smog and climate change. It would also reward those who use transit and would relieve urban congestion by getting more Canadians out of their cars and into buses.

We would boost transit revenues by boosting the number of riders, helping municipalities to meet the rise in maintenance costs, diversify to alternative fuel vehicles and expand services. This would be a progressive step toward reducing greenhouse gas emissions, certainly far more likely to achieve results than the Kyoto solution of having our manufacturers buy hot air credits from Russia.

Finally, honourable senators, the bill authorizes, over a five-year period, \$425 million for the Canada Mortgage and Housing Corporation to spend on measures to reduce energy consumption in housing projects. For Natural Resources Canada, there is \$75 million for purposes of the Energy Efficiency Act, and another \$338 million for the EnerGuide for Houses Retrofit Incentive, including administration costs. These energy efficiency measures mainly expand existing programs.

However, honourable senators, this bill that we are debating at second reading this afternoon departs in two ways from the usual manner in which Parliament votes spending. First, through the estimates, Parliament usually votes funds for programs such as these one year at a time, with limited provision for some funds to carry over to the next year. The money voted in this bill can be spent at any point during a five-year block of time, allowing the government to either compress the spending into the pre-election period or juggle funds between years to manage the annual surplus.

The second divergence is that when Parliament votes funds to Natural Resources Canada, there is usually one vote for administration and a separate vote for grants and contributions. Each year, before Parliament votes funds to Natural Resources Canada to run programs such as this, we are usually given basic information as to how the money will be spent, including the expected costs of public service salaries and payments for professional services such as consultants.

In this bill, we are asked to vote a five-year block of money for the EnerGuide for Houses Retrofit Incentive, including administration costs, without any indication as to what those administration costs will total or include and when the money will be spent. Given what has transpired under the mandate of this government, Canadians are less than impressed when the government proposes that it will be more accountable.

• (1610)

However, honourable senators, in conclusion, I support the bill and hope that it will go to the Energy Committee for detailed study. I do so in part because I am hopeful that we will soon have a government that is really accountable.

Senator Bryden: If no other senator wishes to speak, I would be pleased to close debate on second reading and ask the Speaker to call for the question.

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

Hon. Senators: Question!

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Bryden, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

CRIMINAL CODE CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING

Hon. Bill Rompkey (Deputy Leader of the Government) moved second reading of Bill C-53, to amend the Criminal Code (proceeds of crime) and the Controlled Drugs and Substances Act and to make consequential amendments to another Act.

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, I am pleased to speak today at second reading stage of Bill C-53, first to support it on behalf of my party and second to give you an overview of this bill.

First, this bill provides for a reverse onus of proof in proceeds of crime applications involving offenders who have been convicted of a criminal organization offence or certain offences under the Controlled Drugs and Substances Act.

Honourable senators, this bill is one of several bills awaiting approval by Parliament in order to include organized crime and, above all, the laundering of money generated by the criminal activities of these highly structured and financially solid organizations.

The proceeds of crime provisions which are found at Part XII.2 of the Criminal Code and allow for the seizure, restriction and forfeiture of proceeds of crime, have existed since 1989. Their scope was broadened in 2002, under the Act to Amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other acts, to apply to most indictable offences under federal law. At present — meaning before Bill C-53 comes into force, if passed by Parliament — the Criminal Code allows for the forfeiture of the proceeds of crime upon application by the Crown after a conviction for an indictable offence under federal law, other than for a small number of offences exempted by regulation.

Currently, the Crown must show that the property is the proceeds of crime and that the property is connected to the crime for which the person was convicted. If no connection between the particular offence and the property is established, the court can nonetheless order forfeiture, provided that it is satisfied beyond a reasonable doubt that the property is proceeds of crime.

As you can see, honourable senators, those who must defend the property have an obstacle that is almost impossible to overcome. I will have you know that my political party has been defending this reverse onus of proof for many years, and that is why I am extremely pleased to speak today on behalf of the government in support of Bill C-53.

In essence, Bill C-53 would apply to any offence that can be prosecuted by indictment, thus the more serious offences. Clause 6 lists those offences, namely any criminal organization offence punishable by five or more years of imprisonment and any offence under section 5, 6 or 7 of the Controlled Drugs and Substances Act or any activities related to such an offence, prosecuted by indictment.

That gives you an idea of the framework to which this rather extraordinary reverse onus of proof measure applies. That is why it applies to the more serious offences.

Clause 6 states the circumstances that could lead to forfeiture and to the reverse onus of proof by which the offender must prove that his property is not proceeds of crime.

A court imposing sentence on an offender convicted — and I must emphasize this small, yet highly important, nuance that it is only when the offender is convicted that the reverse onus of proof can apply — of a designated offence, those I have just mentioned, shall, on application of the Attorney General, order that any property of the offender be forfeited if the court is satisfied, on a balance of probabilities, that within ten years before the proceedings were commenced in respect of the offence for which the offender is being sentenced the offender engaged in a pattern of criminal activity for the purpose of directly or indirectly receiving a material benefit, including a financial benefit; or the income of the offender from sources unrelated to designated offences cannot reasonably account for the value of all the property of the offender.

If the offender shows that his property is not proceeds of crime, the court cannot order the forfeiture.

As you can see, honourable senators, once the offender has been convicted, the onus of proof is transferred, after certain criteria are met, from the Crown to the convicted offender, who now has to prove that the property is not the proceeds of criminal activity.

Allow me to quote a few statistics to convince honourable senators of how much of a problem money laundering is in Canada. The RCMP reports that approximately CAN \$17 billion, is laundered in Canada each year. This is not a small-time operation. Bill C-53 is designed to curb — since eliminating it would be impossible — this highly questionable criminal activity.

As I indicated previously, Bill C-53 flows logically from the amendments to the Criminal Code that we passed back in 2001, precisely to improve the conditions surrounding the whole issue of restitution or forfeiture of the proceeds of crime. Needless to say, police associations across the country unanimously support this bill. In fact, they would really have liked us to pass such an amendment back in 2001. Unfortunately, that proved to be impossible. The time has come to act; so, let us act. The police associations agree with us on this issue.

• (1620)

In conclusion, I wish to remind you that, contrary to some Supreme Court rulings that challenged the reverse onus of proof before a conviction, those of you who might be concerned about respecting the Charter in the context of a reverse onus of proof will not find any basis in what the government is proposing, since this reverse onus of proof applies only after an accused has been convicted.

Considering the very large number of rulings that they have made, it is very likely that the courts, which have already found it highly important for Canada to do everything possible to deal with organized crime and the dangerous consequences of criminal activities, will accept this new reverse onus of proof once an accused is convicted.

Honourable senators, I urge you to pass this bill quickly.

[*English*]

Hon. Larry W. Campbell: Honourable senators, I am pleased to rise today to speak to Bill C-53. This bill seeks to amend the Criminal Code to put in place a reverse onus with respect to certain proceeds of crime applications. This legislation also makes a number of corrective amendments to the existing Criminal Code provisions on proceeds of crime.

Honourable senators, Canada has laws in place that help to counter the problem of organized crime. The proceeds of crime measures now in the Criminal Code play an important part in addressing this problem, although they are not as effective in depriving organized crime of its ill-gotten gains as they ought to be or could be.

The proceeds of criminal activity allow organized criminals to commit further crime, recruit additional members and facilitate generally the criminal operation of their groups. I think all honourable senators would agree that organized crime demands specific, focused and sustained responses.

Honourable senators, the proposed reforms in Bill C-53 build on the existing forfeiture provisions in the Criminal Code. The current proceeds of crime scheme allows for the forfeiture of proceeds upon application by the Crown after a conviction for an indictable offence under federal law, other than a small number of offences exempted by regulation.

In order to obtain forfeiture, the Crown must show on a balance of probabilities that the property is the proceeds of crime and that the property is connected to the crime for which the person was convicted. The Crown can also obtain forfeiture even

if no connection between the particular offence and the property is established, provided the court is nevertheless satisfied beyond a reasonable doubt that the property is proceeds of crime.

The existing proceeds of crime provisions that remain under Bill C-53 will continue to be effective in obtaining forfeiture of proceeds of crime in general circumstances. For example, if a person is convicted of theft and property can be identified as the product of that theft, then the existing proceeds provisions can operate to remove any illicit gain. Even where it may become apparent that identified property is not the product of the particular theft, the existing proceeds provisions can operate, provided proof is provided beyond a reasonable doubt that the property is proceeds of crime.

While these current provisions can be effective, their effectiveness can be limited in comparison with the extensive illicit gains accumulated by organized crime. The existing provisions are most effective with respect to discrete types of criminality, where property is clearly associated with a single offence or small number of offences. That is often not the situation with respect to organized crime.

Further, it must be recognized that obtaining forfeiture of the proceeds of crime can be an especially difficult task for police and Crown prosecutors in situations of sophisticated criminality and active concealment of the criminally derived nature of assets.

Honourable senators, although criminal organizations are believed to be involved in extensive criminality leading to substantial illicit gains, the particular crimes for which convictions are finally obtained against these criminals may not be one with the associated proceeds, or even if they are, the proceeds will represent only a small part of the total proceeds of crime earned and controlled by these organizations. It is for this reason that the reverse onus forfeiture power is being advanced. Bill C-53 contains a fundamental improvement on the current scheme to address this proceeds of crime challenge in relation to organized crime.

Bill C-53 provides an additional forfeiture power — in addition to the existing powers that will remain — that allows for the application of a reverse onus of proof after conviction for a criminal organization offence that is punishable by five or more years of imprisonment or certain drug offences under the Controlled Drugs and Substances Act when prosecuted on indictment.

The definition of a criminal organization offence in the Criminal Code includes the three special criminal organization offences that have been created in the code, namely: participation in the activities of a criminal organization; committing a crime for the benefit of, at the direction of or in association with a criminal organization; and instructing the commission of an offence for a criminal organization. The definition of a criminal organization offence also includes other indictable offences punishable by five or more years when committed for the benefit of, at the direction of or in association with a criminal organization.

[Senator Nolin]

These criminal organization offences are crimes that logically can support a presumption that substantial property of the offender is the proceeds of crime. A core aspect of the definition of criminal organization is that it is a group formed for the purpose of committing offences to obtain material benefit. There is, therefore, a logical basis for the underlying presumption inherent in the reversal of the onus.

Honourable senators, as I noted earlier, the one other category of offences to which the reverse onus provisions would apply are the serious drug offences of trafficking, importing and exporting, and the production of illegal drugs, where these offences are prosecuted on indictment. There are probably no offences more closely associated with organized crime than these listed serious drug offences, so it was thought to be in keeping with the purpose of the legislation to include them. Our laws have traditionally taken special measures against such drug offences as they represent matters of recognized societal harm in their own right.

While additional offences are not directly included in the scope of this scheme, it should be recalled that many other offences can be prosecuted as criminal organization offences, provided that it is demonstrated that the offences were committed for the benefit of, at the direction of or in association with a criminal organization, so the scheme can apply more broadly in this manner, provided the link with organized crime is made.

Honourable senators, I have described for you the offences to which this proposed new power would apply and the reasons for this scope. I would like now to discuss how, in particular, the reverse onus would be triggered.

As a prerequisite to the reverse onus scheme, the court would have to be satisfied on a balance of probabilities that either the offender has engaged in a pattern of criminal activity for the purpose of providing the offender with material benefit or that the income of the offender, unrelated to the crime, cannot reasonably account for the value of all the property of the offender — a net worth assessment. This fundamental condition on reverse onus forfeiture, in addition to the scope of offences, further helps to support the presumption that the offender's property is the proceeds of crime and thus supports the application of reverse onus forfeiture. Upon these conditions being satisfied, any property of the offender identified by the Attorney General will be forfeited unless the offender demonstrates on a balance of probabilities that the property is not proceeds of crime.

There is a power of the court, however, to set a limit on the total amount of property forfeited as may have been required by the interests of justice. The court would have to give reasons for this limit. This is an important power to provide the court. The legislation has been carefully designed to provide a balance between, on the one hand, a proposed aggressive new forfeiture provision and, on the other, conditions and limitations to guard against any unwanted effects of this broad new power.

• (1630)

The judicial discretion aspect of the legislation is an important part of this careful balance.

Furthermore, some may inquire about the protections offered with respect to legitimate third party interests in property that is subject to forfeiture under Bill C-53. In this regard, it is important to emphasize that specific protections apply with respect to the proposed reverse onus power.

First, currently under the Criminal Code, prior to an order of forfeiture being made, a court is directed to require that notice be given to and may hear any person who appears to have an interest in the property subject to forfeiture, and the court may order the property or any portion of it returned to the person if the court is satisfied that that person is the lawful owner or is lawfully entitled to possession and is innocent of any complicity or collusion in a designated offence. Under Bill C-53, this power has been specifically extended to apply to the proposed reverse onus forfeiture as well.

In addition, under the Criminal Code, any person who claims an interest in property forfeited other than a person who is charged with or convicted of a designated offence in relation to the property, or who has acquired title or a right to possession of that property under circumstances giving rise to a reasonable inference that the transfer was made to avoid forfeiture, may apply for an order declaring that their interest is not affected by the forfeiture.

Under Bill C-53, this power also has been specifically extended to apply to the reverse onus forfeiture power. Furthermore, as previously noted, since Bill C-53 may significantly increase the scope of forfeiture available in some circumstances, the bill also provides a special power to relieve against forfeiture in respect of reverse onus applications. A court may, if it considers it in the interests of justice, decline to make an order of forfeiture against any property that would otherwise be subject to forfeiture under the reverse onus scheme. This additional power is also relevant with respect to potential third party interests.

Finally, Bill C-53 provides that a court will have to be satisfied from the outset that a particular piece of property is, in fact, the property of the offender in order for it to be subject to forfeiture. Therefore, these existing and proposed elements of the proceeds of crimes scheme do provide a range of protection for third party interests and properties.

Honourable senators, Bill C-53 also contains a number of corrective amendments to the existing proceeds of crime scheme under the Criminal Code. These amendments include a correction in a discrepancy between the French and English wording of one provision; a clarification of the authority of the Attorney General of Canada in relation to the proceeds of crime; a clarification of the designation of designated offence and an extension of the search warrant provisions under the Controlled Drugs and Substances Act to ensure that warrants under that act can also apply in the case of investigations of money laundering and possession of proceeds of crime offences where these are related to illegal drugs.

Honourable senators, Bill C-53 provides an important new forfeiture power to the Criminal Code. This new power would provide, in appropriate circumstances and subject to certain conditions, for the forfeiture of property of an offender unless the

offender can prove, on a balance of probabilities, that the property identified by the Attorney General is not the proceeds of crime. The safeguards I have outlined have been also put in place to ensure the protection of legitimate third party interests in property.

This bill has at its core a worthwhile objective: to combat organized crime by more effectively targeting their primary motivation — illicit financial gain. Honourable senators, Bill C-53 achieves this objective in a targeted yet balanced way. I urge all honourable senators to support this important bill.

Hon. A. Raynell Andreychuk: Honourable senators, I would like to ask a question of the honourable senator. The Auditor General indicated today that the RCMP has some shortcomings, one being that they do not have the resources at the moment — nor perhaps the training — to fight organized crime. We are about to put yet another load on them with a dangerous element of reverse onus which, if applied inappropriately, could damage economic interests and honest citizens. How does the government propose to layer this act on an already overburdened RCMP and police forces across Canada?

The Hon. the Speaker: Will you accept the question, Senator Campbell?

Senator Campbell: Yes. First, given my prior background, I can tell you that it is doubtful that any police force will say they are over-staffed. They will never come forward and say, “We have too many people.”

Second, I believe that the RCMP and almost every major police force at the present time do have the staff to enter into this kind of investigation and take it successfully to its conclusion. Should they not, then clearly the onus is upon the police forces to become better able to carry on these investigations.

Third, I do not think that this bill will hinder unnecessarily the economic viability of business or the economic trends that we see in our country, which are clearly going up. Rather, this will allow those businesses that are legitimate to stay there, and those that are not and are involved in criminal activity will recognize that they could find themselves out of business.

The simple answer is that if you do get involved with organized crime and you pretend to run a legitimate business, this bill will send the message that it does not give you cover. The police will come; they will seize your property, and they will put you out of business.

Senator Andreychuk: By reversing the onus, we are, in fact, indicating that we would have to fight to prove our innocence in certain situations, because the triggering is on a balance of probabilities. You would have to prove that you dealt with a legitimate interest, or one which you thought was legitimate. The dilemma is that organized crime now is very pervasive in Canada and elsewhere. It is not easy to identify what businesses are part of organized crime. We always use the pizza parlour example, but there are many others where, under cover of what appears to be a

legitimate business, organized crime is operating. With reverse onus, someone who believes they are dealing with a legitimate organization will have to prove that they were not part of an organized crime scheme.

I would like to know if you are comfortable with that. Did I hear correctly that you said that you believe the police forces are well staffed, that they are not understaffed and stretched by virtue of all of their duties?

Senator Campbell: I would never say that. I did not mean to imply that they are overstaffed. I am saying that if I ever heard the police say, “You know what? We have enough staff and do not need any more,” I would have to go out and see if there was a blue moon in the sky. There is never enough staff; there is no question about that. However, at the same time, we must realize that it is a matter of training and priorities, and it is also a matter of making decisions with respect to resources and where they must go.

I do not think I can comment on the pizza parlour, but there are enough safeguards in this bill so that if you are a legitimate business, at the end of day — or even at the beginning of the day — I do not think you will find yourself in court, because the judge has the power to make that decision. While we have the balance of probabilities, certainly, within the justice system, that should give everyone confidence that innocent companies and innocent people will not be dragged into such a prosecution.

The Hon. the Speaker: I see no senator rising to adjourn or to speak further to this matter. Are honourable senators ready for the question? I will put the question.

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

• (1640)

FIRST NATIONS OIL AND GAS AND MONEYS MANAGEMENT BILL

SECOND READING

Hon. Rod A. A. Zimmer moved second reading of Bill C-54, to provide First Nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving moneys otherwise held for them by Canada.

He said: Honourable senators, I am honoured to initiate the process of second reading of Bill C-54, to provide First Nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving monies otherwise held for them by Canada.

The goal of this bill is twofold. First, it will provide a comprehensive framework for First Nations to obtain complete management and control over oil and gas resources on their reserve lands. Second, it will give First Nations the option to obtain the complete management and control over monies currently held by Canada on their behalf, otherwise known as Indian monies.

Bill C-54 will give First Nations the option to move out from the restrictive nature of the Indian Act and the Indian Oil and Gas Act. It is about paving the way for those First Nations that may find this bill advantageous to taking steps toward greater self-government and fostering a strengthened government-to-government relationship between First Nations and Canada.

As such, Bill C-54 is yet a further demonstration of this government's strong commitment to a transformative agenda designed to close the socio-economic gap between First Nations people and other Canadians. Part of that commitment is the development of a modern legislative and regulatory environment to match the complexity of economic development on First Nations reserves.

Honourable senators, before I begin highlighting specific elements of the bill, I wish to congratulate the three sponsoring First Nations that have piloted this initiative: the White Bear First Nation, the Blood Tribe and the Siksika Nation. The legislation was principally designed by and for these partnering First Nations. I wish to congratulate them on their leadership and dedication. Their 10-year journey with the department has culminated in the bill before you today.

Their project began a decade ago with the First Nations oil and gas management initiative, with a pilot project. Its goal was to provide the three pilot First Nations with the operational capacity to assume management of oil and gas resources on reserve lands. It began with a proposal from the Indian Resource Council for a progressive, three-phased, capacity-building approach to transfer the management and control of oil and gas resources from Indian Oil and Gas Canada directly to First Nations.

In mid-2001, work was well underway to begin transferring authority from the federal government to the pilot project First Nations for management of and control over oil and gas resources on their reserve lands. During this time, the pilot project First Nations also recognized a need to include an authority to collect, manage and use future oil and gas revenues, and to allow expedient access to capital for development projects in the petroleum sector. This work led to the addition of the monies provisions to complement the oil and gas provisions in Bill C-54, a logical legislative enhancement.

The Government of Canada has managed Indian monies pursuant to the Indian Act since the late 19th century. Until recently, the Minister of Indian Affairs and Northern Development was responsible for managing comparatively modest sums of Indian monies.

Over the years, First Nations have continuously looked for alternatives to gain control and management of their monies. One example of this can be seen in the fact that over 400 First Nations

have opted for control over their revenue monies under section 69 of the Indian Act. However, that process has its constraints.

Another alternative for the control of monies under the Indian Act was explored in 1998, as part of the Joint Initiative for Policy Development. The Assembly of First Nations invited Treaty 7 First Nations to look at a legislative option to enable First Nations control over Indian monies. However, this effort was inconclusive.

Finally, as part of the pilot project, the pilot First Nations entered into discussions with the Treaty 7 First Nations concerning the management and use of future oil and gas revenues. Following these discussions, Treaty 7 First Nations gave the pilot First Nations a mandate to develop a legislative proposal that would lead to First Nations assuming authority over Indian monies. Treaty 7 First Nations and the sponsoring First Nations agreed that the oil and gas legislative proposal would include optional monies provisions that would be available to any First Nations that would seek to gain the authority for the management and control of their monies.

The three pilot project First Nations have become the sponsors of the third and final phase of the pilot project, which has led to Bill C-54. This legislative tool provides for a comprehensive oil and gas and monies framework so that the three sponsoring First Nations will be equipped to take on the governance responsibility in these areas.

Under the current legislative restrictions and burdensome requirements, First Nations are unable to assume full authority for decision-making in relation to oil and gas activities and control of Indian monies. This bill seeks to remove finally this impediment. Once that is done, the expected benefits will not only affect First Nations communities, but will also have a substantial impact on regional, provincial and even national economies.

On the monies management provisions of Bill C-54, the main benefit is direct community planning of monies. First Nations opting into the monies provision will be able to respond to specific needs or economic opportunities without federal involvement. Also, accountability for monies managed under the bill is directed toward the First Nations membership rather than a federal body. These measures support a move toward self-government and financial management that is transparent to the community.

On the oil and gas provisions of Bill C-54, one of the main benefits is that First Nations themselves will take a critical step toward more self-reliant communities. That is, they will now be able to take control over the management of oil and gas resources and related revenues generated on First Nations reserve lands. Last year alone, those revenues for all First Nations totalled approximately \$230 million. In addition, industry directly invested over \$70 million in drilling on reserve lands.

With authority to participate directly in the oil and gas economy, these First Nations will benefit from stimulation of on-reserve, local and regional employment, as well as the potential for spinoff businesses resulting from increased

economic activity. First Nations will also benefit from the ability to access financial resources directly to take advantage of commercial opportunities in oil and gas as well as other sectors.

Honourable senators, with this bill, First Nations will be able to manage and initiate agreements and seize economic opportunities in all facets of the oil and gas industry, from initial exploration to extraction and transportation.

Under this legislation, an oil and gas operator will deal directly and only with the First Nation for negotiation of the agreement, issuance of the contract, management of the contract, payment of monies, and reclamation of the site throughout the life of the agreement.

• (1650)

Honourable senators, between 2000 and 2003, Canada, Alberta and Saskatchewan collected on average approximately \$300 million in taxes from oil and gas activities on reserve lands. The cost incurred to both Canada and the two provinces in conducting the administrative and regulatory functions was less than 1 per cent of \$300 million.

On this basis alone, the federal government, the provincial governments and the First Nation governments stand to benefit from oil and gas operations on reserves. This legislation substantially increases the law-making powers of participating First Nations. They will now be able to make laws regarding environmental assessments, provided they conform to the regulations under the legislation.

Importantly, First Nations will be able to incorporate existing provincial laws respecting environmental protection and resource conservation. Since the provinces are administrators and regulators of oil and gas activities off reserve, this approach ensures that the laws of the First Nations regarding environmental protection will be at least equal to the level of protection provided by provincial laws. In the case of resource conservation, this legislation stipulates that First Nation laws will not be in conflict or be inconsistent with the laws of the province.

This bill also provides the option for the First Nation to enter into an agreement with the province for the administration and enforcement of its oil and gas laws. This will ensure harmony between First Nations oil and gas laws and the enforcement on reserve and the provincial and gas laws enforcement off reserve. This translates into increased investor certainty, while providing clarity in the administration of oil and gas activities across the province on or off reserve.

The assistant deputy minister for land and resource issues in the Alberta Department of Aboriginal Affairs and Northern Development, Neil Reddekopp, supports this regulatory approach. In testifying before the Standing Committee on Aboriginal Affairs and Northern Development in the other place, he said that First Nations:

...may enter into agreements with the provinces to provide for regulation of these matters by provincial bodies and officials in a similar manner to what is applied to same issues off reserve.

Based on these discussions over the past several years, it appears that all three partnering First Nations plan to avail themselves of this opportunity... This decision is worthy of considerable praise for its wisdom.

He also testified that this legislation has the support of his minister.

Honourable senators, the bill has some important implications regarding past and future liabilities. First, the bill clearly states that at the point of the transfer of authority from the federal government to the First Nation, when the First Nation begins fully exercising its powers under the legislation, Canada is no longer responsible. However, and equally important, Canada will still be responsible for activities it undertook prior to the First Nation taking over control and management of its oil and gas resources and monies.

It is important to note that under the legislation, when Canada transfers its authorities over these areas to the First Nation, the nature of the relationship changes. Just as the federal government has had a responsibility to the First Nation in these areas, the First Nation takes on that same responsibility to its membership at the point of transfer.

The bill also spells out a transparent and accountable process through which a First Nation can opt into the oil and gas provisions, the money provisions or both. In order to do so, the First Nation must have a community vote, where a majority of the eligible voters must cast a ballot, and a majority of all ballots cast must be in favour. This double-majority approach ensures that the voice of the community as a whole is paramount in making the decision to assume these new governance powers.

Indian Oil and Gas Canada has identified approximately 12 to 15 First Nations that may choose to opt into this legislation and take control of their oil and gas resources and related revenues. Should they choose to do so, these First Nations would have the benefit of the experience and skills gained over the 10-year pilot project by the three sponsoring First Nations. Indian Oil and Gas Canada is developing a three-year training program to prepare additional First Nations for the responsibilities of managing their own oil and gas resources and related revenues.

In terms of money management provisions, they are open to every First Nation that chooses to opt in. Once they do so, there is a process for First Nations to meet requirements under the legislation, such as the development of a financial code prior to community ratification. Once the monies management powers have been transferred by the Government of Canada to the First Nation, the First Nation will be accountable to the community for the transparent management of money.

Before a First Nation can gain control over its oil and gas resources, it must develop an oil and gas code. I was pleased to note that the Conservative Party critic in the other place, Mr. Jim Prentice, Member of Parliament for Calgary Centre-North, and caucus colleague and our friend Senator St. Germain, pointed out that the bill before us requires these codes to be rigorous so that

they will protect the process of amending the code itself and include accountability mechanisms and mechanisms to disclose any conflicts of interest.

I believe honourable senators will find that there is considerable support for the process set out in Bill C-54 regarding the establishment of the financial code in order to access what are now Indian monies in the Consolidated Revenue Fund. This bill represents another option for First Nations, whether they have oil and gas resources or not, to be able to gain access to their own monies.

As honourable senators may know, I travelled with the Standing Senate Committee on Aboriginal Peoples to British Columbia and Alberta from October 24 to 28 to listen to the views of First Nations on the involvement of Aboriginal communities and businesses in economic development activities in Canada. The presentations were innovative, visionary and displayed leadership and dedication. The Senate committee is interested in identifying the factors that make some First Nations successful, while others struggle despite access to resources. The Senate committee plans to travel to Ontario, Quebec and Atlantic Canada to hear the views of First Nations across the country this winter and in the spring.

Some of the factors that make First Nations successful include the separation of politics and business. Successful First Nations have generally established economic development authorities or enterprises that take decisions based on commercial and economic reasons. The chief and council are still the shareholders of these institutions, and a proportion of the profits are turned over to the band council for social programs on most of the reserves that testified before us. The kindness and strong sense of social responsibility of many of the chiefs and business leaders that appeared before the committee made a strong impression upon me and my honourable colleagues.

I was also impressed by the vision of the First Nations that appeared before the committee. These First Nations know where they want to go. The First Nations sponsoring this bill illustrate this observation. Instead of taking a passive approach to managing their resources and simply collecting the royalties from the exploitation of their assets, the sponsoring First Nations would like to take a more active approach and engage in joint ventures by pooling their resources to purchase their own rigs and by taking control of the business aspects of oil and gas exploitation — for example, by selling leases in less productive wells to partnering communities and companies that specialize in the extraction of diminishing assets.

In addition to streamlining decision-making by First Nations, the legislation protects the financial interests of First Nations communities. Chiefs and councils will no longer be the sole decision-makers on monies management. Instead, a financial code will be subject to community ratification, including all band members living on and off reserve, thereby giving the community direct influence on the framework of control of monies.

First Nations outlined their plans for the establishment of heritage trust funds for the long-term management of capital assets of the reserves. The First Nations generally plan to use operating revenues for future investments.

I am looking forward to discussing this valuable, First Nations-led initiative with my honourable colleagues. I am pleased to reiterate my support for the three First Nations that have been so actively pursuing it over the past 10 years.

I am confident that honourable senators will find this initiative worthy of support.

• (1700)

Hon. Gerry St. Germain: Honourable senators, I rise to speak to Bill C-54, in respect of First Nations oil and gas exploration, exploitation and monies management and regulation. Our honourable colleague opposite has outlined all of the pertinent details of the bill and, given the urgency with which this bill has been delivered to the chamber, I will be brief in my remarks. I believe this was Senator Zimmer's first speech in this place, and I would like to congratulate him on his most excellent and professional delivery. I am proud to be on the same committee to work with him on behalf of our Aboriginal First Nations.

The bill was received only today, so there has been little opportunity to study it in the kind of detail that such an important matter requires. This is unfortunate because the intent of the bill is important to all First Nations in Canada, whether they opt into legislation such as that proposed in Bill C-54, or other pieces of enabling legislation.

The federal government's policy since 1995 has been to negotiate with each individual Aboriginal group all matters that come under what the Constitution describes as "treaty and Aboriginal rights" — specifically those rights outlined in section 35. I have stood in this place before to express my concerns about this government's approach to resolving treaty and, specifically, self-determination and self-government rights.

Negotiating details of the principal right of self-government is fundamentally wrong. First Nations have always had this right, which is inherent, and to diminish it by way of negotiating resource and development initiatives prior to recognizing and enabling self-government is simply putting the cart before the horse. In some ways it is illogical, at best.

The Aboriginal peoples of Canada are contributing founders of Canada and deserve the same respect and treatment that has existed between provinces and the federal government. Honourable senators, Bill C-54 will allow the White Bear, the Blood Tribe and the Siksika First Nations to exercise full or partial authority over the management and regulation of their oil and gas resources and to collect and manage the revenues derived from their extraction.

Initially, in a 1994 pilot project of the Indian Resource Council, a series of agreements were signed with the federal government to co-manage the oil and gas resources in their reserve lands. Management and control were to be transferred to First Nations by 2005. However, legislation is now required to complete the deal.

Honourable senators, Parliament must do what can be done to restore hope, health and good fortune to our Aboriginal communities across Canada. If the process and the terms that resulted in Bill C-54 are what the members of these three First

Nations want, then Parliament must be supportive and make it so. However, it is also incumbent upon members of this chamber to make known what other First Nations have to say about Bill C-54.

As to process, the chiefs of the respective First Nations of the Maskwacis Cree and their councils have not received any formal notice or consultation in respect of the bill. As well, none of the four First Nations mentioned above has been notified, individually or collectively, of any opportunities to appear before the Aboriginal Affairs Committee during its consideration of the proposed legislation.

I can tell honourable senators that these First Nations would have expressed their serious concerns regarding the bill's substance. For many years these First Nations have been in litigation on both oil and gas interests and on the matter of the federal government's management of their monies. First Nations have also raised the following observations: There are incorporations by reference of provincial laws in some sections of the proposed legislation which assumes *a priori* some elements of the litigation surrounding the natural resource transfer agreement. Several sections of the proposed legislation set up parameters or restrictions for Indian government law-making authority, contrary to several recognized international laws, norms and standards. Questions of any potential impact on existing legislation, for example the Natural Resources Transfer Act 1930, the Samson Cree Nation, the Ermineskin Cree Nation and other litigation go unmentioned; for example, there are elements of the proposed legislation in respect of financial transfers that are being enforced in current discussions on trust deeds. Fiduciary duties and obligations under treaty and liabilities thereunder appear to be waived by the non-reference in the legislation. Reference to Canada's international legal obligations must be analyzed and clarified for any potential impacts to Treaty No. 6, as Canada's obligations are being placed on First Nations to comply.

Some financial obligations have been created in Bill C-54, for example with the preparations of codes and auditing requirements that carry no indication as to the Crown's obligation to pay for this under the proposed legislation. The proposed legislation sets up under numerous articles federal paramountcy over First Nations law, which again is being done without consultation or consent.

Honourable senators may have concerns about the non-derogation clause as it is worded in this bill. The Standing Senate Committee on Legal and Constitutional Affairs has looked at this matter. The Honourable Senator Watt has been a driving force in having this whole question of the non-derogation clause scrutinized. It is hoped that in committee this will be clarified to the satisfaction of people such as Senator Watt, who has devoted much of his lifetime to protecting the rights of our First Nations people.

Honourable senators might want to refer Bill C-54 to the Senate Legal Committee, but I do not think it will be necessary. It is rather more likely that it will be referred to the Senate Committee on Aboriginal Peoples, where the non-derogation aspect will be studied.

[Senator St. Germain]

In the final analysis, the White Bear, the Blood Tribe and the Siksika deserve to receive what they have requested. Senator Zimmer has clearly enunciated some of the results that we have experienced under the leadership of Senator Sibbeston, Chairman of the Aboriginal Committee. Our First Nations, if given the opportunity to control their own destiny, will rise to the requirements of leadership and to the levels of accountability expected by all Canadians. If we are hunting elephants, we should not be following rabbit tracks.

Nothing in this world is perfect, and that includes legislation. However, bear in mind that we are dealing with proposed enabling legislation that could benefit our First Nations from coast to coast. There are protections by way of referendums and votes within the communities for our First Nations people on the ground that will allow our First Nations to rise to the level of economic sustainability that they so deserve.

Hon. Nick G. Sibbeston: Honourable senators, I too am pleased to rise in support of Bill C-54. This is an important step forward, not only for the three First Nations in Alberta and Saskatchewan who have been working on this proposed legislation for nearly 10 years but also for many First Nations across the country who will eventually benefit from the provisions of this bill.

We have heard about Kashechewan's water disaster and the tragedy of Davis Inlet. Committee members travelled across the country to gather evidence for our study on Aboriginal economic development. We were in British Columbia and Alberta a number of weeks ago to study the involvement of Aboriginals in industrial development.

• (1710)

It is very encouraging. It is fascinating. It is a phenomenon happening across our country where Aboriginal people are getting involved in business and many of them are succeeding. We hope through our study to point out and show this phenomenon and movement. It is very interesting and inspiring to see such progress by Aboriginal peoples.

There are always little pockets and situations where Aboriginal people are not faring too well. However, for the most part there has been a positive, progressive movement in this area of Aboriginal economic development. This bill will add to the success of Aboriginal people. Both Senators Zimmer and St. Germain have done an excellent job in describing the purpose of the bill.

I will restrict my comments to two areas in the bill. The first deals with the non-derogation clause. Senators know that I have raised the issue of the non-derogation clause because there was a standard bill used from 1982 to about 1996 and then the government began changing wording. The changes are very slight, but I am concerned about these changes.

Senators will notice that the non-derogation clause in this bill is not the original wording based on section 25 of the Constitution, but rather one that adds extra words and phrases that shift the focus away from the protection of Aboriginal and treaty rights in section 35 toward an interpretation of those rights as contained in Supreme Court decisions like *Sparrow*.

I do not think this is what Parliament should be doing. I do not think Parliament should be tailoring wording to favour the federal government. This is what I feel the Department of Justice is doing in changing the words of the non-derogation clause.

However, I have spoken to the First Nations involved, and they tell me that they can live with this wording. They say that the overall good this bill will do far outweighs the potential damage that could result with the change in wording of this one clause. I am willing to accept their decision.

These are not normal times. In the next few days, we will be dealing with bills in an urgent manner. However, there is still much confusion over this matter. In correspondence with both Ministers Scott and Cotler, the government has acknowledged to me that this matter must be clarified and a new approach must be found.

The matter of non-derogation clauses has been assigned to the Standing Senate Committee on Legal and Constitutional Affairs, but the committee has not yet been able to get at the study. When the Senate returns in the New Year, I am hoping that the Legal Committee will deal with this matter as a first order of business.

I would like to touch on one other matter briefly. Bill C-54 is described as a sectoral self-government bill, meaning it is a small step forward in a limited area toward First Nations self-government. It is legislative self-government, not section 35 self-government.

There have been other pieces of legislation that might be viewed as sectoral self-government, even if they are not given that name. There are also full legislative self-government agreements, like the Westbank First Nation Self-Government Act, as well as constitutionally protected self-government agreements like the one we dealt with last winter in respect of the Tlicho First Nation.

The Standing Senate Committee on Aboriginal Peoples has been studying Senator St. Germain's bill, S-16, which deals with the recognition of First Nations self-government. It seems likely that this mix will grow even more complicated in the coming years. I bring it to the attention of the senators because it is an area we may need to look at again. Some work has been done in this area under the leadership of Senator Watt, but much has changed in the last five years and more change is necessary in the next five years.

At some point we need to look at the patchwork of self-government processes to ensure that the pieces of the puzzle fit together in a logical and coherent way that provides a maximum benefit to Aboriginal people wherever they live in Canada.

Both of these matters are things we can come back to at a later date. For the moment, it is important that we move forward so that First Nations can advance economically and politically. A lot of work has been put into Bill C-54, and I urge senators to pass it as soon as possible.

The Hon. the Speaker: I see no honourable senator rising to adjourn or speak to this matter. Are 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 bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Zimmer, bill referred to the Standing Senate Committee on Aboriginal Peoples.

BUSINESS OF THE SENATE

The Hon. the Speaker: Does the Honourable Senator Stollery have a point of order?

Hon. Peter A. Stollery: Honourable senators, I would like to revert and ask the unanimous consent of the chamber for the Standing Senate Committee on Foreign Affairs to sit at 5:15 this afternoon. We are scheduled under our normal procedure to sit at 5:00. We have witnesses —

Senator Prud'homme: Adjournment of the Senate qualifies.

The Hon. the Speaker: Honourable senators, Senator Stollery is asking for leave for the Standing Senate Committee on Foreign Affairs to sit even though the Senate is now sitting. Is leave granted?

Hon. Madeleine Plamondon: Not granted.

Hon. Noël A. Kinsella (Leader of the Opposition): Just to review, it is now 5:15. At six o'clock we will either have to rise or come back at eight o'clock. Leave is required to not see the clock.

Senator Stollery is in a situation as chair of a committee where a minister or parliamentary secretary is waiting. The senator can wait until six o'clock, at which point he will be forced to not grant leave to not see the clock so that he can hear from this witness. In other words, the chamber will have to rise and come back at eight o'clock given the order before us.

Under those circumstances, perhaps the wise thing to do would be to grant leave so that his committee can hear the witness, and maybe the Deputy Leader of the Government can share with us what he intends to do when we get to one minute before six.

Senator Prud'homme: I think this point of order is unfair.

The Hon. the Speaker: Senator Stollery rose and I asked him if it was a point of order. In effect, he was requesting leave for the Senate to consider an exception to our rule so his committee could sit. Senator Plamondon was clear in her response when she said that leave is not granted, so leave is not granted.

However, we have a custom of house leaders having exchanges, and in this case we heard the Leader of the Opposition, on matters of house business. I do not see why we should not do that. I heard Senator Kinsella. I will now hear the Deputy Leader of the Government, and then I will go to Senator Prud'homme.

Hon. Bill Rompkey (Deputy Leader of the Government): I would concur with Senator Kinsella. We would be agreeable to let the committee sit now. He makes a valid point that at 6 p.m. we would normally adjourn anyway. My intention would be to finish debate on government orders, which will not take much longer. Then there are a couple of items at day 15 that certain senators would like to speak to today. I think we could conclude by six. If we do not, we could not see the clock at six. That would be my intention.

• (1720)

Hon. Marcel Prud'homme: I have been following what has happened. I suggest that our chair of the Foreign Affairs Committee seize the opportunity that has been put to him by both Senator Kinsella and Senator Rompkey. I know enough of the senator, and you should know enough by now, that if she says no, I doubt any one of us will change her mind today. She is entitled, as is any honourable senator, to say yes or no. As far as I am concerned in this corner, I would certainly side with her if anyone is playing games. She said no. She will say no again. I tried to talk with her. That is where we stand.

Why not take the suggestion of Senator Kinsella and Senator Rompkey to see what kind of progress will take place before six o'clock, and the committee can sit at six o'clock. You had already announced that it would be at the adjournment of the Senate but not earlier than five o'clock. We are only at 5:20, but if I were the honourable senator, I would not push my luck. Otherwise, I will join Senator Plamondon.

Hon. Consiglio Di Nino: Honourable senators, Bill C-25 is a bill that I am told the government wants, this is an opportunity for us to deal with it. If at six o'clock the business of the Senate is not finished, I will rise and inform people that we do see the clock, which means we will have to come back at eight o'clock.

Hon. Francis William Mahovlich: I wonder if I could ask Senator Plamondon for the reason.

Senator Stollery: Honourable senators, I want to end this and give everyone a chance to finish the business, if we can, before six o'clock.

As I understand this, I think we generally agree that the committee can sit at six o'clock. I may be wrong, but that is my understanding, and that would require consent, if there is a motion not to see the clock. It revolves, at this point, around the motion not to see the clock. If someone objects to not seeing the clock, then the Senate comes back at eight o'clock and all the rest of it. That is what I want to have clear. I do not want to take any more time, because I know we have business to do here.

Senator Prud'homme: I am entitled —

The Hon. the Speaker: Senator Prud'homme, I would like to clarify the situation, so we can get on with our business. I have seen the Leader of the Opposition and the house leader, and I have allowed other senators to participate in terms of house business, which is out of the ordinary for our rules. It is up to me

in the chair to try to bring it to an end, so we do not have a lot of back and forth. We have already spent 10 minutes on this issue. I propose to now clarify where we are.

Leave was not granted. I will ask Senator Plamondon if she has changed her mind based on what she has heard, and I can tell by her body language there is no leave.

At six o'clock I will ask if it is agreed we not see the clock. If it is agreed that we not see the clock, we will continue, and Senator Plamondon's refusal to give leave will still stand. There will be no leave for the committee to sit, Senator Stollery. If someone refuses to give leave for us not to see the clock at six o'clock, then we will rise and return at eight o'clock, unless we have adjourned before then.

THE ESTIMATES, 2005-06

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

On the Order:

The Senate proceeded to consideration of the seventeenth report of the Standing Senate Committee on National Finance (Supplementary Estimates (A), 2005-06), presented in the Senate earlier this day.

Hon. Donald H. Oliver moved the adoption of the report.

He said: Honourable senators, I am pleased to table the report of the Standing Senate Committee on National Finance on the Supplementary Estimates (A), 2005-06. These supplementary estimates were referred to the committee on November 1, 2005.

The committee held two meetings to review the estimates. At the first meeting, officials from Treasury Board Secretariat provided explanations of the structure and content of the supplementary estimates. At the second meeting, the Honourable Reg Alcock, President of the Treasury Board, explained to the committee further changes to the government spending plans contained in the supplementary estimates. Honourable senators, the report of the committee on the Supplementary Estimates (A), 2005-06, is based on the information gathered from these two meetings. With these supplementary estimates, the federal government is seeking Parliament's approval to spend \$7 billion in expenditures that were either not sufficiently developed or known in time to be integrated into the 2005-06 Main Estimates, which were tabled on February 25, 2005. The supplementary estimates also provide information about expenditures amounting to \$6.5 billion in projected statutory spending that Parliament has already approved in legislation. Therefore, the Supplementary Estimates (A), 2005-06, total \$13.5 billion.

The details of these proposed expenditures are well explained in the committee's report. I will not take much of your time, honourable senators, but I want to share with you some of the observations contained in the committee's report. I believe that this will facilitate the Senate's consideration of the appropriation bill. I also want to take this opportunity to express concerns I have with respect to the discrepancy between the Main Estimates and the budget.

Honourable senators, I wish to stress that the committee was pleased to see that the Supplementary Estimates (A), 2005-06, continued to build on improvements introduced last year. These improvements are intended to provide greater transparency and consistency with other estimates documents and to enhance accountability to Parliament.

Three new improvements are of particular interest. First, a new section has been added to each departmental page. It summarizes all transfers between votes, both within and across departments, and provides a full description of the specific initiative for which the money is being realigned.

It provides useful information on the flow of funds from one department or agency to another and greatly helped in the committee's review of these supplementary estimates.

Second, each departmental page contains information on the savings identified by the government's expenditure review committee that were announced in the 2005 federal budget. It is possible, for instance, to determine for each department the savings realized by the government on procurement, property management and individual department efficiencies. This information increases the transparency of spending, savings and reallocation of funds.

Third, there is better information in relation to the allocation of the Treasury Board contingency vote items, called Treasury Board Vote 5. More precisely, the summary table on TB vote 5 provides an overview of the rationale behind the allocation of contingency funds to departments and agencies.

Honourable senators, while the committee commends the excellent progress made in recent years in the presentation of the estimates document, we are concerned about the lack of consistency between the Main Estimates, or reports on plans and priorities, and the budget plan. It is precisely this discrepancy between these documents that contributes to large supplementary estimates such as the current ones. Let me recall with honourable senators that in Supplementary Estimates (A), 2005-06, the federal government is seeking Parliament's approval for an additional \$7 billion in spending. This is a very large sum of money.

- (1730)

The most important factor that contributes to the disparities between the information in the Main Estimates and the budget document is timing. The fact is that according to House rules, the Main Estimates must be tabled before March 1 of each year. They therefore typically cannot contain the most up-to-date information because federal budgets are usually tabled in late February. This information follows in the supplementary estimates later in the fiscal year, usually in the fall and again in the spring. The net result is that parliamentarians must work with out-of-date information in approving the federal government's spending plans by June 23. This, in my view, is clearly unacceptable.

Another important factor that contributes to the discrepancy between the Main Estimates and the budget is the lack of cooperation between the Treasury Board Secretariat and the Department of Finance. Currently, budgets and estimates

documents are prepared almost in secret by the Department of Finance, and the Treasury Board rarely has an opportunity to see or know what is going on in them until they are tabled in Parliament. This means that when the Main Estimates come down, they are not based on what is in the budget but what Treasury Board has been able to glean from its six to nine months of work with various departments.

David Moloney, Assistant Secretary of the Expenditure Management Sector at the Treasury Board Secretariat, told our committee that one possible solution to reducing the disparity between the Main Estimates and the budget would be to fix the lag between the two documents. That would require changing the tabling of Main Estimates or otherwise changing budget day. He cautioned that there would be challenges on both sides. Another option which is practiced in some countries deals with multi-year appropriations such as that described today by Senator Kinsella. Still another option would be to establish a national budget office much like that in other jurisdictions. For example, in Australia the preparation of a budget involves a large number of participants. In Australia, the Expenditure Review Committee, a cabinet committee of ministers chaired by the Prime Minister, is primarily responsible for developing the budget. However, the Department of the Treasury, the Department of Finance and Administration, the Department of the Prime Minister and the cabinet provide advice and support to the Expenditure Review Committee. The Department of Finance and Administration coordinates the preparation of the budget and is responsible for statements on expenses and non-tax revenues. The treasury is responsible for assessments of the economic and fiscal outlook and estimates of tax revenues.

Honourable senators, I was pleased to hear that the federal government is examining this issue. On page 7 of a document entitled, "Management in the Government of Canada: A Commitment to Continuous Improvement," tabled in October of this year, the government indicated that in 2006 it would — and listen to this language — "consult with parliamentarians to seek ways to better reflect budget spending forecasts in the Main Estimates and link commitments made in reports on plans and priority with results set out in departmental performance reports and support better parliamentary scrutiny of the estimates." On page 35, the document indicated that the federal government would seek ways in which to bring the expenditure plan in the estimates more in line with those outlined in the budget to better enable parliamentarians to track spending over the budget cycle. They will then have a better appreciation of what the government intends to accomplish with new investments and will be able to check back more easily and hold the government to account.

I urge the federal government to consult with the Standing Senate Committee on National Finance. I also strongly recommend that a review be undertaken on the budgetary process in a number of other countries, including Australia, New Zealand and the United Kingdom, to learn about experience gained elsewhere in streamlining the budget process.

Honourable senators, Supplementary Estimates (A), 2005-06 is requesting an additional \$148.4 million in support of the government online, GOL, initiative. As you are probably aware, this initiative is aimed at supporting the implementation of a

common electronic infrastructure and multichannel service delivery strategy. Since Budget 2000, a total of \$880 million has been allocated to government online. Of this amount, \$429 million has been requested through supplementary estimates. In other words, almost half of the total amount has been requested by way of supplementary estimates. This committee has, in the past, been concerned with supplementary estimates being used in this manner. The federal government has known for many years that it would be doing a lot more work on government online and, had they cooperated with Treasury Board, the \$148.4 million to support GOL would not need to be covered by way of a supplementary estimate.

Honourable senators, another example of the spending plan that could have been incorporated into the Main Estimates rather than the supplementary estimates relates to the implementation of the Public Service Modernization Act. It was known from the time the act received Royal Assent that the legislation would be implemented over two and a half years. Despite this, 32 departments and agencies have sought funding through Supplementary Estimates (A) for fiscal year 2005-06 to modernize their human resources management. We must seriously question why departments and agencies are seeking funds through supplementary estimates instead of having funds placed in their reference levels.

Another item which, in my view, should have been in the Main Estimates rather than the Supplementary Estimates (A), 2005-06 included \$140 million to Industry Canada for strategic investment and Canadian automotive engineering.

Honourable senators, I am concerned about the following: Why are the supplementary estimates not organized in the same way as the Main Estimates? Introducing the use of program activities into the supplementary estimates would increase their transparencies and would assist parliamentarians in comparing the supplementary estimates to the Main Estimates. This is another very important issue that needs to be addressed by government in consultation with Parliament.

Honourable senators, in conclusion, overall improvements have been made to the estimates documents, but many challenges lie ahead and there is much more for us to do. This concludes my remarks on the report of the standing committee.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I have a question for Senator Oliver.

In his seventeenth report, on page 8 and page 9, the honourable senator has a section dealing with the possible impact of prorogation or dissolution. On Tuesday, November 15, he advised us that officials from the Treasury Board appeared before the committee and the following day, Wednesday, November 16, the Prime Minister, appearing on *Canada AM*, said that raises to military pay were in jeopardy if the estimates did not pass. My understanding is that the officials, when they explained what happens with prorogation and dissolution, told a different story.

Could Senator Oliver clarify that matter so that all honourable senators understand who was right? Was it the officials or the Prime Minister?

[Senator Oliver]

Senator Oliver: Honourable senators, it was Mr. Moloney's first occasion to appear in his new position as the representative of Treasury Board to explain the estimates and the supplementary estimates to parliamentarians. He indicated that, as an employer, the federal government is bound to pay according to agreements that have been duly signed and ratified. A portion of these payments is retroactive, since some of the settlements were a couple of years old. Departments must make these payments, but their budgets have not yet been increased.

When Mr. Alcock appeared before the committee, he stressed that, in the event of an election, the items included in Supplementary Estimates (A), 2005-06 would not be funded through Treasury Board vote 5 and the special warrants would fall or have to wait until a subsequent government. In terms of employer-employee relationships that had already been approved, Mr. Moloney said that that money would be paid and will continue to be paid. He went on to explain in detail that, in the event of an election, the government can move to Treasury Board vote 5 and can also use warrants to fund government programs.

• (1740)

Senator Kinsella: Therefore, the Prime Minister was wrong or misleading. He was the Minister of Finance and clearly would have known the facts. What conclusion could one draw, other than that there was some misleading going on? Surely, as Minister of Finance, he would have known how the system worked.

Senator Oliver: One would certainly think so, honourable senators.

The Hon. the Speaker: As no senator is rising to speak or to adjourn the debate, 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.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I would like the table to call Motion No. 5, standing in the name of Senator Kinsella, followed by Motion No. 15, standing in the name of Senator Grafstein. I was hoping that we could deal with those items before six o'clock and conclude our sitting, as we had discussed earlier.

The Hon. the Speaker: As the items are not government business, we need unanimous consent.

Hon. W. David Angus: I would like to have Bill C-259 called.

The Hon. the Speaker: With respect to Senator Rompkey's request, under our rules he is entitled to call government business in the order in which he determines is most useful to our work. Other items can be called only with the unanimous consent of all senators.

Is leave granted?

Hon. Madeleine Plamondon: No, leave is not granted.

DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Losier-Cool, for the second reading of Bill S-41, An Act to amend the Department of Foreign Affairs and International Trade Act (human rights reports).—(*Honourable Senator Rompkey, P.C.*)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, we would be prepared to give this bill second reading and have it referred to the appropriate standing committee.

The Hon. the Speaker: As no senator has risen to speak or to adjourn the debate, 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 bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Kinsella, bill referred to the Standing Senate Committee on Human Rights.

NATIONAL PHILANTHROPY DAY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Jeremiah S. Grafstein moved second reading of Bill S-46, respecting a National Philanthropy Day.—(*Honourable Senator Grafstein*)

He said: Honourable senators, National Philanthropy Day occurs annually on November 15 as a special day for those active in the philanthropic community. National Philanthropy Day

events are already held in every province and region in Canada involving thousands of people on November 15 every year. Initiated at the grassroots level, it continues to grow, led by individual charities and organizations such as the Association of Fundraising Professionals.

Canada would lead the world if Parliament formally recognized National Philanthropy Day. Parliament can have a tremendous influence on public behaviour. The creation of a day recognized by Parliament would send a powerful message to all Canadians that charitable giving and volunteering are critical to our society and is a crucial element in all aspects of Canadian life. Such a day would provide a forum for all charities and volunteers across the country to gather together in our villages, towns and cities to share their stories and celebrate their successes, large and small.

It is an established fact that celebrating these stories and identifying the ongoing need for support is one of the most effective ways to inspire others to give of themselves and their resources. For instance, Terry Fox's story is a powerful example of the effect that one person's actions can have on the public's desire to support great and good causes.

Parliament's recognition of this day is important for a multitude of reasons, but I will briefly describe only four. First, it encourages giving. Support for the charitable sector must come from a variety of sources. Direct government funding remains the primary and essential source for most organizations. However, in an era of shrinking budgets and expanding needs, philanthropy is becoming an ever-increasingly important part of the solution.

Second, it builds communities and civic society. Giving encourages greater citizen responsibility. When people give, they invest a part of themselves in their community and create a stake in the future of our society. Giving can bring together people who might normally have nothing to do with one another by focusing them on a common goal.

Third, recognition of this day would further strengthen the growing partnership between the federal government and the voluntary sector. The federal government began a partnership in the year 2000 and provided \$94 million to fund the jointly administered Voluntary Sector Initiative. The VSI resulted in a number of outcomes that were jointly recommended by government and the sector itself, including the largest regulatory reform of the charitable sector in more than a generation.

Finally, recognition of National Philanthropy Day is a grassroots, non-partisan matter, something that the Canadian public has strongly and consistently supported by voice and deeds. How so? Studies report that 90 per cent of Canadians believe that non-profits are becoming increasingly important to all Canadians. Fifty-nine per cent of Canadians believe that non-profits do not have enough money to do their essential work. Every day, non-profits serve on the front lines of hundreds of issues facing our country, from social services to health care, to the environment, to the arts and beyond.

Canada is a land of choices. Canadians can commit their time or to spend their money in countless ways, but for volunteers and donors philanthropy is not just another choice. It is a statement that goes to the meaning of their very life.

Already, more and more Canadians are coming to rely on programs and services provided by non-profit organizations. The voluntary sector has an indelible impact on all Canadian society. There are 81,000 registered non-profits in Canada that receive approximately \$10 billion in contributions annually, according to Statistics Canada, but the impact of the voluntary sector goes beyond philanthropic programs and services.

• (1750)

According to the recent Cornerstones of Community: Highlights from the National Survey of Non-profit and Volunteer Organizations study, the sector posted \$112 billion in revenues in 2003 and employed more than 2 million people. In addition, these organizations draw on 2 billion volunteer hours every year, the equivalent of 1 million full-time jobs. Every Canadian has been touched by the work of our voluntary sector in some way. Each senator is deeply involved in the voluntary sector in their regions.

The non-profit sector also has an impact on the financial health of the economy. The economic contribution of the non-profit sector is larger than many major industries in Canada and amounted to 6.8 per cent of the gross domestic product in 1999 according to Statistics Canada. The non-profit sector's GDP is 11 times more than that of the motor industry and more than four times that of agriculture.

National Philanthropy Day has the support of many volunteer organizations including Imagine Canada, Philanthropic Foundations Canada, Community Foundations of Canada, Voluntary Sector Forum, Canadian Association of Gift Planners, and the Canadian Bar Association, which represents thousands of non-profit organizations in the country.

Again, honourable senators, I urge you to formally recognize the special date by adopting this bill. Should we not take one day every year to honour their efforts and the efforts of all Canadians and organizations across Canada that support them?

Honourable senators, at the core of each faith is the eternal question: Is it more blessed to give than to receive? National Philanthropic Day is Parliament's answer to that question in the affirmative. I urge you to pass this bill speedily as a magnificent parliamentary gesture to Canadians and the volunteer sector.

Senator Prud'homme: I agree. The last phrase of Senator Grafstein was superb.

On motion of Senator Prud'homme, debate adjourned.

EXCISE TAX ACT

BILL TO AMEND—SECOND READING—
DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, for the second reading of Bill C-259, An Act to amend the Excise Tax Act (elimination of excise tax on jewellery).

—(Honourable Senator Angus)

Hon. W. David Angus: Honourable senators, I rise to urge the swift and expeditious passage of this bill, an amendment of the excise tax, which is an elimination of the excise tax on jewellery. This bill will eliminate the punitive, outdated and unfair excise tax on jewellery. This tax charges Canada's jewellers 10 per cent on the sale of products manufactured in this country. As pointed out by Senator Di Nino, Senator Meighen and Senator Maheu, this ancient excise tax on jewellery is today unique to Canada, as an industrialized country, and is the only remaining so-called luxury tax in effect in Canada.

Lest one think this is a partisan intervention on my part, I would simply say to honourable senators that on November 3, Senator Maheu said:

I find it patently contemptuous that the senior mandarins in the Department of Finance continue to shilly-shally on this issue by teasing and abusing everyone involved in the jewellery industry and Canadians in general by the nonsense of incremental reduction of this tax.

She went on to say:

Whatever we can conclude, we know that this jewellery tax serves no social policy objectives and it is inappropriate, regressive, arbitrary and just plain dumb.

That is Senator Maheu speaking here, for and on behalf of the government.

Honourable senators, Bill C-259 was passed in the House of Commons with support from members of all parties including 13 of the government's parliamentary secretaries last June 15. It was introduced and received first reading in the Senate the next day, but that was five full months ago. Why, honourable senators, is this simple and apparently uncontroversial piece of legislation, which is urgently needed and long awaited by Canada's respected jewellery industry, still languishing on our Order Paper without being referred to committee?

Does the government support the bill? If not, why not? Is it because the bill was initiated by a Conservative private member? Is it because it purports to do directly what the government proposed to do indirectly over four years? Honourable senators, Parliament, especially the Senate, is again losing credibility with Canadians generally and with the jewellery industry in particular by the dithering treatment this bill is receiving in its passage through the parliamentary process.

Honourable senators, as we all know, it appears this Parliament is about to be dissolved. I urge you all, in the strongest terms, to do the right thing now. Let us refer Bill C-259 to the Standing Senate Committee on Banking, Trade and Commerce for urgent study and back to this chamber so we can pass it into law this week, thus abolishing the excise tax on jewellery once and for all.

The House of Commons Standing Committee on Finance reported unanimously in 1996, and again eight long years later in 2004, that the excise tax, and I quote, "on jewellery is an anachronism which should be abolished, removed and expunged from the law books of this country."

I could go on, but I think it is clear what issues are facing us tonight. Christmas, honourable senators, is coming soon. Canada's jewellery stores will be full of shoppers of every political stripe, of every gender and of every persuasion, and I ask honourable senators whether we should punish them any longer for buying trinkets and gifts for their relatives. I think it is deplorable that we should participate, or be involved, in this terrible thing. Let us get into the proper holiday spirit and abolish the excise tax on jewellery before it is too late, in the interests of all Canadians. I ask you so earnestly to support me that I move that this bill be referred now to the Standing Senate Committee on Banking, Trade and Commerce for urgent and immediate study.

Hon. Madeleine Plamondon: Honourable senators, I would like to comment to Senator Angus.

[Translation]

He talked about Christmas shopping. There are people who will not do any shopping because they are poor. This will not change anything in their situation. The Christmas spirit is about helping the poor. The bill that I sponsored, which received unanimous support, may die on the Order Paper in the other place. It specifically deals with these people. Some will have to borrow money at Christmas, but it will be to pay for the basics, and more often than not, they will have to pay exorbitant rates. There are still criminal interest rates set at 60 per cent.

Honourable senators, I would like you to influence your colleagues in the other place so that things are different, because it is within the parties that these issues are settled. Let us not forget the poor!

• (1800)

[English]

Hon. Bill Rompkey (Deputy Leader of the Government): I move adjournment of the debate.

The Hon. the Speaker: It is moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Losier-Cool, that further debate be adjourned to the next sitting of the Senate.

Debate suspended.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, I observe that the time is now 6 p.m. Under our rule 13, I must now leave the chair until 8 p.m.

Hon. Bill Rompkey (Deputy Leader of the Government): I wonder if perhaps we could have agreement not to see the clock, Your Honour.

The Hon. the Speaker: Is leave granted not to see the clock?

Hon. Consiglio Di Nino: I spoke a few minutes ago about this issue. I am seeing the clock, Your Honour, because as I said a few moments ago, the government has asked us to deal with

Bill C-25. We have had witnesses waiting downstairs for the last hour. I suggested that I would do that. If you do not want Bill C-25, then I will not see the clock.

The Hon. the Speaker: It is 6 p.m.; I must leave the chair. I will ask again just to be sure I have understood the will of the house correctly.

Is it agreed, honourable senators, that we not see the clock?

Hon. Noël A. Kinsella (Leader of the Opposition): I think we need to hear from the Deputy Leader of the Government. If the Deputy Leader of the Government would give us an indication as to the business we would be dealing with, we could make an intelligent decision as to whether to see the clock or not. How much more work does my honourable friend anticipate the house dealing with, recognizing that all house business is not government business?

Senator Rompkey: I do not think there is much more on the Order Paper. I would ask to seek leave to revert to Notices of Motions. Apart from that, there are not many more items on the Order Paper, and we could conclude very quickly.

The Hon. the Speaker: I am a victim of the clock, honourable senators. I am sure Senator Plamondon, who wants the floor, has heard. I have to ask. I have no other alternative but to seek the will of the house. Is leave granted not to see the clock?

Some Hon. Senators: Yes.

Hon. Madeleine Plamondon: I ask that we see the clock and come back at 8 p.m.

The Hon. the Speaker: Leave is not granted.

The Senate adjourned.

• (2000)

The sitting was resumed.

EXCISE TAX ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, for the second reading of Bill C-259, An Act to amend the Excise Tax Act (elimination of excise tax on jewellery).—(*Honourable Senator Angus*)

The Hon. the Speaker: Honourable senators, the sitting is resumed. We are on Orders of the Day.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I wish to raise a point of order. With respect to Item No. 1 under Commons Public Bills, it is my understanding that this matter was not properly adjourned. I would like a ruling from His Honour before we proceed.

The Hon. the Speaker: Rather than deal with it as a point of order, perhaps I could put the motion and we can complete our work, if it was not completed.

It is moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Losier-Cool, that further debate be adjourned to the next sitting of the Senate.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: On division? We will have a vote. The bells will ring for one hour, unless there is agreement for a shorter bell.

Hon. Bill Rompkey (Deputy Leader of the Government): For the people in Victoria, we had better make it 30 minutes.

Hon. Rose-Marie Losier-Cool: There is agreement.

The Hon. the Speaker: The bells will ring for 30 minutes. The vote will be taken at 8:31.

Call in the senators.

• (2030)

Motion agreed to and debate adjourned on the following division:

YEAS
THE HONOURABLE SENATORS

Austin	Joyal
Bacon	Losier-Cool
Banks	Lovelace Nicholas
Callbeck	Mahovlich
Carstairs	Mercer
Chaput	Milne
Christensen	Mitchell
Cook	Moore
Corbin	Munson
Cordy	Peterson
Cowan	Phalen
Dallaire	Prud'homme
Day	Ringuette
Eggleton	Robichaud
Fairbairn	Rompkey
Fraser	Smith
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Goldstein	Tardif
Grafstein	Trenholme Counsell
Hervieux-Payette	Watt
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Angus	McCoy
Champagne	Nolin

Comeau
Di Nino
Dyck
Forrestall

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THE HONOURABLE SENATORS

Maheu

Plamondon—2

QUESTION OF PRIVILEGE

The Hon. the Speaker: Honourable senators, Senator Spivak has drawn rule 43(8) of the *Rules of the Senate of Canada* to my attention, which reads:

Except as provided in section (9) below, the Senate shall take up consideration of whether the circumstances constitute a question of privilege at not later than 8:00 o'clock p.m., or immediately after the Senate has completed consideration of the Orders of the Day for that sitting, whichever comes first.

I did acknowledge a matter of order before the vote on the adjournment. Our rules are clear that at the first opportunity after eight o'clock a matter of privilege is spoken to. Therefore, I now recognize Senator Spivak on her question of privilege.

Hon. Mira Spivak: Honourable senators, my question of privilege concerns responses to Order Paper Questions about the boundaries of Gatineau Park. The privilege afforded parliamentarians to place questions on the Order Paper and to receive prompt and accurate responses from the government is not to be taken lightly. It is a privilege that predates the Access to Information Act, and it is a privilege that only we and members of the House of Commons enjoy.

On occasion, the responses we receive may not be as prompt as we would want. On occasion, they may appear too general or to be skirting the real question. However, we do not expect the answers given to senators to be in full contradiction to the answers given to members of the House of Commons.

• (2040)

I raise, as a matter of privilege, the example that came to my attention last week when a response was tabled in the House of Commons to a question about the boundaries of Gatineau Park placed on the Order Paper by the Member of Parliament for Ottawa Centre.

We have both been pursuing the matter quite independently because, as the private member's bill introduced last week says, Gatineau Park is the only major federal park that is not protected under the National Parks Act and whose boundaries are not established by federal statute. Moreover the park, only a few kilometres from Parliament Hill, is the only federal park that can have portions of its territory removed without the knowledge, review or approval of Parliament.

I had hoped, by now, to have introduced a bill that would have established that parliamentary oversight, but others have been keeping our law clerks very busy.

While preparing for that bill in December 2004, I placed three basic questions on the Order Paper and one very specific question. The three questions on the parks boundaries asked: What changes had been made since 1992; by what mechanism had they been set and recorded; and what was the rationale for each?

A response, signed by the Minister of Canadian Heritage, told of a September 1995 decision by the executive committee of the National Capital Commission to rationalize “the park’s legal boundary” with a number of factors. It made explicit reference to “a) The legal boundary of the Park established by Federal OIC (Order-in-Council) in 1960.”

It also spoke of an 1998 NCC submission and other documents identified as a submission to Treasury Board saying:

In 1998, the NCC’s submission on the rationalization of Gatineau Park’s former legal boundary was considered and the new legal boundary of the Park was approved.

Any reasonable person reading that response would infer that if the park’s boundaries are not established in statute and protected by parliamentary oversight, they are at least established by an Order-in-Council of 1960 that was in some fashion amended through the 1998 submission by which “the new legal boundary of the Park was approved.”

Clearly that is what the Member of Parliament for Ottawa Centre inferred when, in September, he placed questions on the Order Paper asking: How many times have the park’s boundaries changed since they were set by Order-in-Council in 1960; were those changes made by Order-in-Council and, if not, why not; and by what methods were they changed?

The response he received last week was:

The 1960 Order-in-Council did not establish the Park boundary, but rather provided authority to the National Capital Commission (NCC) to acquire lands for park purposes within an area shown by a wide shaded line on a plan attached to the Order-in-Council.

That is the first clear contradiction. I am told that the 1960 Order-in-Council established the boundary. He is told that it did not.

The member of Parliament was further told that the NCC has authority under the National Capital Act to construct, maintain and operate parks, and it was pursuant to that authority that:

...the NCC approved the new boundary of Gatineau Park on November 20, 1997, on condition that the boundary for the Meech Creek Valley be considered only provisional at that time.

That is the second contradiction. Although my question specifically asked about any mechanism through which the boundaries have been set and recorded, there was no reference in the response to me about the NCC approving the new boundary in November 1997.

Finally, the Member of Parliament for Ottawa Centre was told:

The February 1998 Treasury Board submission was required, not to define the park’s boundary but in order to have all lands within the new Gatineau Park boundary designated under the National Interest Land Mass.

That is the third clear contradiction. I was told that the submission was considered and the new legal boundary was approved. He was told that the approval came a year earlier by the NCC only and the 1998 submission was only a housekeeping matter.

It would be tempting to dismiss these clear contradictions simply as large errors or the work of the uninformed. However, this is not the first time that a senator has received a misleading response to a question about Gatineau Park.

In October 2003, Senator Lapointe sent written notice of a question about an agreement between the NCC and the operators of Camp Fortune ski centre specifically regarding a requirement to file an annual activity plan and whether those plans had been filed. He was told clearly that the operators had “provided operating plans in accordance with the obligations of the lease.” Then an access to information request found that they had not between 1999 and 2002.

I believe that the right of any senator to place questions on the Order Paper or to ask questions on the floor or to send written notice of a question and to receive an accurate response is a very important privilege. Therefore, the receipt of inaccurate information, perhaps wrongful information, is a grave and serious breach.

It is especially so in the context of preparing legislation to be introduced in this chamber or in the other place. I mentioned that the Member of Parliament for Ottawa Centre had introduced a bill. His other Order Paper question asked for the “metes and bounds,” the legal description of the legal boundaries of Gatineau Park, and he was informed that no such description exists. He was informed that the most recent complete description is simply a compilation of the legal survey plan set out in the Treasury Board submission of 1998.

Mr. Broadbent was forced to use the Government of Quebec’s legal description of a Gatineau game sanctuary, which almost coincides with the supposed non-boundary of the park.

The Leader of the Government in the Senate may have a particular interest in getting to the bottom of this breach. Last May, he sent our Energy and Environment Committee chairman a copy of the letter he had received from the Chairman of the NCC. Senator Banks distributed it to all committee members.

The NCC Chairman wanted to set out mechanisms to protect the park. He wrote of the NCC enabling legislation, an international designation, several master plans and classification under the National Interests Land Mass. He mentioned no Order-in-Council or Treasury Board submission or November 1977 decision solely by the NCC on the park’s boundaries.

Honourable senators, I hope that the Speaker will agree that a privilege has been breached, that I have raised it at the earliest opportunity, that the breach is serious and that a remedy can be found, which I suggest would be a referral to the Rules Committee to investigate how clearly contradictory information was sent to this place and the other place. If the Speaker so rules, I will make a motion.

The Hon. the Speaker: No senator is rising to make a further comment or contribution to Senator Spivak's question of privilege. It is a rather long presentation and I will take it under consideration. I will read it carefully and try to return with a response, given the circumstances of this time, as soon as possible this week. That is my intention.

• (2050)

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, the hour is late. I wonder if there would be a general consensus to stand all remaining items on the Order Paper until the next sitting of the Senate and that all items stand in their place as they are so ordered today?

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

Hon. Senators: Agreed.

The Senate adjourned until Wednesday, November 23, 2005, at 1:30 p.m.

Appendix A**OFFICIAL LANGUAGES ACT***(see page 2111)*

BILL TO AMEND—MESSAGE FROM COMMONS

A message was brought from the House of Commons to return Bill S-3, An Act to amend the Official Languages Act (promotion of English and French).

And to acquaint the Senate that the Commons has passed this bill with amendments to which it desires the concurrence of the Senate.

The amendments were then read by one of the clerks at the Table, as follows:

1. *Page 1, clause 1:* Replace lines 7 to 12 with the following:

“(2) Every federal institution has the duty to ensure that positive measures are taken for the implementation of the commitments under subsection (1). For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.”

2. *Page 1, clause 1:* Replace lines 15 and 16 with the following:

“other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer or office of the Ethics Commissioner, prescri-”

3. *Page 1:* Delete clause 2.

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