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(HANSARD)

**Monday, March 22, 2004**



THE HONOURABLE DAN HAYS  
SPEAKER

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## THE SENATE

Monday, March 22, 2004

The Senate met at 8 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### THE CONSERVATIVE PARTY OF CANADA

##### ELECTION OF STEPHEN HARPER AS LEADER

**Hon. Gerry St. Germain:** Honourable senators, from the farthest reaches of our northern Arctic frontier to the depths of our southern border with the U.S.A., Canadians are rejoicing. From the rocky coast of Newfoundland and Labrador to the beaches of Vancouver Island, Canadians have felt a rekindling of new hope; hope for the way in which they govern themselves. Saturday's election of Stephen Harper as the leader of the new Conservative Party of Canada is the dawning of a new era in Canadian politics, one that is full of hope, and characterized by the restoration of democracy's real promise: government of the people by the people for the people. For the first time in Canadian history, the country now has a political party that offers a principled and realistic conservative alternative to liberalism in all of its forms.

Let me congratulate my leader, Mr. Harper, on his convincing victory. He assumes the helm of a party invigorated, grounded and forward-looking, embracing real principles that are founded in a common-sense approach to representing all Canadians. Let me also congratulate Belinda Stronach who stepped into the cut and thrust of the public arena, demonstrating that new ideas and new energy are the driving force behind a new party that has attracted more than a quarter-million Canadians into its ranks.

Let me also congratulate a committed and principled Conservative who brought his ideas and commitment to the leadership race. Mr. Tony Clement demonstrated the breadth and depth of our party, a party that exists because ideas do matter.

Honourable senators, Stephen Harper is a young, hard-working, common-sense leader who understands that Canadians are looking for political leaders who put integrity first and who are guided by an honest, principled and common-sense approach to decision-making. Mr. Harper stands in stark contrast to the crass, unprincipled, opportunistic and disconnected Liberal politicians who present themselves as having the right to govern.

Under Mr. Harper's capable leadership, two political forces in Canada were brought together, uniting ideas, talents, policies and historical memory that reaches back to the founding of our country. Under Mr. Harper's capable leadership, we are beginning to write a new chapter in Canadian history. It is a story about a modern government represented by young, positive, bright Canadians, most of whom come from ordinary

backgrounds but who have demonstrated an extraordinary commitment to public service in their communities.

It is a story of a group of principled people who put forward some common sense ideas about how government can be a positive force in improving the lives of ordinary Canadians. It is a story about how a principled political party earns the trust of Canadians, taking nothing for granted, honestly debating the merits of its proposed policies. It is a story of how Canada became a healthier, more productive, more prosperous, safer, more respected country where the lifestyles of its people were the top concern of the government. It is the story of individual Canadians being presented with this new hope, and choosing to make a decision; a decision that changed their lives forever and built a better country.

**The Hon. the Speaker *pro tempore*:** Honourable senators, I regret to inform the honourable senator that the time for his intervention has expired.

[Translation]

#### INTERNATIONAL DAY OF LA FRANCOPHONIE

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I would like to remind you this evening that two days ago, that is, Saturday, March 20, 2004, it was the International Day of La Francophonie. The theme this year was social development and solidarity.

The word "francophonie" was used for the first time in 1880 by one Onésime Reclus. The concept has grown since its beginnings. La Francophonie has become more than simply all the people and countries using French. La Francophonie has created its own political bodies, giving it a significant role in the economic, political and social concerns of the world.

The Organisation internationale de la Francophonie or OIF, the French-speaking counterpart of the Commonwealth, represents nearly 500 million francophones in 55 countries on all five continents. It is headquartered in Paris, France, and its current Secretary General is His Excellency Abdou Diouf, former President of Senegal. The OIF is involved in peacekeeping, democracy, human rights, education, cultural diversity and economic development in its member countries.

The OIF has permanent delegations to the United Nations, the European Union and the Organization of African Unity. It holds an international summit every two years. The next summit will take place in November 2004 in Ouagadougou, Burkina Faso. The summit has twice been held in Canada: in Quebec City in 1987 and in my home area, in Moncton, in 1999. The OIF is also an organizing force behind the Games of la Francophonie every four years. The fourth edition of the games was held here in Ottawa-Hull in 2001; the fifth will be held in Niamey, Niger, in 2005.

For its activities, the OIF relies on the Agence intergouvernementale de la Francophonie, created in 1970, which is responsible for managing all programs approved at the organization's international summits.

In implementing its projects and objectives, the OIF also relies on the Agence universitaire de la Francophonie; TV5; the Université Senghor in Alexandria; the Association internationale des maires francophones; and two specialized institutes studying the environment and new technologies.

I will close by mentioning what I think is one of the most important components of the OIF, the Association parlementaire de la Francophonie. The APF was created in 1967 and has members representing 73 parliaments.

The work of the APF is carried out in part by the Réseau des femmes parlementaires — of which I am the vice president...

**The Hon. the Speaker** *pro tempore*: I am sorry, Senator Losier-Cool, but your time is up.

• (2010)

[English]

#### ANTI-SEMITIC INCIDENTS

**Hon. David Tkachuk:** Honourable senators, I want to state my disgust over several ugly acts of anti-Semitism that were carried out in the Toronto area over the last week. Last Monday, 13 homes in a mainly Jewish neighbourhood were painted with swastikas and anti-Semitic slogans. Some of these homes belonged to Holocaust survivors, who expressed shock that such a thing could happen to them in Canada.

This weekend, a synagogue's windows were smashed, and anti-Semitic graffiti and swastikas were found on a Jewish day school, a community centre and numerous signs for the United Jewish Appeal.

Perhaps the most disturbing of all these incidents was the desecration of a Jewish cemetery. Twenty-two headstones, some benches and a menorah were destroyed in the Bathurst Lawn Memorial Park Cemetery on Saturday night. While the damage to the cemetery is estimated to be about \$20,000, a higher price has been paid in the lost sense of security felt by those affected by this vandalism.

I know I speak for all honourable senators when I say that these actions are indefensible and must be strongly condemned.

It is sadly ironic that yesterday, March 21, the world observed the International Day for the Elimination of Racial Discrimination. That date commemorates the anniversary of the 1960 Sharpeville massacre in South Africa, when 70 peaceful anti-apartheid demonstrators were shot and killed by police. Although the world has made progress against all forms of bigotry since the Sharpeville massacre, there is still much to be done.

If there were any doubts that we must continue to work toward racial tolerance in our own country, the incidents of this past weekend have erased them. Canada is not immune to this

particular type of hatred. In fact, it is becoming an increasingly noticeable problem. B'nai B'rith recently released a study that found acts of anti-Semitism in Canada are now at their highest point in 20 years. The B'nai B'rith also says that the number of reported incidents has jumped over 27 per cent in just the last year.

In another sad irony, this past weekend also commemorated the sixtieth anniversary of the Nazi invasion of Hungary, which ultimately led to the murder of 500,000 Hungarian Jews. At a vigil to mark the anniversary, Judy Cohen, the volunteer chair at the Baycrest Centre in Toronto, said: "The Holocaust didn't start with mass murder. It started with words and prejudicial language and bigotry and deeds."

Honourable senators, all Canadians should be mindful of these words. We must be vigilant in holding to account those who perpetuate this violence. Actions similar to those of this weekend have no place in Canadian society.

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

#### CURLING

##### NOVA SCOTIA—CONGRATULATIONS TO WINNING TEAMS

**Hon. Terry M. Mercer:** Honourable senators, I will not seize the opportunity to talk about the events at the Conservative convention this weekend. Senator St. Germain talked to us about the leader of the month.

I rise, honourable senators, to talk to you as a proud Nova Scotian. To be a Nova Scotian is always a proud thing, but to be a Nova Scotian curler these days is even better. As an avid curler myself, I could not be more proud to be a Nova Scotian these days.

In what may amount to the biggest come-from-behind victory in the history of the Brier, the Nova Scotia men's team, led by skip Mark Dacey, with teammates Bruce Lohnes, Rob Harris and Andrew Gibson, captured the championship with a 10-9 win over Alberta. This is the first national win for a Nova Scotia men's team since 1951, when Halifax hosted the Brier.

This follows quickly on the heels of another win for Nova Scotia in curling. Colleen Jones and her teammates, including Kim Kelly, Mary-Anne Arsenault and Nancy Delahunt, captured the Scott Tournament of Hearts with a 7-4 win over Quebec, a record fourth straight championship for that team.

Both teams are from the Mayflower Curling Club in the heart of Halifax, the club where I learned to curl. These talented athletes have become the new powerhouse of curling in Canada.

I would also like to congratulate the junior women's team from Nova Scotia, who are currently representing Canada at the World Juniors now being held in Trois-Rivières. This impressive group — Jill Mouzar, Paige Mattie, Blisse Comstock and Chloe Comstock — captured the Canadian junior title earlier this year. This, I am afraid, senators, may lead to more cries of western alienation as all the championships move east.

Honourable senators, please join me as I extend my congratulations to these tremendous athletes on a job well done. I wish them every success in their pursuit of the World Curling Championships for Canada.

### INTERNATIONAL DAY FOR THE ELIMINATION OF DISCRIMINATION

**Hon. Donald H. Oliver:** Honourable senators, I wish to associate myself with the remarks of Honourable Senator Tkachuk. I, too, would like to remind honourable senators that yesterday, March 21, was the International Day for the Elimination of Racial Discrimination, a day that was established by the United Nations in 1966 and one that has been recognized and commemorated in Canada since 1988.

While this day was originally established in the years following the Sharpeville massacre of 1960 in apartheid South Africa and was meant to commemorate that horrific event, it has come to represent much more than that since its original declaration 38 years ago.

In Canada, this day symbolizes the fundamental Canadian values of respect, acceptance and tolerance of racial and ethnic diversity in our society and a public declaration of commitment by Canadians of all racial and ethnic backgrounds to the goal of upholding these values and eliminating the scourge of racism from our society.

Although we can take pride in past efforts at combating racism in Canada, we also have to acknowledge that racist attitudes continue to permeate certain segments of Canadian society and that Canadians continue to be victims of these attitudes. Therefore, we have to recommit ourselves to the goal of eliminating this mindset by continuing to promote a vision of Canada that is not just tolerant of racial and ethnic differences but accepting of them.

Honourable senators, all Canadians with good sense acknowledge that there is no place for racism in Canadian society. Racial discrimination and prejudice destroy the fabric of our society and undermine the values of respect, equality and diversity. Where racism and prejudice exist, they must be acknowledged and then they must be eliminated. As Canadians, we all need to take individual responsibility in this effort, and we must commit ourselves to promote values based on fairness, justice and mutual understanding.

Honourable senators, I am proud to live in a country as culturally diverse as Canada, and I am proud that we as Canadians acknowledge how rich this makes our society. However, as we commemorate the thirty-eighth anniversary of the International Day for the Elimination of Racial Discrimination, I ask that we heed the words of Nelson Mandela, who said:

I have cherished the ideal of a democratic and free society in which all persons live together in harmony and equal opportunity. It is an ideal which I hope to live for and achieve.

[ Senator Mercer ]

Along with many other Canadians, I also hope to live to see the ideal espoused by Mr. Mandela.

As we work together toward that goal, I ask that all of us use this day as a reminder that we each have a stake in building a country free of racism, where respect, acceptance and tolerance of racial and ethnic differences is a hallmark.

[Translation]

## ROUTINE PROCEEDINGS

### HUMAN RIGHTS

#### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF LEGAL ISSUES AFFECTING ON-RESERVE MATRIMONIAL REAL PROPERTY ON BREAKDOWN OF MARRIAGE OR COMMON LAW RELATIONSHIP PRESENTED

**Hon. Shirley Maheu,** Chair of the Standing Senate Committee on Human Rights, presented the following report:

Monday, March 22, 2004

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

### THIRD REPORT

Your committee, which was authorized by the Senate on Thursday, February 19, 2004, to examine and report upon key legal issues affecting the subject of on-reserve matrimonial real property on the breakdown of a marriage or common law relationship and the policy context in which they are situated, respectfully requests for the purpose of this study that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

SHIRLEY MAHEU  
Chair

(For text of budget, see today's Journals of the Senate, page 330.)

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

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

## PARLIAMENT OF CANADA ACT

### BILL TO AMEND—FIRST READING

**The Hon. the Speaker *pro tempore*** informed the Senate that a message had been received from the House of Commons with Bill C-24, to amend the Parliament of Canada Act.

Bill read first time.

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

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

• (2020)

## APPROPRIATION BILL NO. 4, 2003-04

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-26, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004.

Bill read first time.

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

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

## APPROPRIATION BILL NO. 1, 2004-05

### FIRST READING

**The Hon. the Speaker *pro tempore*** informed the Senate that a message had been received from the House of Commons with Bill C-27, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005.

Bill read first time.

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

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

[*English*]

## TRAINING NEEDS OF SMALL BUSINESSES

### NOTICE OF INQUIRY

**Hon. Catherine S. Callbeck:** Honourable senators, pursuant to rule 57(2), I give notice that on Wednesday, March 24, 2004, I will draw the attention of honourable senators to the training needs of small businesses.

## OFFICIAL LANGUAGES

### BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITION

**Hon. Landon Pearson:** Honourable senators, pursuant to rule 4(h), I have the honour to table petitions signed by another 24 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the Government of Canada;

That section 16 of the *Constitution Act, 1867* designates the city of Ottawa as the seat of the Government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the Government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada, is officially bilingual, pursuant to section 16 of the *Constitution Act*, from 1867 to 1982.

[*Translation*]

## BUDGET SPEECH

### ACCOMMODATION OF SENATORS IN COMMONS GALLERY

**The Hon. the Speaker *pro tempore*:** Honourable senators, before we move on to Question Period, I want to remind the Senate that the Budget Speech will be given in the other place at 4 p.m., Tuesday, March 23, 2004.

As in the past, senators must take their seats in the section of the gallery reserved for the Senate in the House of Commons. Seating will be first come, first served.

[*English*]

As space is limited, this is the only way we can ensure that those senators who wish to attend can do so. Unfortunately, any guests of senators will not be seated.

## QUESTION PERIOD

### SOLICITOR GENERAL

#### AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—INVOLVEMENT OF COMMISSIONER OF ROYAL CANADIAN MOUNTED POLICE

**Hon. James F. Kelleher:** Honourable senators, my question is for the Leader of the Government in the Senate. All of the agency heads involved in the sponsorship scandal have been suspended or fired, with the sole exception of the Commissioner of the RCMP. Of the \$3 million in sponsorship funds set aside for the one hundred and twenty-fifth anniversary celebrations of the RCMP, \$1.3 million went to Liberals who were connected with advertising firms and who were also acting as middlemen. A large portion of the funds received by the RCMP — with the knowledge of the commissioner — went into a separate, non-government bank account, which clearly violated federal rules. Some \$11,000 went to pay for the June 1998 regional ball in Montreal, at which the Prime Minister was the guest of honour.

In light of the foregoing, what action has been taken by the government with respect to the Commissioner of the RCMP?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I have not heard any accusation from Senator Kelleher of any malfeasance on the part of the Commissioner of the RCMP. I do not understand the question.

**Senator Kelleher:** Honourable senators, I have already stated in my question that the funds received went into a separate, non-government bank account, something that clearly violated federal rules and which the Auditor General has verified. I cannot be any clearer than that — hence, my question.

**Senator Austin:** Honourable senators, the Auditor General has reported on this event, and this event has been made at the request of the RCMP, subject to an investigation by la Sûreté du Québec. We have not received their report. Whatever is alleged by Senator Kelleher will be subject to a public report that will be tabled by la Sûreté du Québec on the matter in question.

### BUSINESS DEVELOPMENT BANK

#### AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—INVESTIGATIONS BY ROYAL CANADIAN MOUNTED POLICE

**Hon. James F. Kelleher:** Honourable senators, in the BDC scandal concerning the firing of Beaudoin by Vennat and Carle, who were severely criticized, leading to the dismissal of Vennat, it has come out that Vennat personally called the Commissioner of the RCMP asking him to investigate Beaudoin, raid his home, and seize his personal papers. Within hours, the Mounties acted.

From my knowledge of the operational protocol of the RCMP, it would appear that Vennat and the EDC received preferential treatment. Why was this?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I do not accept the premise that preferential treatment

was given because I have no basis to do so, except the allegation of Senator Kelleher. There has been no evidence adduced publicly that the RCMP failed to seek the appropriate warrants for the search. One would have to assume that in the normal course these warrants were obtained and that a judge granted those warrants to the RCMP based on evidence provided by the RCMP, which may have been provided by the Business Development Bank.

I still do not follow the point that Senator Kelleher is making. I would welcome a supplementary question.

• (2030)

**Senator Kelleher:** Honourable senators, I think I have made the point that, from my knowledge of the operations of the Royal Canadian Mounted Police, stemming from the fact that I was Solicitor General for several years, normal procedures were not followed when, within hours after a phone call, the RCMP conducted their raids.

**Senator Austin:** Honourable senators, the investigations under way will demonstrate what took place, and I think we should wait for those factual reports.

### ROYAL CANADIAN MOUNTED POLICE

#### AIRBUS INVESTIGATION—INVOLVEMENT OF CONFIDENTIAL INFORMANT STEVIE CAMERON

**Hon. Gerry St. Germain:** Honourable senators, on a supplementary question in regard to the abuse of power to which Senator Kelleher referred, if an inquiry is under way, will that inquiry also encompass the utilization of the RCMP in the Airbus Eurocopter affair, where Stevie Cameron is now saying that she cannot defend herself at such an inquiry because she was named as a confidential police informant and that fact was made public by the RCMP? The question relates to this innuendo, unproven innuendo —

[Translation]

**The Hon. the Speaker *pro tempore*:** Honourable senators, I am sorry but this is not a supplementary question. Senator St. Germain, you are using this opportunity to ask another question.

**Senator St. Germain:** It is another question, but it is on the same subject.

**The Hon. the Speaker *pro tempore*:** It is not on the same subject at all.

[English]

**Senator St. Germain:** Honourable senators, my question is simply this: Will there be an investigation into what amounts to the same thing that was done by both Allan Rock and Stevie Cameron, namely, the utilization of the Royal Canadian Mounted Police in a witch hunt against Prime Minister Mulroney and others?



**Hon. Jack Austin (Leader of the Government):** Honourable senators, I reject absolutely the suggestion that the Royal Canadian Mounted Police Force has been politicized. I will maintain, until there is evidence of some kind to the contrary, that the RCMP is acting independently and on the basis of proper rules and procedures with respect to every one of the steps it has taken in the investigations mentioned by Senator Kelleher and by Senator St. Germain.

## SUPREME COURT OF CANADA

### APPOINTMENT PROCESS OF JUDGES

**Hon. Gérard-A. Beaudoin:** Honourable senators, today, Mr. Justice Iacobucci announced that he will retire at the end of June. As honourable senators know, Madam Justice Arbour will also leave the court in June to take up her new duties at the United Nations.

The Minister of Justice has said that the process of appointing Supreme Court judges must be re-examined. In fact, last December he said, "We intend to directly address this issue. I just need to put it before my colleagues in Parliament so that they will have first notice and understanding of what we are considering in this regard."

My question is: In light of the upcoming vacancies, can the Leader of the Government tell us when the minister will bring his proposal to Parliament?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the view of the government is that the Supreme Court of Canada is the most important of judicial tribunals. Given the role that it plays in Canada today under the Constitution and with respect to the Charter of Rights, there should be some transparency concerning the manner of appointment. Accordingly, the Government of Canada is asking parliamentarians at this time to provide the Government of Canada with proposals as to the nature of the process that should be followed. It is clear that we do not seek an American type of judicial inquisition, but we do want to make it clear to Canadians that people who are appointed have been appointed on the most objective standards possible, with respect to their qualifications and with respect to their integrity, and that they have had a parliamentary review which, in the view of the Government of Canada, is an appropriate process to be followed in the 21st century.

[Translation]

**Senator Beaudoin:** Everything, of course, depends on the date of the election. If it is in April or May, understandably the government will not have the time to put a new appointment process in place.

If, on the other hand, the election comes later than that, but before the Supreme Court meets again in October, will Parliament be consulted, given the possibility of a deferred election date?

[English]

**Senator Austin:** Honourable senators, I cannot speculate about the date of a forthcoming federal election and how it will impact on the question of the nomination of Supreme Court judges. I can simply say that the priority for Canadians is always to address the issue of an election when a government seeks a mandate. Even if there are no replacements for Madam Justice Arbour and Mr. Justice Iacobucci, there will still be seven judges on the Supreme Court of Canada. The court will not cease to function; it can carry on with its duties. I cannot otherwise respond to Senator Beaudoin's question.

## CITIZENSHIP AND IMMIGRATION

### ROYAL CANADIAN MOUNTED POLICE INVESTIGATIONS INTO ALLEGATIONS OF BRIBERY

**Hon. Donald H. Oliver:** Honourable senators, my question, like that of Senator Kelleher, is about the RCMP, and is directed to the Leader of the Government in the Senate.

Last week, the RCMP laid a total of 278 charges against 11 people accused of pressuring immigrants to pay bribes in exchange for favourable outcomes at their Immigration and Refugee Board hearings. The RCMP said that between 50 and 60 immigrants were offered positive rulings in exchange for cash bribes of up to \$15,000. One of the accused, Yves Bourbonnais, is a former Liberal appointee to the board, who was named as a judicial officer despite the fact that he had been previously convicted in 1988 on breach of trust charges.

Will the Leader of the Government in the Senate tell us whether there are any other RCMP investigations under way involving the Immigration and Refugee Board?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, as our colleague the former Solicitor General Senator Kelleher would reply, there is no way that a minister can advise anyone with respect to investigations under way by the RCMP. They have no obligation to tell us, and they ought not to tell us, and I know nothing about ongoing investigations.

**Senator Oliver:** Honourable senators, according to media reports, most of the immigrants who were pressured to provide bribes were fighting deportation orders or challenging unsuccessful sponsorship applications, and some of those who eventually gained positive rulings have criminal records. Could the Leader of the Government in the Senate tell us if those cases connected with the recently laid RCMP charges will be re-examined by the Immigration and Refugee Board?

**Senator Austin:** Honourable senators, I have no information on that topic. I presume Senator Oliver knows that applications have been made for re-examination, but I have no such information. I will make an inquiry.

## FOREIGN AFFAIRS JUSTICE

### MIDDLE EAST AND DOMESTIC AFFAIRS— EFFORTS TO REDUCE VIOLENCE

**Hon. Douglas Roche:** Honourable senators, the Leader of the Government in the Senate will know that, in the last two years in Canada, attacks on Jews have doubled. The desecration of a Jewish cemetery in Toronto over the weekend is the latest incident of these deplorable hate crimes. The Toronto police chief says his force is now on high alert against anti-Semitic hate crimes.

Does the leader see any connection between domestic crimes against Jews and the continuing violence in the Middle East? The Israeli assassination yesterday of Mr. Yassin, the founder and spiritual leader of the Hamas, is another act in the violence that has been committed by both sides in the Middle East conflict.

• (2040)

What is the policy of the Government of Canada to reduce violence in the Middle East, and what is the policy to reduce hate crimes in Canada? In short, what is Canada doing to eliminate the terrible violence that scars Israeli-Arab relations that are at the heart of the struggle for peace in the world?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, Senator Roche's question gives me the opportunity to thank Senator Tkachuk for his statement earlier this evening with respect to anti-Semitism. Anti-Semitism is a scourge based on an evil mythology that obviously cannot even be eliminated by the death of 6 million people in the Second World War.

With respect to the hatred that lies in the souls of human beings, how shall we ever address it perfectly? How shall we ever eliminate it? We can only take these steps by building a civil and just society day by day in our own community. I applaud Chief Fantino of the Toronto police force for the outstanding measures he is taking to try to deal with the events taking place against the Jewish community in Toronto.

Finally, with respect to the question that relates to the Middle East, Canada does what it can to represent values of peace and support. Canada takes the position that a peaceful settlement in the Middle East must come through negotiation and, as such, tries to facilitate negotiation.

As Honourable Senator Roche knows as well as anyone in this chamber, the road map that was supported by the United States and by the European community is hardly a shadow of reality today in the Middle East. I wish I could find an answer.

If I may say so, years ago, Senator De Bané and I decided to travel to the Middle East together to settle the problem, but when we sat down to work out the details, we found no one wanted to talk to us.

**Senator Roche:** Honourable senators, I thank the leader for his thoughtful response to my question.

Hatred is at the heart of this domestic and international violence. I am not suggesting that governments can by themselves cure hatred, but they can do a great deal with aggressive campaigns to promote tolerance.

Does the government view the United Nations as a place where tolerance can be promoted and, thus, worthy of increased Canadian support in these turbulent times?

**Senator Austin:** Honourable senators, I can only say that the Government of Canada has every confidence that the United Nations is an instrument to promote tolerance and peaceful settlement of disputes and that Canada lends every effort to its efforts.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### STATUS OF COMMUNICATIONS CANADA

**Hon. Marjory LeBreton:** Honourable senators, in December, immediately upon taking office, the Prime Minister announced that he was shutting down Communications Canada, the organization that ran the sponsorship program.

However, Communications Canada ran more than just the sponsorship program. When he disbanded it, the Prime Minister said the roles carried out by Communications Canada would "be reviewed quickly with a view to eliminating some activities while enhancing service to Canadians and finding significant savings."

Communications Canada was the government's publisher; it ran the main government Web site; it managed polling and advertising; it played a major role in media monitoring; it operated the government inquiry centre; it had a fairs and exhibitions program; and it served as a secretary to the cabinet communications committee. The government is not likely to let go of those tasks.

Can the government leader advise the Senate if, in fact, anything beyond the sponsorship program has been shut down?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the program of advertising has been shut down until June 30 of this year, while a review of the government's advertising program is conducted.

**Senator LeBreton:** Honourable senators, on February 15, the cabinet approved an Order-in-Council dividing the work of Communications Canada between the Privy Council Office and the Department of Public Works. Part of it goes to the department that serves the Prime Minister, and part of it goes to the department that created the sponsorship mess in the first place.

Honourable senators, last year, through the Main Estimates, this program was voted some \$100 million. There was a separate vote and a separate report on plans and priorities that outlined how it planned to spend its money.

This transparency is gone. The Main Estimates this year give absolutely no information on how much Canadians will pay to carry on the work of Communications Canada. We asked the Treasury Board, and it did not know.

Could the government leader please advise the Senate as to the cost that will be incurred by the Privy Council Office and Public Works this year as a result of picking up the pieces of Communications Canada?

**Senator Austin:** Honourable senators, I would be pleased to take that question as notice and obtain the information.

### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour to present three delayed answers to oral questions posed in the Senate. The first is in response to an oral question posed in the Senate on February 17, 2004, by Senator Oliver, regarding foreign student visas obtained through educational institutions — master list of the legitimate schools; the second is in response to an oral question posed in the Senate on February 23, 2004, by Senator Moore, regarding the extension of the deadline for RRSP contributions for Nova Scotians; and the third delayed answer is in response to an oral question posed in the Senate on February 26, 2004, by Senator LeBreton, regarding the Auditor General's report — political interference in loans, forensic audit.

### CITIZENSHIP AND IMMIGRATION

#### FOREIGN STUDENT VISAS OBTAINED THROUGH EDUCATIONAL INSTITUTIONS— MASTER LIST OF LEGITIMATE SCHOOLS

*(Response to question raised by Hon. Donald H. Oliver on February 17, 2004)*

The oversight of provincial educational institutions is strictly a provincial responsibility. Typically, provinces are more heavily involved with institutions that receive government funding or are eligible for student assistance programs (i.e. loans et cetera).

A growing segment of the educational sector in Canada is private language schools. The level of regulation of this industry varies from province to province, however for the most part it is unregulated. Some provinces (not all) require registration of private language schools. It is important to note that a registration process does not mean that the institution is regulated. BC was the only province which introduced comprehensive legislation to regulate this sector but has since retracted it.

As there is no full regulation or registration by provinces of private schools that operate in Canada, there is no way to create a complete list of 'bona fide' schools. It is not within the Immigration mandate to assess the qualifications or perceived quality of educational institutions in provincial jurisdictions.

Immigration officers at Canadian missions abroad consider the merits of all applications to study (i.e. bona fides, criminality, security, health, adequacy of funds) and assess whether the applicant will leave at end of their authorized stay.

In general, if immigration officers have concerns about or are unaware of particular institutions, they can enquire at regional offices. There is no legal basis to refuse an applicant solely on the perceived quality of an educational institution. However, an applicant's bona fides may be reflected in a claim to study at a defunct or bogus school: such an application could be refused.

International students (like all travellers) have an obligation to do their own research before committing to studying in a foreign country and should do the same before registering in an institution. Wherever possible, Canadian officials inform students considering Canada as a study destination to check with provincial authorities concerning the quality and types of institutions, but many make their own choice based on the information available to them from friends, on school websites, et cetera.

Although study permits are not required for courses of less than six months, students can still apply for and receive a study permit. This will help facilitate their transition in Canada should they decide to alter their study plans once here. International students in Canada on a study permit who are concerned about the quality of their educational institution can apply to have their conditions of stay changed to study at a different institution. Those without a permit are free to study at other institutions provided the total duration of their course of studies does not exceed 6 months.

At the Federal-Provincial-Territorial Meeting of Ministers responsible for Immigration, which took place in Victoria on January 22, 2004, a proposal was put forward to establish a federal/provincial/territorial working group to look into the matter of unknown educational institutions and the establishment of a list of schools.

CIC is currently taking steps to formally engage its provincial/territorial stakeholders on this matter and will report on the progress at the next meeting, scheduled for the Fall of 2004.

### NATIONAL REVENUE

#### NOVA SCOTIA—WINTER SNOW STORM— DELAY IN FILING FOR REGISTERED RETIREMENT SAVINGS PLANS

*(Response to question raised by Hon. Wilfred P. Moore on February 23, 2004)*

The Agency grants extension of such a deadline only under extraordinary circumstances where there is enough evidence that Canadians would be severely disadvantaged if these measures were not put in place.

In the case of the snowstorm that passed through the Maritimes, it is my understanding that operations returned to normal fairly quickly following the storm. Furthermore, most financial institutions have not invoked any special measures nor have they requested an extension to the deadline from the CRA. The CRA would exercise this discretion should the circumstances warrant it, now or in the future.

### BUSINESS DEVELOPMENT BANK

#### AUDITOR GENERAL'S REPORT—SPONSORSHIP PROGRAM—POLITICAL INTERFERENCE IN LOANS—FORENSIC AUDIT

(Response to question raised by Hon. Marjory LeBreton on February 26, 2004)

- The Government has been very clear from the moment it learned of the Quebec Superior Court decision as to the seriousness with which it views the judgment.
- There are no plans for a forensic audit of the Bank's management and lending activities.
- However, the Auditor General of Canada is in the process of completing a Special Examination of the Business Development Corporation, as the Auditor General must do every five years pursuant to section 138(1) of the Financial Administration Act.
- This audit is examining the financial and management control and information systems and management practices of the Bank. You can be certain that both the Business Development Corporation and the government will give due consideration to the findings and the need, if any, for corrective measures.

[Translation]

## ORDERS OF THE DAY

### CRIMINAL CODE

#### BILL TO AMEND—THIRD READING

**Hon. Pana Merchant** moved third reading of Bill C-13, to amend the Criminal Code (capital markets fraud and evidence gathering).

She said: Honourable senators, the purpose of Bill C-13 is to amend the Criminal Code, in part in relation to evidence gathering. This is one element of the government's emphasis on protection against crime and crime prevention, and represents an important part of this assembly's agenda.

Soon we will be looking at Bill C-14, the purpose of which is to amend the Criminal Code in relation to dangerous weapons. It

includes provisions on offences relating to setting traps that can cause bodily harm or death. As well, it deals with the use of force and firearms on board aircraft.

These matters, coupled with those relating to gun control, are a major cause of concern for Canadians and those in government. The official opposition has made changes to the gun registry part of its platform for the election that appears to be likely to take place in June.

In the March 10, 2004 *Globe and Mail*, the director of Crown Prosecutors for Ontario said the following:

• (2050)

[English]

...getting stiffer sentences for gun crime. We want to send a message to the streets that gun crime will not be tolerated.

Last month I received — and likely all Liberal senators received — a communication from one of our cabinet colleagues in the other place inquiring about ideas related to problems with gun control legislation, enforcement, the issue of provincial reluctance to enforce and about the cost of the program.

In a variety of public and private ways, Canadians are engaged in the ongoing question of how we utilize firearms for legitimate uses, such as working use and use in sport, which in the West is a large part of our tourist industry, and at the same time seek to do better with the line between intruding on the rights of Canadians and the necessity of intruding to protect Canadians.

In this ongoing debate, I invite honourable senators to consider the concept of allowing each of the territories and each of the provinces to decide whether the gun registry law will apply in their area. I submit to honourable senators consideration of local optional legislation, which allows Parliament to establish nationwide laws but permits those laws to only be implemented in some of the provinces and territories. Such legislation gives provinces the possibility of opting in or out of the federal law.

Canada's gun registry system began in 1995 as Bill C-68 and resulted in the requirement that as of January 1, 2003, all firearms be registered. However, they are not and many provinces have refused to enforce the law, some by stating they will not enforce the law and some saying little but failing to enforce.

It is all the more appropriate, honourable senators, to consider local option legislation in relation to the gun registry with these changes as proposed in Bill C-13, Bill C-14 and Bill C-22, having regard to the fact that a number of provinces were of the view that the gun registry legislation ought not to be imposed upon them and that this matter had to be resolved by the Supreme Court of Canada considering the constitutionality of whether the legislation was provincial or federal in nature.

The best example of local option legislation was the Canada Temperance Act of 1927, which allowed local governments to prohibit the sale of alcohol within their borders based on a popular majority vote. Once a jurisdiction prohibited the sale of alcohol, the penalties and conditions laid out in the federal

[ Senator Rompkey ]

legislation applied. This method allowed regions that felt more strongly about selling alcohol to opt into prohibition. Constituted in 1878, the Canada Temperance Act remained active as amended well into the second half of the 20th century because the opt-in requirement allowed the law to be utilized where the people of the area thought it was appropriate for them.

A question arises concerning opt-in or opt-out legislation, whether applied to the gun registry law or other laws. Would a gun registry in some areas but not all make the law meaningless? The answer is no, and that is because of the underlying purpose of gun registry legislation. No one suggests, logically at least, that gun registration is likely to have a great impact on many in the criminal world. The primary suggestion of the efficacy of gun registration has to do with usually law-abiding people temporarily losing control. For example, it is suggested that when a domestic dispute is ongoing, knowledge that there are guns in the home is helpful.

The fear of a balkanization of gun registration merits inquiry, but bear in mind that the United States has different gun licensing and registry laws from state to state. That country even has different criminal laws from state to state. No one suggests that that country's criminal justice system or their policies for the protection of their public are models of success, but similarly no one suggests that the differing laws have been in any way the cause of the criminal problems experienced in that country.

There is a federal law regarding gun registration in Canada. Adopt it. Take it into your province. It applies. This is the opt-in concept of the Canada Temperance Act.

A lesser concept is the local option arrangement. The federal government says that if a similar law is passed, our legislation will not apply. The Contraventions Act of 1992 is a modern form of this local option arrangement. The federal government signed agreements with various provinces and territories that transform a number of federal offences into contraventions that may be dealt with through a provincial ticketing system. The Contraventions Act regulations provide that when a province signs an agreement with the federal government, the province can then issue a ticket to the perpetrator of one of those offences rather than taking him or her to court under the Criminal Code.

Six provinces have signed Contraventions Act agreements. Offences dealt with under the act include hunting without a valid licence, dangerous driving of a speedboat, and possession or discharge of a firearm in prohibited areas. Parliament, in Bill C-10, is now considering including simple possession of marijuana among the listed offences.

Both of these concepts — opt in or out — and the model of substituted laws allow Parliament to identify a significant issue that falls within federal jurisdiction while recognizing that obstacles stand in the way of blanket implementation across Canada. In the Canada Temperance Act, Parliament recognized that prohibition was an issue of national concern and yet was not willing to pass a blanket law on an issue that was clearly divisive in Canada.

By 1898, the prohibition movement was strong enough to force a national plebiscite on the issue, which passed supporting prohibition. However, Sir Wilfrid Laurier's Liberal government felt that the majority that voted in favour was not strong enough to warrant passing a Canada-wide prohibition law, particularly given that the population of Quebec had voted overwhelmingly no. The parallels of regional support for gun control in some areas and aversion in others are notable and profound.

Like the Contraventions Act, the Personal Information Protection and Electronic Documents Act of 2000 provides another modern example of the government allowing substituting legislation. This act applies to all personal information collected by federally and provincially regulated industries. However, provinces have the option of preventing application of the act within their borders by adopting legislation that is "substantially similar" to the federal legislation. The federal legislation applies until a province enacts its own mirror legislation. As an example, the act currently does not apply to organizations in Quebec because that province has adopted substantially similar legislation.

The Canada Temperance Act then was legislation that did not apply in an area unless that area opted in. The Contraventions Act and the Personal Information Protection and Electronic Document Act required a province to substitute, to remove itself from the effect of the Criminal Code provisions. Put simply, opt in or it does not apply. Number two, it applies unless you substitute.

• (2100)

With gun control, the Contraventions Act substitution option is no option. No province or territory wants to set up its own gun registry. The areas are either for it or against it, and they should have the option of saying so.

In practical terms, what steps are necessary to allow provinces and territories to opt out of the gun registry? Amendment in the other place is the first step. Second, local option legislation can be applied in a variety of ways. On how to implement a local option, Parliament might legislate that a province or region could opt out of the gun registry if two-thirds of the people voting in a referendum opted for their area to be out. Parliament might allow an opt-out on a simple majority. Parliament might give the power to the provincial or territorial government to opt out with or without a referendum.

This suggestion for consideration is in the context of various bills now before this house, including Bill C-13. Local option clauses are constitutionally valid. The principle was tested in our Supreme Court and before the judicial committee of the Privy Council. The concept in recent times has been adopted by the national government where it was seen to be appropriate. The notion is workable and appropriate for gun registry.

Honourable senators, while the current government is the same, it is to some extent new. I applaud that which is the same; I applaud that which is new. In the government's newness, I urge that consideration be given to a local opt-out approach to gun control. We have a new government; we expect new thinking. We are promised attention to the ideas and difference for people from the West.

Honourable senators, if we trust the people, let them decide.

**Hon. Charlie Watt:** Honourable senators, I wonder if Honourable Senator Merchant would be prepared to answer some questions?

**Senator Merchant:** I would be prepared to answer a question.

**Senator Watt:** I think I understand what the honourable senator has said and where she is coming from. I think the country is waiting for some solutions to these problems. Let me use two regions as an example. Nunavut is under federal jurisdiction. Nunavik is under provincial jurisdiction. You suggest that the regions could opt out; in other words, not allow the registry to apply to their people until they are ready or until they reach a certain stage. Is the honourable senator saying that Nunavut, being under federal jurisdiction, could negotiate with the federal government and make it explicitly clear that they are opting out of some aspects of gun control — maybe not all, because safety provisions are involved. Is that what the honourable senator is saying?

**Senator Merchant:** I am not sure if I understand exactly what you are talking about. Where there is a law that people will not obey, that law is meaningless. Coming from the West, I know that the gun registry is a big problem. It will be an issue. I hope this government will be prepared to look at alternatives. These were just some ideas that I had been thinking about and that other people have discussed with me. We make allowances for many things, for different people in different areas. Perhaps these ideas need to be refined a bit. I wanted to speak for the part of the country where I live and to put on the record our concerns, and perhaps to stir honourable senators to think of some solutions.

I am not sure I have an answer to Senator Watt's question. As I have explained, opting in or out are options. If a province had similar legislation of its own, it would not have to abide by the federal legislation.

I hope that answers the question of the honourable senator.

**Senator Watt:** The honourable senator is absolutely right. We must find innovative solutions to these problems. The bill itself is potentially explosive. That has been especially highlighted by what has happened in Toronto recently. I applaud the honourable senator for bringing forward those ideas. I believe there are solutions.

Nunavik, as I mentioned, is under provincial jurisdiction. For that reason, we would have to enter into negotiations with the provincial government on opting in on certain stages and not others. We could work out scheduling aspects in that regard.

[ Senator Merchant ]

I welcome the potential solutions to the problem.

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

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

## **BILL RESPECTING EQUALIZATION AND AUTHORIZING THE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS RELATED TO HEALTH**

### **SECOND READING**

On the Order:

Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Trenholme Counsell, for the second reading of Bill C-18, respecting equalization and authorizing the Minister of Finance to make certain payments related to health.

**Hon. Gerald J. Comeau:** Honourable senators, Bill C-18 proposes to extend the equalization program for another year until March 31, 2005. It authorizes a one-time supplementary transfer to the provinces of \$2 billion for health care. The special health care payment was promised more than a year ago, provided the surplus was big enough when January rolled around. The government then strung it out for a full year before finally saying, at the end of January, that the provinces would get their money. However, this is a one-time payment. As we all know, health care costs next year will not be any less than they were in this current year.

Against this background of a one-time \$2 billion payment, we have an anticipated multi-billion-dollar drop in equalization payments owing to a combination of revised population numbers and the recent softness in the Ontario economy. The critical role played by the equalization program in Confederation is well known. It was designed to help provincial governments offer comparable levels of services at comparable levels of taxation. It is a needs-based transfer. Funds are distributed based on a formula that measures the ability of each provincial government to raise revenue. Payments themselves are guaranteed under the Constitution Act of 1982 — as my colleagues well know — an act which commits Parliament and the Government of Canada:

...to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.

Today's debate is not about the principle of equalization, nor should it be. Rather, we are debating a highly unusual request to extend the program for a year, rather than to renew it, as should properly be done.

The equalization program has a sunset clause of March 31, 2004. That date was set when the program was last renewed five years ago. As honourable senators can see by the calendar on the Table, this is March 22. We are moving towards the deadline.

• (2110)

In January of 1999, the details of the renewed program were decided. The legislation was introduced in February and it was law by the end of March. There was no need for just-in-time legislation. The government was not dithering on what it was willing to do up to the last minute. We are told that when the government finally brings in detailed legislation to reform the equalization program, it will be retroactive and will override this bill.

Paul Martin will call an election as soon as the public opinion polls look favourable. Any promised improvement to the equalization program will be just another election promise made by the same Paul Martin who wrote, and then burned, the original Red Book.

Equalization represents the lion's share of what are known as fiscal arrangements, an envelope that includes transfers to the territories as well as a few smaller transfers. A year and a half ago, in the fall of 2002, in an economic and fiscal update, and then again in the 2003 budget, the government said it was expecting to spend \$12.7 billion on fiscal arrangements for fiscal 2002-03. Then along came the 2003 economic and fiscal update and, sorry, but the number should have been \$10.3 billion. Too bad for the provinces in need. We need to get a couple of billion dollars back from you. A billion of that is due to new census figures. The balance is because the finance department overestimated growth in Ontario.

Imagine the difficulty for the smaller provinces — such as Nova Scotia, and your province as well, Senator Cochrane — that need to be able to prepare budgets and estimate revenue, and are not cash-rich. They struggle to find every penny they can and suddenly they get an announcement that there will be clawbacks. Moreover, for each and every fiscal year going out to 2007-08, the government has slashed between \$2 billion and \$2.4 billion from the 2002 projected payments. Under the fiscal arrangements program, that is a total of more than \$13 billion over six years.

Honourable senators, our Standing Senate Committee on National Finance undertook a detailed study of the equalization program in the fall of 2001 and reported in early 2002. In examining the issues raised by the numerous witnesses who came before it, the committee was guided by five broad principles. First, the program should be equitable. There should be a fair distribution of entitlements among the provinces. Second, payments should be adequate to allow recipient provinces to provide comparable services without resorting to unreasonable taxation levels. Third, the program should be sustainable over time. Fourth, the program should be designed so that it is neutral in its effect on other government policies, and changes in the programs should not influence government behaviour, nor should a province's revenue policies affect its level of entitlement. Finally, the workings of the equalization program should be transparent. Formula and criteria should be as clear as possible and understandable to everyone.

The committee made a number of recommendations that the Minister of Finance might consider if ever he gets to looking at

this important program. It may be that a new government will be looking at the program, however, since it seems that we may be due for a change quite soon.

The committee made a number of recommendations that should be quite important. First, the minister should reject the so-called macro-formula because it might be unfair to several provinces. That is one of the formulae that should be rejected. He should lift the ceiling on equalization payments, which we were pleased to see done in the February 2002 budget. In fact, sometimes our recommendations are heeded. This ceiling used to restrain the growth of payments. The minister should keep the flow low, under which payments cannot fall. This particular safeguard kicks in when a province's fiscal capacity increases or its population declines.

The idea is to prevent a sudden and dramatic drop in federal transfers. Currently, the floor limit per capita declines no more than 1.6 per cent of the standard, about \$98 per person. Since this provision was introduced in 1982, there have been 14 floor payments to provinces, totalling a cumulative \$1.2 billion. Ten of these payments have been made in the last four years.

Another recommendation concerned unexpected changes to the way parts of the formula are calculated. The equalization program uses 33 different revenue bases to arrive at each province's entitlement. Economics is not an exact science. Sometimes economists will change the way in which they measure some numbers because they think that they have found a better way. A very real example happened a few years ago when Statistics Canada changed the way in which it measures residential property values, deciding to switch to provincial price indexes from the national index. This may have been more precise, but the practical effect was to cut several hundred million dollars from Quebec's entitlements while adding significantly to that of British Columbia. Faced with this outcome, the government delayed the formula change for a year.

Provinces should not have to face fiscal surprises. For this reason, the committee recommended that Ottawa create some kind of a consultation process with the provinces and Statistics Canada when changes to the variables in the equalization formula are contemplated.

Another recommendation concerned the switch to what is known as the 10-province standard from the current five-province standard. The five-province standard removes the influences of the four low revenue provinces of the Atlantic region and the high revenue Province of Alberta from the entitlement calculations. The government takes the view that the five-province method is more stable. The recipient provinces have raised legitimate concerns that this does not properly compare the fiscal capacity of all of the provinces, resulting in lower entitlements.

The committee believed that a five-province standard does not fulfil the intent of the program, which is to provide adequate funding that allows the provinces to provide comparable services to their residents. A five-province standard may provide stability, but also provides inadequate payments.

The committee also considered the issue of non-renewable resources presently calculated in the entitlements. The committee was very conscious of the problem that some provinces face in fostering economic development, particularly in Atlantic Canada. The loss of equalization benefits can offset the gain from increased developments. Nova Scotia and Newfoundland are only getting a small fraction of the revenue from offshore development since most of it is clawed back from their equalization entitlements. In light of this, the committee recommended that the rules be changed so that more of a province's entitlements are protected when non-renewable natural resource revenues increase.

The committee also recommended that the government undertake an evaluation of the equalization provisions of the Atlantic accord to determine if they have met the intent for which they were designed. I believe the new energy minister from Newfoundland considers this one of the options that he would like to see. I do not know how successful he will be. I hope that we support him in his efforts to have this looked at more closely.

Honourable senators, I hope that these recommendations are being taken seriously by the government. I look forward to our committee's study of this bill, when and if it ever comes before us. Had it been done properly this time around, we would not be doing this temporary bill but we would be voting on the new formulae as we speak.

In the meantime, given that an election takes priority over such important issues, and given that the equalization bill comes to an end on March 31, 2004 — and as I noted earlier we are now at March 22 — we have little choice but to proceed with this interim measure. For that reason, I would ask honourable senators to send this bill as soon as possible to the committee for full consideration.

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

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** Do you wish to speak, Senator Ringuette? If you do, your speech will have the effect of closing the debate.

• (2120)

**Hon. Pierrette Ringuette:** Honourable senators, I was under the impression that I should move this bill to committee.

**The Hon. the Speaker:** First, we must deal with the bill.

Are honourable senators ready for the question on the bill?

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Ringuette, seconded by the Honourable Senator Trenholme Counsell, that this bill be read the second time.

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

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

[Translation]

## LIBRARY AND ARCHIVES OF CANADA BILL

### REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Committee on Social Affairs, Science and Technology (Bill C-8, to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence, with amendments), presented in the Senate on March 11, 2004.

**Hon. Yves Morin:** Honourable senators, I have the honour to speak to the report of the Standing Senate Committee on Social Affairs, Science and Technology on Bill C-8. The committee has recommended three amendments to this bill.

[English]

Bill C-8 provides for the creation of a new institution to be known as the Library and Archives of Canada, which will be the successor to the National Library of Canada and to the National Archives of Canada. This legislation maintains the existing powers and responsibilities that were accorded to both the National Archives of Canada and the National Library of Canada under their respective statutes and combines them into one single statute.

Upon proclamation of this legislation, the National Archives of Canada and the National Library of Canada will be dissolved. This bill modernizes the existing functions and powers of the two institutions and harmonizes activities that were previously conducted individually by both institutions.

Your committee is recommending only three amendments to Bill C-8, all of which serve to tighten up this worthy piece of legislation. It is beneficial to understand the context of the first amendment, for the clause that was deleted has been the root of much discussion.

The merger of the National Archives and the National Library has the broad support of stakeholders and of all parties. However, Bill C-36, as Bill C-8 was known in the previous session of Parliament, was delayed in Parliament due to a proposed amendment to the Copyright Act in clause 21 of the bill. This clause proposed to extend until 2017 the period of copyright protection for the unpublished works of deceased authors set to expire on December 31, 2003.



Also, the Standing Committee on Canadian Heritage adopted the bill with the clause intact. It was amended at third reading with unanimous consent of the House. In its amended form, the clause provided a three-year extension, until 2006, of protection for unpublished works so that the copyright provision could be given more consideration. However, Parliament was prorogued before the bill could be passed. As such, this clause became obsolete on December 31, 2003, when the works in question came into the public domain. To retroactively apply copyright protection would be a complex, if not impossible, undertaking. For this reason, the committee completely removed clause 21 from the bill.

The two other amendments are purely technical in nature. A month after this bill was tabled in the House, a new piece of legislation known as Bill C-44, the Injured Members Compensation Act, was introduced and passed in the last session of Parliament. One of the clauses in the bill makes reference to the National Archives of Canada. Since Bill C-44 did not exist at the time this bill was drafted, it was necessary to insert a coordinating amendment into Bill C-8 to change the reference from "National Archives of Canada" to "Library and Archives of Canada."

A final technical amendment was made to clause 53. In the last session of Parliament, the Assisted Human Reproduction Act was known as Bill C-13. The amendment to clause 53 was made to reflect that this bill is now known as Bill C-6.

[Translation]

Honourable senators, Bill C-8 was adopted unanimously as amended by the Standing Senate Committee on Social Affairs, Science and Technology. I therefore invite you to adopt the report of your committee.

[English]

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

**Some Hon. Senators:** Question!

[Translation]

**The Hon. the Speaker:** It was moved by the Honourable Senator Morin, seconded by the Honourable Senator Massicotte, that this report be adopted now.

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

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

[English]

**The Hon. the Speaker:** When shall this bill, as amended, be read the third time?

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

## AGREEMENT ON INTERNAL TRADE IMPLEMENTATION ACT

### BILL TO AMEND—SECOND READING— SUBJECT MATTER REFERRED TO COMMITTEE

**Hon. James F. Kelleher** moved second reading of Bill S-14, to amend the Agreement on Internal Trade Implementation Act.—(*Honourable Senator Kelleher, P.C.*).

He said: Honourable senators, I am pleased to speak to this bill. It is a short bill because it merely adds teeth to some existing obligations that both the Government of Canada and the provinces agreed to about 10 years ago.

Honourable senators may recall that the Agreement on Internal Trade was signed by former Prime Minister Chrétien and other first ministers in July 1994. The federal-provincial agreement was implemented by federal legislation entitled the Agreement on Internal Trade Implementation Act. The bill will amend this act because it is clear that the agreement has not produced the desired effects and that further action is required. It is no secret that when the provincial first ministers recently established the Council of the Federation, they specified that internal trade is a priority area for cooperative intergovernmental action. I agree, which is why I am introducing this bill today.

Before I describe the legislation I am proposing, I think it is important that we fully understand the problem this bill will help correct. Let us first recognize that, unlike the United States or the European Union, Canada does not have a large domestic market of 300 million people or more. Instead, our internal market is about 30 million people. Rather than take full advantage of our domestic market, we have allowed interprovincial trade barriers to balkanize our internal market. As a result, we are forgoing the economies of scale and efficiencies we need to compete globally.

• (2130)

There is ample evidence that the private sector believes that the Agreement on Internal Trade is not working. For example, in January, the Chamber of Commerce wrote to the chair of the Council of the Federation, British Columbia's Premier Campbell, and reminded Canadians that "barriers to trade and labour mobility compromise Canada's competitiveness and discourage business from investing and seeking opportunities within Canada." In addition, the Chamber of Commerce observed that "for many industries, it is easier to trade internationally than it is between provinces." The premiers have also recognized that the "perception in Canada remains that there are more barriers to domestic trade than to international trade."

In far too many cases, foreign investors can gain better access to the Canadian market by locating in the United States and relying on the North American Free Trade Agreement, the NAFTA, than by locating here at home and relying on the Agreement on Internal Trade.

As a former federal international trade minister, I have always found it unacceptable that Canada cannot apply to our internal domestic market the same principles of trade liberalization that we apply to our foreign trading partners. When we launched the Canada-United States Free Trade Agreement talks in 1985, I had hoped that this might act as a catalyst for opening up interprovincial trade in Canada. Unfortunately, this has not happened. Almost two decades later, serious problems remain.

Canadian businesses are finding their growth opportunities in international markets rather than within Canada. The contrast between the growth in interprovincial trade and international trade is striking. On the one hand, interprovincial trade represents about 20 per cent of our gross domestic product.

**The Hon. the Speaker:** I am sorry to interrupt, honourable senators, but I would ask for your attention to Senator Kelleher's speech. I note that a number of conversations are taking place in the chamber. If honourable senators need to have these conversations, please carry them on outside of the chamber.

**Senator Kelleher:** Thank you, Your Honour.

On the one hand, interprovincial trade represents about 20 per cent of our gross domestic product. On the other hand, international trade has outgrown interprovincial trade, and international trade now represents over 40 per cent of Canada's GDP. These figures demonstrate that our international trade agreements are working well, but we need to do more to liberalize our internal domestic market.

This bill will help promote interprovincial trade by fixing one of the most widely recognized problems with the Agreement on Internal Trade, that is, the lack of an effective dispute resolution mechanism.

The provinces have recently made this a top priority, and so should we. For example, at the February Council of the Federation meeting, New Brunswick Premier Lord and Manitoba Premier Doer presented their report on internal trade. In their work plan, the premiers identified improving the dispute resolution mechanism as both short-term and longer-term objectives.

Ontario Premier McGuinty hit the nail on the head regarding the dispute resolution shortcomings, when he observed: "The problem was they never put an authority in place where business could seek redress if they felt they faced an unfair barrier to trade."

In particular, the premiers have recognized that dispute panel decisions are not being effectively implemented. Under the current agreement, there is no binding dispute mechanism. As legislators, we all know that rules are only credible when they are enforceable — when they have teeth — which is why I am introducing this bill to amend the Agreement on Internal Trade Implementation Act.

Instead of creating another bureaucracy or commission to administer the agreement, I believe we should use our existing judicial structure and provide persons with access to the courts to redress their internal trade grievances.

This bill will provide a right of action to persons who have suffered loss as a result of a breach of certain provisions of the agreement. The bill is three pages in length, and contains two clauses.

Clause 1 of the bill makes it clear that this proposed legislation will be binding on the Government of Canada and the provinces. To ensure that we are on firm constitutional ground, I have drafted this bill in close consultation with the office of the Law Clerk and Parliamentary Counsel, and we have obtained a 17-page constitutional opinion from the Dean of the Osgoode Hall Law School of York University, Professor Patrick Monahan.

The legal opinion that Dean Monahan has provided to the Senate Law Clerk and Parliamentary Counsel unequivocally states that this bill is within the legislative competence of the Parliament of Canada.

Clause 2 makes it clear that this bill is merely adding another step to the Person-to-Government Dispute Resolution process that currently exists under Part B of Chapter Seventeen of the agreement.

If a dispute panel finds that an act or omission of a federal or provincial government is contrary to any of the provisions specified in the bill, any person who has suffered loss or damage as a result of the act or omission may bring an action for damages in a court of competent jurisdiction.

In a nutshell, we are not reinventing the wheel or creating another costly bureaucracy. Instead, we are building on the existing dispute resolution mechanism and making it more binding and effective. This is an incremental amendment that will remedy a problem that has dragged on for far too long in this country.

Honourable senators, I believe that Canadians will not achieve their full economic potential unless we have clear and enforceable rules that eliminate interprovincial barriers to trade, investment and labour mobility.

Allow me to conclude by reminding us all that liberalizing internal trade is not just about strengthening the Canadian economy. We must also recognize that Canada will not achieve its full potential as a national political union unless we create a strong internal economic union. The more we trade together, the more we will appreciate and understand one another. In 1985, the Macdonald Commission summed this up succinctly — and I quote:

The objective of building a Canadian economic union has meaning because we are first a national political community. Threats to the economic union are threats to the national community because they erode the ties of affinity and interest that bind Canadians together.

Honourable senators, this will help us build a stronger Canada. Allowing this country's internal economic fragmentation to continue will not promote our national identity. History has shown that the flow of people, information, ideas and culture reflects a nation's commercial relations. This is why we cannot allow Canada's foreign commercial relationships to grow stronger than our internal trading relationships.

In the last couple of decades, we have strengthened our international trading relationships with the United States and with many other countries. We must now strengthen the economic ties that bind us together as a country.

In addition to a strong social union, Canada must build a vibrant economic union. The bottom line is that Canada's internal trade has not played the role it should in creating economic benefits for Canadians, strengthening our identity as a country and promoting unity.

Honourable senators, I ask that you join with me so that once again this chamber can demonstrate to Canadians that we can work together in a constructive, bipartisan manner in the national interest and pass this long overdue amendment.

• (2140)

#### SUBJECT MATTER REFERRED TO COMMITTEE

**Hon. James F. Kelleher:** Honourable senators, I should like to move, seconded by Senator LeBreton, that the subject matter of Bill S-14 be referred to the Standing Senate Committee on Banking, Trade and Commerce.

**The Hon. the Speaker:** It is a little unusual, Senator Kelleher, not to allow further debate, but I can see nothing wrong with your motion. Accordingly, I shall put the motion.

It was moved by the Honourable Senator Kelleher, seconded by the Honourable Senator LeBreton, that the subject matter of Bill S-14 be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** No senators rising to speak, I shall put the question.

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

**Hon. Senators:** Agreed.

Motion agreed to.

#### BUSINESS OF THE SENATE

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, if you were to poll the chamber, I think you would find agreement to stand all other items on the Order Paper in the order in which they stand for consideration at the next sitting of the Senate.

**The Hon. the Speaker:** Honourable senators, is leave granted for the agreement that Senator Rompkey has just recited, that all remaining matters on our *Order Paper* stand in their place until the next sitting of the Senate and that we proceed to the adjournment motion?

**Hon. Senators:** Agreed.

The Senate adjourned until Tuesday, March 23, 2004, at 2 p.m.

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