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Monday, December 13, 2004



THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Monday, December 13, 2004

The Senate met at 8 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

STORY OF KEEMAYA

Hon. Joyce Fairbairn: Honourable senators, it is not often that one pays tribute to an animal in this house, but I would like to do so in memory of the little elephant calf who passed away last Tuesday after three weeks of intensive effort by all the veterinarians, trainers, teachers and volunteers at the Calgary Zoo.

The story of Keemaya, Hindi for "miracle," brought a worldwide focus to that small pen in the zoo where the baby was cared for every minute of the night and day after being rejected by her mother and grandmother, which sometimes happens both in the wild and in captivity. All the expertise and innovative advice from veterinarians and zookeepers from around the world was extended in an effort to pull this precious member of the depleting Asian elephant species through her difficulties. In the end, despite the best that medicine, human expertise and kindness could offer, Keemaya could not overcome the infection that took over her system from birth, even though for a few short days she was alert, up and moving, talking, eating and playing with toys in her pen. She almost made it.

The importance of Keemaya's short stay on this planet is to understand the effort of institutions around the world to keep alive species of animals that are dwindling in the face of human development, and Asian elephants are among them. Through a connection of zoos, there is a major effort to keep the gene pool of these species pure, with the view of returning animals to their original habitat. This happened with the swift fox in North America; the burrowing owls in Western Canada; the Vancouver Island marmot; the bongo, similar to antelope, that were almost extinct and are now slowly returning to their habitat on Mount Kenya; and, of course, the whooping cranes.

Zoos such as the one in Calgary and many others in Canada are also places for children and adults to learn history and science. Keemaya touched the hearts and hopes of everyone who helped her. I had the privilege of visiting her and walking with her, hand in trunk, while she tried to respond to the care and affection she was receiving from a very fine institution. She stole my heart as well.

I thank Alex Graham, President of the Calgary Zoo, and the whole Calgary team for their care and kindness to Keemaya and the work they do at the zoo for all our animal friends every day of the year.

THE LATE BOB BOYER

Hon. A. Raynell Andreychuk: Honourable senators, I rise to note the passing this summer of Mr. Bob Boyer, a Metis artist who was a faculty member at the First Nations University of Canada, formerly the Saskatchewan Indian Federated College, which is associated with the University of Regina. Mr. Boyer taught art at the First Nations University of Canada and played a vital role in the college's development. He headed its arts department from 1979 to 1997. Mr. Boyer was a popular professor and was effective in transmitting education to his students. His work can be found at the National Gallery, at the Museum of Civilization and at the Glenbow Museum.

Mr. Boyer was a versatile artist who worked in many media but was best known for his blanket paintings. One of his first works was entitled, *A Smallpox Issue (1983)*, his powerful statement about this disease as it was intentionally spread among First Nations with trade blankets. For those senators who may not be acquainted with his work, I would invite you, the next time you enter the Aboriginal Room, room 160-S, to note his painting in the foyer.

In a 1995 feature story in *The Third Degree*, a publication of the University of Regina, Mr. Boyer said:

To me education is the business of educating a human being as opposed to teaching. Yes, you can teach information, you can teach skills, but education involves the whole human being.

Honourable senators, the Aboriginal community and all of Canada have lost a truly important educator and respected artist at a very early age.

THE HONOURABLE HERBERT O. SPARROW

TRIBUTES

Hon. Peter A. Stollery: Honourable senators, I wish to add my words to those of other senators in tribute to Senator Sparrow. Senator Sparrow has been a long-time friend, one for whom I have the highest regard. I am sorry that he is leaving the Senate, and I wish him well at whatever he does in retirement.

I would like to emphasize to Senator Sparrow the regard that most senators have for him. It has been an honour to be his friend for more than 20 years.

Hon. Jeremiah S. Grafstein: Honourable senators, I too would like to add my words in tribute to our great friend Herb Sparrow. I came here at a time when I thought the place was populated by giants. I certainly found out in short order that, while Herb was small in stature, he was a giant of a senator.

• (2010)

He advised me to do one thing. When I spoke to any matter, he would say, "Have you read the bill? If you did not read the bill, you cannot speak in Senate or the caucus." That piece of advice rings in my head to this day, and I remember fondly the idea that one should not speak in the Senate on a matter unless one has read the bill and the material. It has been great advice to me.

I cherish the fact that Herb gave me that advice, and I lend it as support to all senators. It is excellent advice. As legislators, we should read the bill.

Herb's contribution here was outstanding. When he spoke, whether in caucus or the Senate, I found that I had to nod with affirmative enthusiasm on practically every issue. He was certainly on time, on line and always right.

THE HONOURABLE JOSEPH HOWE

TRIBUTE ON OCCASION OF TWO HUNDREDTH ANNIVERSARY OF BIRTH

Hon. Wilfred P. Moore: Honorable senators, I rise to pay tribute to the Honourable Joseph Howe on this, the occasion of the two hundredth anniversary of his birth. He is perhaps the most famous son of my province, Nova Scotia, and a truly great Canadian.

Born in Halifax in 1804 to John Howe and Mary Edes Howe, Joseph Howe made his first mark on our country in 1828 as the publisher of *The Novascotian*. Howe had the goal of not only reporting on the politics of Nova Scotia at the time but also of enlightening his fellow citizens and educate them as to the benefits of achieving responsible government.

Eventually, Howe's writings culminated in a seditious libel suit against himself and *The Novascotian* in 1835. As John Ralston Saul wrote: "His six hour defence and subsequent acquittal is a defining moment of the arrival of freedom of speech in Canada."

In 1835, like the rest of the colonies at the time, Nova Scotia had a real democratic deficit, to use a more modern term, and Joseph Howe fomented the call for democracy. He did this through the promotion of public education, which, to his mind, was the only way to achieve a truly democratic society. Howe believed that every child in Nova Scotia should have the opportunity to learn to read and write, to have access to books, and that every adult who did not have that chance should be afforded the same.

Howe began his official public service in 1836 when he won a seat on the Legislative Council on a platform of support for responsible government. In 1848, after 20 years of toiling, Howe paved the way for the election of the Reformers and the ultimate achievement of responsible government, the first colony to achieve this. As Howe himself put it, this came about without "...a blow struck or a pane of glass broken."

Joseph Howe fought against entrance of Nova Scotia into the Confederation of Canada. He did so on the grounds that it was not a great deal for his home province and that it was being done

in an undemocratic manner. Of course, he ultimately lost the struggle but went on to serve this country in the federal cabinet and eventually held the office of Lieutenant-Governor of Nova Scotia for one month before his death in 1873 at Government House.

I wish to salute the Honourable Joseph Howe and to recognize his historic contributions — freedom of speech, responsible government and public education. Our country and my province owe this man a great debt of gratitude. I am humbled to occupy the same office that he once did.

In closing, I wish to recognize with sincere appreciation the efforts of Michael Bawtree, Executive Director of the Joseph Howe Initiative, and to commend that entity for the numerous events it has organized and participated in over this year, all in celebration of the two hundredth anniversary of the birth of Joseph Howe.

[Translation]

ROUTINE PROCEEDINGS

APPROPRIATION BILL NO. 2, 2004-05

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-34, 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: Honourable senators, when shall this bill be read the second time?

[English]

On motion of Senator Day, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

APPROPRIATION BILL NO. 3, 2004-05

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-35, 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: Honourable senators, when shall this bill be read the second time?

On motion of Senator Day, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

[*Translation*]

**BILL TO CHANGE BOUNDARIES
OF ACADIE—BATHURST AND MIRAMICHI
ELECTORAL DISTRICTS**

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-36, to change the boundaries of the Acadie—Bathurst and Miramichi electoral districts.

Bill read first time.

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

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

[*English*]

**FIRST NATIONS FISCAL
AND STATISTICAL 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-20, to provide for real property taxation powers of First Nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute 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, bill placed on the Orders of the Day for second reading two days hence.

[*Translation*]

TELEFILM CANADA 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-18, to amend the Telefilm Canada Act and another Act.

Bill read first time.

The Hon. the Speaker: 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)

[*English*]

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING ADJOURNMENT OF THE SENATE

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

That the Standing Senate Committee on National Security and Defence be empowered, in accordance with rule 95(3), to sit from Monday, January 31 to Thursday, February 3, 2005 even though the Senate may be adjourned for a period exceeding one week.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED
TO MEET DURING SITTING OF THE SENATE

Hon. Peter A. Stollery: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Foreign Affairs have power to sit at 4 p.m. on Tuesday, December 14, 2004 even though the Senate may be then sitting, and that rule 95(4) be suspended in relation thereto.

Honourable senators, I am prepared to explain why I am requesting leave at this time.

Hon. Terry Stratton (Deputy Leader of the Opposition): What is the explanation for that?

Senator Stollery: The reason is that Minister Pettigrew is appearing before the committee tomorrow, and I only learned of that on Friday.

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

Hon. Senators: Agreed.

Motion agreed to.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. A. Raynell Andreychuk: Honourable senators, I give notice, that at the next sitting of the Senate, I shall move:

That the Standing Senate Committee on Human Rights be empowered, in accordance with rule 95(3), to sit Monday, January 31, 2005 even though the Senate may then be adjourned for a period exceeding one week.

ISRAELI-PALESTINIAN QUESTION

NOTICE OF INQUIRY

Hon. Marcel Prud'homme: Honourable senators, I wish to say that I am glad that the Senate gave unanimous consent to allow the Foreign Affairs Committee, at long last, to question the Minister of Foreign Affairs tomorrow. It will be an interesting debate and honourable senators should attend.

[Translation]

Honourable senators, I give notice that two days hence:

I shall call the attention of the Senate to the Israeli-Palestinian question and the responsibility of Canada.

[English]

QUESTION PERIOD

FOREIGN AFFAIRS

CHINA AND LIBYA—VISIT BY PRIME MINISTER—
HUMAN RIGHTS ISSUES—MEMBERS OF DELEGATION

Hon. A. Raynell Andreychuk: Honourable senators, my question concerns a trip that the Prime Minister will be making to Libya. Amnesty International is calling for a review of Canada's relations with China, Asia's economic tiger, a country also known for some human rights offences.

Last week, the *Ottawa Citizen* reported that Mr. Martin will be visiting China in January "as part of Canada's decade-old effort to boost trade with the world's fastest growing economy."

Mr. Martin has also indicated that he is going to Libya, and the newspaper article stated that Canadian petroleum companies want Mr. Martin to pave their entry into Libya, which has potentially lucrative oil fields.

In light of the continuing issue of balancing trade expectations in Canada and Canada's high commitment to the adherence of human rights, could the Leader of the Government advise the Senate whether the issue of human rights will be raised with Mr. Khadafi when Prime Minister Martin visits Libya? If so, in what context will he raise it?

Hon. Jack Austin (Leader of the Government): Honourable senators, the short answer is that human rights issues, both internationally and in terms of our bilateral relationship, will be on the agenda of discussions with President Khadafi.

Senator Andreychuk: Will the issue of human rights also be taken up in China? In both cases, will the Canadian public know that this has been done and have some assurance that the issue of human rights will not be lost?

Senator Austin: Honourable senators, the agenda for the Prime Minister's discussions with Chinese leaders will include subjects relating to human rights.

With respect to both Libya and China, the Government of Canada is active in building capacity in those countries for administration under the rule of law. Senator Andreychuk is familiar with our programs with respect to the training of judges and counsel, particularly prosecutors, and the development of objective rule of law norms. Those are important topics, and I raise them to illustrate the capacity building in which Canada is engaged.

Senator Andreychuk: Honourable senators, we speak about human rights, but we also encourage trade. I think that the Canadian public and businesses should know that the Canadian government is balancing the two. As an example, Canadian companies went into Sudan but, because of Canada's active non-governmental institutions, the companies had to balance human rights issues rather than the government doing so.

I ask that the government fairly raise trade and human rights issues in Libya and China in order that businessmen who deal in those countries will know that the Canadian public is concerned about both.

Senator Austin: Honourable senators, I am entirely in accord with the principal direction of Senator Andreychuk's comments. It is not trade or human rights; it is trade and human rights. The goal is the total relationship. Our objective as a country is to bring every member of the international community into the development of democracy, respect for human rights and the rule of law.

LIBYA—VISIT BY PRIME MINISTER—
MEMBERS OF DELEGATION

Hon. Marcel Prud'homme: Honourable senators, I find this exchange extraordinary. Diplomatically, Canada recognizes Libya. However, Libya was unable to find an embassy in Ottawa. On the eve of my departure to Cuba, I was able to arrange for accommodation to be used as an embassy. Of course, all of the real estate people in Ottawa were upset with me for finding such accommodation at no cost to the Libyan embassy.

• (2030)

We now have a good diplomatic relationship with Libya, it would seem, and the embassy is located above the offices of the Liberal Party of Canada on Metcalfe Street.

In view of the fact that everyone refused to rent accommodation to the Libyan Embassy at that time, in view of the fact that the first ambassador was recognized only as a chargé d'affaires and is the person starting a diplomatic relationship in Washington, and in view of the fact that the last goodbye party was at 7 Rideau Gate and I asked the ambassador of the United States of America to say some words, my question is: Who will be in the delegation to go to this new great ally of Canada called Libya?

I am sure I know the answer, but I would like the minister to tell me and give me the list of people who have been asked to accompany the Prime Minister of my country.

Hon. Jack Austin (Leader of the Government): Honourable senators, I do not have the list, apart from the Prime Minister himself. The delegation to Libya will be very small. Canada is seeking to normalize its relations with Libya through the discussions between the Prime Minister and Mr. Kadhafi.

Senator Prud'homme: The Prime Minister will be leaving before the end of this week. Surely the Leader of the Government can produce an answer to a very simple request. I do not usually have difficult requests. It would be interesting to know who in each party has been asked to accompany the Prime Minister. I am not asking that I be included in the delegation. I am able to pay for the flight myself and arrive one day early to welcome them. However, I would like to know who will accompany the Prime Minister of Canada.

Senator Austin: I will certainly make that inquiry, with every effort to report by Wednesday of this week.

CHINA—VISIT BY PRIME MINISTER—
HUMAN RIGHTS ISSUES

Hon. Mira Spivak: I know that the Leader of the Government is very familiar with the situation in China. *The New York Times* has run a series of articles recently about human rights abuses in China. One of them has been about the plight of farmers who have no due process or protection of the law when forced off their land because they have no ownership rights. The second is the issue of Tibet and the cultural intervention that China is proceeding with in Tibet. Will those two issues be on the Prime Minister's agenda to raise?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will have to make inquiries. I do not have that degree of detail about the Prime Minister's agenda.

CHINA AND LIBYA—VISIT BY PRIME MINISTER—
MEMBERS OF DELEGATION

Hon. Terry Stratton (Deputy Leader of the Opposition): I would expect that the Leader of the Government would know how many senators are going on this trip with the Prime Minister. Are there none?

Hon. Jack Austin (Leader of the Government): As far as I know, just one.

Senator Stratton: May I ask who?

Senator Austin: I believe it is me.

Senator St. Germain: What else is new?

Senator Forrestall: You did not have to take that one as notice.

NATIONAL DEFENCE

LOCATION OF NEW HEADQUARTERS

Hon. J. Michael Forrestall: Honourable senators, I wish to take the Leader of the Government back to questions asked last week and earlier because there has been much confusion.

A city councillor in Ottawa last week sent out a press release saying that the Department of National Defence was moving its headquarters to the JDS Uniphase complex, claiming that the councillor had inside information that appeared, if true, to trample somewhat upon parliamentary privilege.

The *Ottawa Citizen* published a story on Saturday and Sunday that said that the deal to move NDHQ to the JDS Uniphase complex was abandoned more than a year ago and that there is currently no plan to move National Defence Headquarters anywhere.

I have been told there were meetings this past week in Montreal to discuss a move to Gatineau on land purchased near the casino. Surely, if the city councillor is claiming to be briefed on this matter by the government, then the government must be able to brief the Senate. Can the Leader of the Government tell us if National Defence Headquarters in fact has any plans to move and, if so, where to? What sites are currently under consideration?

Hon. Jack Austin (Leader of the Government): Honourable senators, I know that Senator Forrestall has had quite a long interest in the possibility of the move of National Defence Headquarters. I recall these questions in the spring when he was expressing real concern about the possibility of the headquarters being moved to the JDS Uniphase campus located in Ottawa's west end.

The information I have been given is that in March 2004, JDS put its property at 3000 Merivale Road up for sale on the international market. The Department of Public Works and Government Services Canada submitted an expression of interest for the acquisition of the complex in April 2004, which was not pursued by JDS. In July 2004, the Department of Public Works was approached by JDS and discussions were renewed. However, the Department of Public Works was advised on July 30, 2004, that DND was not prepared to endorse that acquisition. Consequently, all discussions with respect to the JDS site have been terminated.

In answer to the balance of Senator Forrestall's question, I am not aware that there are ongoing negotiations or even that an expression of interest in another property has been tendered, but of course I will make inquiries.

Senator Forrestall: It may be some time before we will get a response. Do I understand from the minister's answer that Department of National Defence officials and others in government, both municipal and federal, have less concern today than they might have had a year ago about the security of the present building, which is surrounded by hotels, schools and medical facilities? Is there a lowered concern about a threat to that building? If there is not a lowered concern, could the minister report back to the house so there might not be quite so much confusion as to whether it is the intention of the Department of National Defence to explore further sites in the Ottawa regional area for the location of National Defence Headquarters? Common sense would dictate a move.

Senator Austin: Honourable senators, I am very happy that Senator Forrestall and I agree that the existing site is not as secure as it should be. In questions last spring, I expressed the concern of the government with respect to NDHQ's location, referring, as

Senator Forrestall has said, to its location adjacent to a shopping centre, with traffic underpasses and other issues relating to security, which is why the government would like to find a new site for the Department of National Defence.

• (2040)

Senator Forrestall is aware that the Department of National Defence has premises in several locations around the city and, as such, is eager to operate from a more unified centre, which would be secure. However, I have no information for the Senate with respect to any ongoing search for suitable accommodation in the Ottawa region.

Hon. Lowell Murray: Honourable senators, I wonder whether the government has considered in this matter obtaining the services of Senator Prud'homme, who has shown his ability to obtain favourable real estate on very good terms for the government of Libya and might be persuaded to devote his talents to the benefit of the Department of National Defence.

Senator Austin: Honourable senators, I would be delighted to be approached by Senator Prud'homme.

Hon. Marcel Prud'homme: Honourable senators, I usually listen to every word from Senator Murray, but I was in a deep conversation vis-à-vis a future committee. I apologize.

Would the honourable senator kindly repeat what he said, so that I at least can know what happened?

The Hon. the Speaker: It would be a bad precedent to have exchanges between senators in Question Period. Under the *Rules of the Senate*, questions may only be put to designated persons, and not to others, so I will now recognize Senator Oliver.

NATURAL RESOURCES

NOVA SCOTIA AND NEWFOUNDLAND AND LABRADOR—NEGOTIATIONS ON OFFSHORE OIL

Hon. Donald H. Oliver: Honourable senators, my question for the Leader of the Government in the Senate deals with the offshore agreement for Nova Scotia and Newfoundland and Labrador.

Six months have passed since Prime Minister Martin promised that Nova Scotia and Newfoundland and Labrador would keep 100 per cent of the revenue from their offshore resources. As we all know, that promise has not been fulfilled. The discussions to reach a deal have progressed slowly, over almost two months, with little involvement from the Prime Minister himself. Premier Williams of Newfoundland has said that all sides have agreed that this matter will be concluded one way or the other by Christmas.

Why is the federal government dragging its feet, and where is the will on the part of the federal government, and especially the Prime Minister, to resolve this issue?

Hon. Jack Austin (Leader of the Government): Honourable senators, the Government of Canada is not dragging its feet. It has expressed its will by ongoing discussions at the level of the Prime Minister, the Minister of Finance, the Minister of Natural

Resources, the Clerk of the Privy Council and other very senior officials of those departments. The premise of Senator Oliver's question is incorrect. The Government of Canada and the Provinces of Nova Scotia and Newfoundland and Labrador are working assiduously to conclude an agreement that is fair to those two provinces and to all of the provinces of Canada.

Senator Oliver: In order to keep the federal government focused on reaching an agreement, last week the premiers of Newfoundland and Labrador and Nova Scotia had to send their finance ministers to Ottawa for an unscheduled meeting with Ralph Goodale, the federal Minister of Finance. The premiers also met last week in Halifax with the Clerk of the Privy Council. If the Prime Minister really wants to live up to his promise of 100 per cent and follow through with the deal, why does he not personally become involved in these very important discussions?

Senator Austin: The Prime Minister is personally involved in these very important discussions, honourable senators.

PUBLIC WORKS AND GOVERNMENT SERVICES

MILLENNIUM BUREAU—ALLEGED IRREGULARITIES

Hon. Gerry St. Germain: Honourable senators, my question is also for the Leader of the Government in the Senate. Last week we learned that, beyond the sponsorship program, the \$150-million Millennium Bureau also suffered from a lack of transparency. Grant applications forwarded by members of Parliament were processed by Alfonso Gagliano's office, which in turn told staff to leave no paper trail within the Public Works and Government Services bureaucracy. We only learned this recently, not as a result of the Prime Minister or the current Minister of Public Works and Government Services coming clean on behalf of the government, but as the result of sworn testimony before a committee in the other place by a former member of Mr. Gagliano's staff.

There are two possible reasons the government did not tell Parliament about the problems with the Millennium Bureau. The first is that the government was aware of problems with the way Public Works and Government Services logged information but chose not to tell us about these problems and the second is the possibility that the government has done little to determine whether there were other problems at Public Works and Government Services beyond "Adscam."

Which is it? Have the Prime Minister and the Minister of Public Works and Government Services been fully aware of the problems within the Millennium Bureau all along and simply not told us, or have they done nothing to determine what else went on in Mr. Gagliano's office?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am tempted to make a very long answer, but I know that Senator Stratton would not approve.

I have seen newspaper reports; the same ones that Senator St. Germain is relying on. He is referring to an appearance before the Standing Committee on Public Accounts in the other place on Thursday, December 2, in which a witness told the committee that the correspondence received by Minister Gagliano on the Millennium Partnership Program was not registered in the departmental system.

I am pursuing the same information that Senator St. Germain is asking for today. A witness makes a statement, and obviously there is work to be done in order to corroborate or contradict a statement that was made, and that work is under way.

Senator St. Germain: According to Monday's *Toronto Star*, the government did not even know where the records of the Millennium Bureau are held. Is this report accurate? If so, has the government now located the records and will it use those records to shed some light upon this bureau and its activities?

Senator Austin: As I have said, honourable senators, the investigative work is under way, and of course the government intends to answer Senator St. Germain's question.

Senator St. Germain: Honourable senators, in dealing with public funds, it appears that the Liberal government has gotten to the point where it feels there does not have to be any accountability. They have named emissaries and special envoys, but we cannot even ask related questions because we do not have any details regarding how they originate, how they come into being, or how they are funded.

Serious allegations have been made about the manner in which records were kept for the \$150-million program. Is the government prepared to ask the Auditor General to review the manner in which the program was run and, if not, why not?

Senator Austin: Honourable senators, I am quite aware of the December 13, 2004, edition of *The Toronto Star* in which reporter Les Whittington has written that parliamentary researchers have been not able to find much information about how the Millennium Partnership Program was managed and that a final audit, to which the bureau was committed, was never conducted. As I said in my answers to Senator St. Germain's questions, the accuracy of that column and the facts on which it is based are now being checked, and as soon as I am able to give an answer regarding the Millennium Bureau of Canada, I certainly will.

Senator St. Germain: To go back to my question, is the minister prepared to say that, if there is mismanagement in this process, the government is prepared to ask the Auditor General to find out what has been going on and, if not, why not?

Senator Austin: At this stage, the government is doing its own research and analysis. However, as Senator St. Germain knows, the Auditor General has the legal authority to inquire into this matter on her own motion. She is fully able to undertake whatever investigations into the Millennium Bureau she wishes.

• (2050)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present eight delayed answers. The first response is to an oral question raised in the Senate on November 18 by Senator Oliver, regarding the Technology Partnership Program, repayment of loans.

[Senator Austin]

[*Translation*]

The second response is to an oral question raised in the Senate on December 2, 2004, by Senator Gustafson regarding aid to farmers. The third response is to an oral question raised in the Senate on December 7, 2004, by Senator Andreychuk regarding Radio Canada International. The fourth response is to an oral question raised in the Senate on December 2, 2004, by Senator LeBreton regarding the Victims of Crime Initiative, involvement in parole hearings.

[*English*]

The fifth response is to an oral question raised by Senator Oliver on December 2 regarding the spread of AIDS, availability of increased funds.

The sixth response is to a question raised in the Senate on November 16 by Senator Di Nino regarding the Listening to Canadians poll.

The seventh response is to an oral question raised in the Senate by Senator Oliver concerning the Listening to Canadians poll.

The eighth response is to an oral question raised in the Senate on December 7 by Senator LeBreton concerning the Minister of Citizenship and Immigration, election campaign.

INDUSTRY

TECHNOLOGY PARTNERSHIP PROGRAM— REPAYMENT OF LOANS

(*Response to questions raised by Hon. Donald H. Oliver on November 18, 2004*)

Q 1. Will TPC keep invested funds on their books as a receivable or will they write it off knowing that the funds they invest will not be repaid?

A 1. TPC is a program to share risks and encourage investments. Repayments are made when the investments are successful. The eventual success of the projects are dependent on many market factors which cannot be predicted with certainty.

TPC contributions are recorded as expenditures. Receivables or "due to the Crown" are recorded when the conditions triggering the repayments occur. Conditions normally include the successful development and marketing of a new product. This accounting procedure follows generally accepted accounting principles standards across the industry and Treasury Board guidelines.

The majority of TPC projects are in the research and development (R&D) phase and, therefore, significant repayments are not expected for a number of years, but early evidence is encouraging.

Q 2. Can Canadians be assured that they are not being misled when TPC refers to an investment with Canadian Shipbuilding & Engineering Ltd. (CSE) - as conditionally repayable?

- A 2. All TPC investments are repayable, this is a condition of its contribution agreements.

TPC invested in this project based on its merits and the importance of its technological innovation in shipbuilding.

TPC confirmed eligibility of the applicant and the normal due diligence and approval processes were carried out.

The Ethics Commissioner has confirmed that no intervention was made by the Right Honourable Paul Martin, or any other individual linked to Mr. Martin, regarding the application process of CSE for a TPC investment.

TPC is a program to share risks and encourage investments. TPC receives repayments when investments and the projects they are supporting are successful. The majority of TPC projects are in the R&D phase and therefore significant repayments are not expected for a number of years.

AGRICULTURE AND AGRI-FOOD

AID TO FARMERS—COMMENTS BY MINISTER

(Response to question raised by Hon. Leonard J. Gustafson on December 2, 2004)

The Government of Canada recognizes that producers' incomes continue to be negatively affected by the impacts of border closures related to BSE, weather conditions and a rising Canadian dollar.

The CAIS program is the main tool for governments to help producers deal with income fluctuations. The CAIS Program represents a long-term commitment by federal and provincial governments that effectively protects producers from both small and large drops in farm income. The CAIS Program is a whole-farm program available to farmers regardless of the commodities they produce. Participants select a protection level (up to 70 per cent) for their operation and then make the necessary deposit to secure that protection level.

Ministers have agreed to a number of enhancements to CAIS to ensure that it meets the immediate needs of producers. Interim payments for the 2004 CAIS Program have been available since July and the level of interim payments has been increased from 50 per cent of a producer's estimated payment to 70 per cent. In addition, the one-third simplified deposit option has been extended to the 2004 CAIS Program. This means that producers will only have to deposit one-third of the otherwise required amount in order to receive a full government payment. As well, negative margin coverage has also been added to the CAIS program. Final payments are currently being made for the 2003 CAIS Program and interim payments are now available for 2004.

As of December 6, 2004, \$372.1 million has been delivered to Canadian producers under CAIS for the 2003 program year and \$165.5 million has been delivered to Canadian producers for the 2004 program year. It is forecasted that CAIS will payout between \$1.2 and \$1.5 billion for the 2003 program year.

Through the BSE situation, the CAIS program has remained the main vehicle to address producers' income fluctuations. In addition to CAIS, governments have implemented a number of programs to help the livestock sector deal with the situation. The most recent being announced on September 10th. This national strategy, with measures totaling \$488 million in federal funding, was introduced to help reposition the Canadian cattle and beef industry to ensure its long-term viability and profitability, whether or not borders open.

This Repositioning Strategy included federal funding to further efforts of governments and the industry in four areas, including having the U.S. border reopened, facilitating increased domestic slaughter capacity, sustaining the industry until the slaughter capacity is increased and increasing international market share for Canadian beef. A major portion of this federal money (\$384.7 million) was committed to initiatives to sustain the industry through payments going directly to producers. As part of the strategy, Set-aside Programs have been initiated for fed and feeder cattle to help maintain cattle prices and a mechanism has been established to help deal with older cows and bulls which are past their normal productive life.

Since May 2003, federal and provincial governments have committed up to \$2.5 billion for BSE-related industry support initiatives above and beyond existing business risk management programming.

Taken together, these programs have gone a long way towards addressing the industry's current income difficulties. Minister Mitchell is committed to working with the provinces and industry on options aimed at addressing continued income shortfalls.

CANADIAN BROADCASTING CORPORATION

UKRAINE— RADIO CANADA INTERNATIONAL CUTBACKS

(Response to question raised by Hon. A. Raynell Andreychuk on December 7, 2004)

- In accordance with the *Broadcasting Act*, the CBC is mandated to provide "an international service" in accordance with any orders the Governor in Council may issue. It does so through Radio Canada International (RCI) which produces and distributes over 350 hours of programming weekly in English, French, Mandarin, Cantonese, Russian, Spanish, Arabic, Ukrainian, and Brazilian-Portuguese.

- From April 1998 to March 2003, RCI was funded by a contribution agreement between the Department of Canadian Heritage and the CBC. In March 2003, the Government reintegrated RCI funding into the CBC's parliamentary appropriation, which gave the CBC full responsibility for the service.
- At the same time, the Government issued an Order-in-Council to the CBC to reinforce RCI's mandate as Canada's international broadcasting service. The Order requires RCI to consult with the Department of Foreign Affairs on the selection of geographic areas and languages of broadcast and it obliges CBC to set operational objectives for RCI and to report on the results it has in achieving those objectives in the CBC Annual Report.
- On February 2, 2004, the CBC/SRC announced a repositioning of RCI programming that would reduce but not eliminate Ukrainian-language programming and add a new weekly program in Brazilian-Portuguese and an evening daily program to India in English. RCI has delayed any changes to Ukrainian-language programming to late January 2005. Currently, there are 30 minute broadcasts seven days a week in Ukrainian. In September 2004 RCI indicated it would reduce Ukrainian-language programming to 2 hours per week.
- The Department has been informed that on Tuesday, December 14, 2004, RCI will be meeting the Ukrainian-Canadian Congress to hear its concerns.
- The CBC is an autonomous Crown corporation responsible for the management of its day-to-day operations. It enjoys journalistic and programming independence, and, as such, the Department does not direct programming decisions within the CBC, including Radio Canada International.

JUSTICE

VICTIMS OF CRIME INITIATIVE— INVOLVEMENT IN PAROLE HEARINGS

(Response to question raised by Hon. Marjory LeBreton on December 2, 2004)

The Minister of Public Safety is responsible for corrections and parole, including the National Parole Board. The need to provide assistance to victims of crime to attend hearings of the National Parole Board has been explored in consultations jointly hosted by the former Department of the Solicitor General, the National Parole Board, the Correctional Service of Canada and the Policy Centre for Victim Issues. The Minister of Public Safety can provide information on the options under consideration.

In 2000, the federal government allocated \$25 million over five years for federal victim-related initiatives and programs. In response to the Report of the Standing Committee on Justice and Human Rights, *Victims' Rights*,

A Voice Not A Veto, the Policy Centre for Victim Issues, within the Department of Justice, was established to implement a federal strategy for victims and enhance the role of victims in the justice system.

The Policy Centre for Victim Issues provides the "victims lens" for all criminal law reform and criminal justice policy development for which the Department of Justice is responsible. The Centre is also responsible for sharing information and the co-ordinating of initiatives with other federal departments to encourage a consistent federal approach. The Centre has a broad mandate to consult with victims, victim advocates and service providers and others involved in the criminal justice system to identify issues of concern and to inform our policy development and criminal law reform. The Centre also works closely with provinces and territories who have a key role in the administration of justice and provision of services for victims.

The Victims Fund, (\$2 million per year) administered by the Policy Centre for Victim Issues, provides grants and contributions to non-governmental organizations for innovative programs, services, public education, research and other victim-related projects and to provinces and territories to assist in the implementation of victim legislation (*Criminal Code* and provincial). There are four components to the Victims Fund: provincial and territorial implementation, innovative pilot projects and activities, Northern and rural projects and activities and a limited amount for emergency financial assistance (including financial assistance for victims to attend s. 745.6, "faint hope" hearings, but does not provide financial assistance for victims to attend parole hearings).

The Policy Centre has conducted extensive research that benefits provincial victim services, victim advocates and informs policy and legislative development. Research initiatives include: a multi-site victim/criminal justice system personnel survey to determine awareness of legislative provisions and their impact on the justice system and victims; a study on the developmental capacities of children required to testify; a court observation study of Toronto's Child Friendly Court; a Directory of Services for Children As Witnesses; a review of the issue of Privacy Rights of Victims and Witnesses; a study on the use of conditional sentences in the North; a compilation of Victim Services in the Territories; a manual for service providers that applies the current research to practice; a case law review on sexual assault and a survey of victim services providers to determine the information needs of sexual assault victims for the purpose of updating the publication, *After Sexual Assault*, and research to explore the impact of plea bargaining on victims and the administration of justice. Research reports are also available on request and on CD ROM regarding Criminal Injuries Compensation, A Literature Review of the Victims Perceptions of Restorative Justice, Report on Victim Impact Statement Focus Groups and the Literature Review of the Victim's Role in the Criminal Justice System. On December 9, 2004, the Canadian Centre for Justice Statistics released *Victim Services in Canada*, a survey sponsored by Policy Centre for Victim Issues.

A Fact Sheet series has been published and includes Impaired Driving, Restorative Justice, Conditional Sentences, The Victim Fund, Victim Impact Statements, Victim Surcharge and a handbook, and The Victims Guide to the Criminal Justice System. The development of a National Directory of Victim Services is under development.

HEALTH

SPREAD OF HIV/AIDS— AVAILABILITY OF INCREASED FUNDS

(Response to question raised by Hon. Donald H. Oliver on December 2, 2004)

The new Federal Initiative on HIV/AIDS will focus on enhancing national and front-line programs that are evidence-based and aligned with the regional characteristics of the epidemic and the specific and discrete needs of vulnerable Canadians.

The Public Health Agency of Canada, through its community action programs, will continue to support community-based organizations to deliver local prevention, care and support services to people living with and vulnerable to HIV/AIDS, including women, Aboriginal peoples and individuals from countries where HIV is endemic.

In addition, specific research projects related to vulnerable populations will be supported by the Public Health Agency of Canada and the Canadian Institutes of Health Research. For example, past research initiatives concerning women included research on perinatal HIV transmission and on the development of microbicides, a female-controlled method of preventing HIV and other sexually transmitted diseases.

Health Canada and the Public Health Agency will continue to work in collaboration with representatives of First Nations, Inuit and Métis populations through the National Aboriginal Council on HIV/AIDS. The Council provides advice on HIV/AIDS issues regarding Canada's Aboriginal peoples.

PUBLIC WORKS AND GOVERNMENT SERVICES

SPONSORSHIP PROGRAM— EXPENDITURES ON PUBLIC OPINION POLLS

(Response to question raised by Hon. Consiglio Di Nino on November 16, 2004)

The survey in question was conducted in February 2004 by the now-defunct Communication Canada.

While it was Communication Canada's practice to post its "Listening to Canadians" survey on the internet, there was insufficient time to post the last survey before the Communication Canada's disbandment on March 31, 2004.

The research results were sent to Library and Archives Canada and the Library of Parliament, as is done for all public opinion research.

Results of the survey were presented to cabinet.

Cabinet discussions on the survey were shared with the Public Accounts Committee of the House of Commons in February 2004.

SPONSORSHIP PROGRAM— AVAILABILITY OF POLLING RESULTS ON "LISTENING TO CANADIANS" SERIES

(Response to question raised by Hon. Donald H. Oliver on December 9, 2004)

None of the surveys mentioned by the Senator asked whether Canadians think of their government in terms of "federal government departments, Jean Chrétien, Paul Martin, the Liberal Party, or taxes."

The entire question asked in the September 2003 poll (not February 2004) was: "When you think of the Government of Canada, who do you think of first?"

Research firms regularly identify possible answers to help their telephone operators sift through the responses.

Those possible answers are not read out to the public; they were not read out to the public in any of the surveys.

The survey in question, conducted in February 2004 cost \$127,000.00.

CITIZENSHIP AND IMMIGRATION

MINISTER'S ELECTION CAMPAIGN— REQUEST TO STEP DOWN

(Response to question raised by Hon. Marjory LeBreton on December 7, 2004)

This matter was brought to the attention of the Minister. For the sake of transparency and accountability, she returned the money and instructions were given to cancel the official receipt. The Minister spoke with officials on her campaign and was told that a clerical error was made and that the election receipt was issued to the wrong person. It was human error by a volunteer. These things happen. The matter has now been taken care of.

With respect to the issue of her senior aide's visit to an exotic dance club, there are no accurate figures on the amount of clubs the Minister's aide visited.

CITIZENSHIP AND IMMIGRATION

EXTENSION OF VISA OF BONDARENKO FAMILY

Hon. Wilfred P. Moore: Honourable senators, last week I asked questions of the Leader of the Government in the Senate with regard to seeking an extension of time for the Bondarenko family of Russia to remain in Nova Scotia before venturing outside Canada to make their immigration application.

Having heard no response tonight to my questions, and by way of information to the Senate, I am pleased to report that, yesterday morning, just as the Bondarenko family was about to again set sail from Halifax to Bermuda, they were contacted by the Canada Border Services Agency and advised that the exclusion order pertaining to them has been extended from December 14 to June 30, 2005.

The Bondarenko family intend to sail to Lunenburg this week, where a berth has been provided for their sailboat by the Lunenburg Industrial Foundry/Engineering Company. I understand that the family has also been offered an onshore residence in which to live. I know that the good people of Lunenburg will rally to the aid of Mr. and Ms. Bondarenko and their two young boys.

I wish to record my thanks to Deputy Prime Minister Anne McLellan, Minister Responsible for the Canada Border Services Agency, for this most compassionate and timely decision, as well as to Mr. Lee Cohen, the tireless lawyer for the Bondarenko's, and the son of our former colleague the Honourable Erminie Cohen.

The Hon. the Speaker: Honourable senators, I would indicate to the Honourable Senator Moore that this is not a point of order.

QUESTION OF PRIVILEGE

Hon. Marcel Prud'homme: Honourable senators, I wish to raise a question of privilege before the next item on the Order Paper is called.

It is a question of personal privilege, and a question of privilege should be raised, according to the rules, if it took place. I could have advised the Senate, but it took place during this meeting tonight. I do not appreciate it very much, although it may have been a joke, and I do not want to leave it as it is. It is a question of personal privilege.

Honourable senators, I have never been a businessman. I have never been a lobbyist. I am not in the real estate business. I did it not as a Québécois but as a Canadian. I helped some people who were troubled in that they were denied the opportunity to rent a place. It is called a chancellery. They were denied by all the real estate people of Ottawa and by all the owners of Ottawa an opportunity to rent property. I helped them to find a place. All the real estate people of Ottawa were mad at me because they lost money. I am not a real estate agent. I am not a businessman. I am not a lobbyist. As a Canadian, I helped some people that my government recognize as good friends. To my surprise, I succeeded in helping them out.

They are very happy with the arrangement and now, not only are they bona fide friends of Canada, but also the Prime Minister of our country will shortly visit that same country. The man who opened up the embassy here in Ottawa is the first ambassador to the United States of America.

I do not take lightly the smart comment made — perhaps as a joke — and I want this to be very clear: That is what I said earlier, and it is exactly where I stood and it is where I now stand.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, no other senator has risen on the matter.

While the normal practice is that questions of privilege are raised only with notice, there may be an exception. In any event, I can deal with this matter in that Senator Prud'homme has raised a grievance, in effect. For it to be a question of privilege that would require any action from the Senate pursuant to the provisions of rule 43, it would be a grave and serious breach directly concerning the privileges of the Senate that is raised to seek a genuine remedy, which is in the Senate's power to provide and for which no other parliamentary process is reasonably available.

I cannot find that the putting of a question — perhaps it was serious, perhaps it was not serious, I am not sure — constitutes a grave and serious breach of the privileges of the Senate.

Therefore, while I appreciate the honourable senator raising the matter, it is in the nature of a grievance and not one which affects the privileges of all senators and rises to the test of a grave and serious breach.

ORDERS OF THE DAY

FEDERAL LAW-CIVIL LAW HARMONIZATION BILL, NO. 2

MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-10, to harmonize federal law with the civil law of the province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law, and acquainting the Senate that they had passed this bill, without amendment.

• (2100)

CANADA EDUCATION SAVINGS BILL

THIRD READING

Hon. Wilfred P. Moore, moved third reading of Bill C-5, to provide financial assistance for post-secondary education savings.

Hon. John Lynch-Staunton: Honourable senators, I wish to speak to the procedure followed by the committee.

Bill C-5 was given second reading on Wednesday last, around 3:30 p.m., and at 8:57 p.m. the notice was received for the committee to meet on the bill at 11 a.m. the following morning. My argument is that committees are not convened just for the sake of committee members but for the sake of anyone in the public who may be interested in the bill. Again, I am not talking about the merits of the bill; I am talking about the process. This has happened in the past, and I have raised the subject before where committees will call a meeting on a bill for the following day, hours if not minutes after second reading is given. Although it is not in our rules, it would be a basic courtesy and an appreciation that bills in this place have as much public interest as they have in the other place and, therefore, the public should be given adequate warning to be allowed enough time to make whatever representations it might wish to.

In this case, the notice was received at 8:57 p.m. The meeting was called for 11 a.m. All the witnesses had already been lined up. Everything was set. There was a script and the public was left out of it. I object to this procedure. No matter how valid the bill, there should be more respect for others by appreciating that proposed legislation belongs to the public, not just to the Senate of Canada.

Hon. Ethel Cochrane: Honourable senators, I am pleased to have an opportunity to speak today to Bill C-5, the Canada education savings bill.

My perspective on this bill and more generally on post-secondary education issues is shaped by both my professional and personal experience as a former educator, as a mother who has seen her own children grapple with the stresses and strains of post-secondary studies and as a grandmother who dreams of seeing each of her 11 grandchildren enjoy the benefits of a good education.

Education has been called the great equalizer in society. The bill before us today attempts to make higher learning more easily accessible to a greater number of Canadians. In its present form, Bill C-5 provides individual Canadians with an incentive to encourage them to take this first step toward saving for a post-secondary education.

The potential impact of Bill-5 is significant, as it may encourage people who never considered the costs of post-secondary education before to start saving. It will also help many Canadians to finance the post-secondary pursuits of their children and grandchildren. That is a good thing and it is important. Our children and grandchildren are in desperate need of help when it comes to financing education costs.

As David Robinson of the Canadian Association of University Teachers pointed out to the members of the Standing Senate Committee on Banking, Trade and Commerce, the tripling of tuition fees since 1990 has placed an incredible burden on Canadian families, but none more so than those with lower and middle incomes. Mr. Robinson said:

In 1990, 20 per cent of Canadian households with the lowest income would have to spend about 10 per cent of their after tax income to pay for one year of undergraduate arts tuition. By 2002, this had risen to 17 per cent. The richest 20 per cent of households, by contrast, saw their tuition costs rise from 2 per cent to just 3 per cent of after tax income over the same time.

Honourable senators, that warrants repeating: 17 per cent of low-income families and 3 per cent of high-income households. I think we can all appreciate the marked contrast between 17 per cent of household income and 3 per cent.

As Senator Kinsella so clearly outlined in his address at second reading, there are many serious flaws in the existing approaches to government-sponsored student assistance programs. For example, students from low-income families see few of the benefits associated with the Canada Education Savings Grant, as many of the benefits go to those from higher income families.

The Registered Education Savings Plan is another example of a flawed approach. Student groups have called this plan a national system of indirect grants. The reasoning is this: As these grants generate income in a tax-free environment, the lost tax revenue essentially acts as a grant available only to the RESP investors. Overall, this is the type of vision that has characterized governments' approach to student assistance.

In an extensive study published by the Canadian Millennium Scholarship Foundation last month, it was reported that governments now spend more on assistance delivered through tax incentives than on needs-based loans and grants. In fact, needs-based student assistance was down by about 25 per cent.

In recent years, government has been putting more money back into student financial assistance efforts. In 2000-01, the cost of such programs totalled around \$4.7 billion. Unfortunately, these incentives have done little to improve the lot of students facing financial difficulties. The problem, as I touched on, is that programs are not designed to effectively target lower-income groups. As a result, real benefits are not being reaped by those who need them the most.

According to recent data from the Canada Millennium Scholarship Foundation, youths from high-income families are twice as likely to attend university as youths from low-income families. With Bill C-5, government is attempting to help people overcome disparities such as this one. However, simply extending this incentive to people, particularly to low-income families who can ill-afford the out-of-pocket cost of investment in the here and now, is not enough. The reality for many low-income families is that there is no money left at the end of the month to put aside once the bills have been paid and the groceries put on the table.

In many regions of the country, my own included, seasonal workers are often only able to secure three or four months of employment in a year. This is income that they budget and stretch to sustain them for an entire year. This money is used to meet the family's fundamental needs, not to fund distant dreams of post-secondary studies that may be years away.

• (2110)

Even if a low-income family does manage to find a way to start investing early, the Canada Learning Bond's lifetime maximum of \$3,000 per child will not go far enough — not even remotely close — to help cover the cost of a four-year bachelor's degree. According to government estimates, when newborns from 2004 finally turn 18 years old, the cost of such a degree will be \$87,000. It should be noted, however, that student groups, among others, have put the cost of a basic bachelor of arts degree, including room and board, at \$130,000 within the next 20 years. This leads me to yet another concern that I have.

Bill C-5 does little to acknowledge some of the most serious issues facing post-secondary education today, namely, skyrocketing tuition fees and crippling student debt loads. I was shocked to read recently that, according to the Canadian Federation of Students, Canada Student Loan debt has already reached more than \$10.7 billion and is, they say, increasing at the incredible rate of \$1.5 million per day. In light of such realities, Bill C-5 simply fails to consider, let alone solve, the pressing, larger issues facing current and future post-secondary students.

I would like to provide honourable senators with a picture of some of the key concerns in my province. While the shrinking youth population in Newfoundland and Labrador has caused a decrease in the overall number of university students in the province, participation rates among the 18- to 24-year-olds — the percentage of the age cohort that is pursuing a university education — was well above the national average. In fact, the provincial participation rate has increased by more than 6 per cent between 1990-91 and 2002-03, almost twice the national average of 3.2 per cent.

Consider both university and college students and senators will see that Newfoundland and Labrador's participation rate was slightly above the national figure. When I realized the participation rate for my province, I was pleased, because it supported what others and I have been saying for years, which is that more and more of our people are obtaining post-secondary education and we are a better educated population than ever.

However, those numbers veil a serious problem. The data on the incidence and amount of student debt obscure the other numbers, indicating the high price people are paying to attain post-secondary education. It is true that students are mortgaging their futures to pay for an education.

Consider, for instance, that 63.7 per cent of Newfoundland and Labrador university graduates in 2000 graduated with student loan debt. That is almost 20 per cent more than the national average. Of even greater concern is that the average debt load among university graduates in my province who had student loans was over \$27,000. That figure places them well above the national average of \$18,900. The numbers tell the same story at the level of the highest debt loads as well. Newfoundland and Labrador has a greater proportion of graduates with debt over \$25,000 than any other province. Almost 39 per cent of

Newfoundland and Labrador university graduates have student debt loans that exceed \$25,000, compared to 13.4 per cent at the national level. It is almost three times the national average. Sadly, university students from my province can boast that they have both the highest incidence and amount of student debt of any province in this country.

The data on college graduates is disturbingly similar. A full 50 per cent of college graduates completed their studies having acquired student loan debt. The average amount of debt among college graduates in my province is over \$15,000. That figure is \$2,700 more than the national average. Data on student loan debt in excess of \$25,000 indicates that college graduates from the province are almost double the national average — 9.2 per cent compared to 5 per cent.

All this data is troubling when you look at the employment rates of college graduates in the province. While the employment rate for college-trained graduates rose 7 per cent nationally, in my province it actually declined by more than 5 percentage points.

Honourable senators, Bill C-5 attempts to address one of the key issues affecting participation in our post-secondary education system. While financial barriers are often income related, we need to remember that there are significant issues that go well beyond students' insufficient funds. In addition to steep tuition charges and a plethora of other fees, today's post-secondary institutions often demand higher secondary school averages as part of their entrance requirements. This too is an important factor. It is well documented that children from lower-income families are generally affected by poorer performance at the high school level.

These are some of my thoughts in respect of Bill C-5, and I have tried to put them in such a context as to present a bigger picture of post-secondary education. I should add that senators from the Standing Senate Committee on Banking, Trade and Commerce held hearings on this bill last week, and the testimony was powerful. However, at that meeting it was emphasized that time is an issue with this bill. According to the Director General of Learning and Literacy at HRSD, RESP promoters who deliver programs including the Canada Learning Bond and the Canada Education Savings Grant will need at least six months to upgrade their systems before they will be ready to accept a Canada Learning Bond into an RESP account. I find this difficult to comprehend, especially given all the human resources that are available in those departments. Therefore, passing Bill C-5 in this chamber before the end of the fiscal year means that Canadian children who are beneficiaries of this program will not lose out on one full year of post-secondary education contributions.

I am pleased, however, that honourable senators on the Banking Committee did offer a couple of key observations when they adopted the bill. Specifically, it was noted that the bill does not address concerns about financial and other supports for post-secondary education. The committee also urges the appropriate Senate committee to study and recommend solutions to these concerns. I should note there was unanimous support for these observations. In light of that, I am pleased to support the bill and the findings of the committee.

[Senator Cochrane]

At this time, I wish to commend Senators Hubley and Callbeck for recently calling the attention of this chamber to post-secondary issues. I am pleased that this bill has been met with open debate, and I remain hopeful that, through our work, we will incite meaningful changes for the good of those attending Canada's post-secondary institutions.

The Hon. the Speaker: Is the house ready for the question?

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

• (2120)

THE TLICHO LAND CLAIMS AND SELF-GOVERNMENT BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Sibbeston, seconded by the Honourable Senator Gill, for the second reading of Bill C-14, to give effect to a land claims and self-government agreement among the Tlicho, the Government of the Northwest Territories and the Government of Canada, to make related amendments to the Mackenzie Valley Resource Management Act and to make consequential amendments to other Acts.

Hon. Gerry St. Germain: Honourable senators. I am pleased to rise to speak to Bill C-14, the Tlicho land claims and self-government act.

I have read with great interest the excellent presentation made by Senator Sibbeston on Thursday last. I was not present for the speech but I did read it, and it showed the knowledge that the senator has of the area and the history of the people. He has lived amongst these people for most of his life.

He clearly reaffirmed the importance of the jurisdictional aspect with respect to the future success for our Aboriginal peoples. Recently we heard a presentation on how important jurisdiction is to the success of our Aboriginal peoples, and I think it was timely that Senator Sibbeston raised this matter.

I believe that the northern agreements prove that governments have risen above partisanship. It was, I believe, in 1984 that the Inuvialuit agreement was signed. There followed shortly thereafter the signing of the Gwich'in agreement in 1992 and the Sahtu agreement in 1994. Of course, in 1999, the Nunavut Land Claims Agreement was signed. It is an indication that all governments are responding to the needs of our Aboriginal people in a timely manner. However, the process could be expedited. I am of the opinion that they could be completed in a shorter time frame.

The government informs us that the bill has two main features. It gives the effect and force of law to the Tlicho agreement and tax treatment agreement, and it makes related and consequential amendments to other federal acts.

This agreement has been a long time in the making, much too long, as I pointed out earlier. Some say that to get to where we are today has taken 30 years or so. The government has told us that the negotiations have taken place over the last 12 years, and that the effective legal costs incurred by the Tlicho, not including the federal government's incurred costs, are in the order of \$27 million.

While I am sure we are all pleased that this agreement was concluded, there has to be a better way for Aboriginal peoples in Canada to realize their rightful place in Canada's makeup. I should like to plug my bill, the enabling legislation that I presented in this place, and ask that it be given careful consideration and scrutiny, in particular by Senator Rompkey, if he would, please.

It is simply unacceptable for all the peoples of Canada to have to bear further admonishments from our Auditor General or external specialists over Canada's failure to implement the original terms of the treaties made between our Aboriginal nations and the Crown. Where no treaties exist, they must be created in the same vein as those that do exist.

The Tlicho agreement reflects the benefits of Canada's evolution in understanding the real meaning of the agreements that were struck so many years ago. We have the Supreme Court decisions to thank for helping us with our mutual understandings, and the court has been guided by Canada's Constitution. Here I am speaking of section 35, which, as Chief Justice Lamer said in the 1998 *Delgamuukw* decision, the purpose of section 35 is to reconcile Aboriginal and Crown sovereignty.

Honourable senators, it is not for me to describe the details of Bill C-14. That has been done partly by my honourable colleague Senator Sibbeston, who is the government sponsor of the bill. Nor is it for me to explain the purpose of the bill. That is abundantly clear to all who have followed the saga of the Crown's duty to negotiate contemporary treaties — of the Crown's fiduciary duty to Aboriginal people.

I will repeat the statement made by Chief Justice Beverley McLachlin in the recent *Haida* case, which characterizes the depth and latitude of the agreement we have before us today.

Madam Justice said:

Where treaties remain to be concluded, the honour of the Crown requires negotiations leading to a just settlement of Aboriginal claims...Treaties serve to reconcile pre-existing Aboriginal sovereignty with assumed Crown sovereignty, and to define Aboriginal rights guaranteed by s. 35 of the *Constitution Act, 1982*.

While I would like to see an expedited examination of this bill and the agreement in place so that the Tlicho people can get on with building a government that acts in the best interests of the people living on its lands, it has become clear that, in the other place, some questions remained unanswered, questions that all people in Canada deserve clear answers on.

It is important that the federal government's Minister of Indian Affairs and Northern Development and, more important, the government's negotiators, be summoned to appear before the Standing Senate Committee on Aboriginal Peoples where they can provide fulsome answers and thereby remove what appears to be a lingering doubt in the minds of some.

Canadians of all regions and walks of life deserve clarity from their government. We must have a clear understanding of this bill. I believe that this negotiated document is consistent with, and does not conflict with, the Constitution Act, 1982, and that it also is consistent with the intent and provisions of the Royal Proclamation, 1763 and the BNA Act, 1867. However, the flaw in these documents may be that — and this certainly applies to the Constitution Act, 1982 — the clarity of their intent, their meaning, is not well known in the broader Canadian community.

The principal concerns that have come to light in regard to the bill are as follows:

First, that the agreement fails to achieve a final settlement, that it lacks necessary certainty because it can be amended. This may be clarified, and hopefully it will.

Second, that the nation's sovereign authority to act in international matters has been diminished. That has been discussed as well and, hopefully, it can be clarified.

Third, that a third order of government would be created, where it has paramountcy in certain areas over the federal level of government, and that a certain amount of jurisdictional confusion may arise. I am sure this can be clarified.

Fourth, that the Charter of Rights of individuals has been infringed, in that the agreement does not recognize official languages.

Fifth, and finally, the agreement may have been pursued aggressively to such a degree that certain neighbouring groups or other Aboriginal peoples in the general area of Tlicho lands such as the Metis — and I repeat, the Metis — may not have been given an equitable opportunity to assert their traditional rights.

I think this is the most important point. When we discussed the Nisga'a agreement, I had difficulty dealing with the overlaps in taxation. Here we have a situation where we have Metis people living on this land, and I must ask: Have their rights been protected? Have they been put into a position that they can lay claim to their rightful position under section 35 in the future?

Honourable senators, these matters must be clearly aired so that all can be understood, and I believe it will be. These are good questions and I am sure there are good answers to them.

As Chief Bill Erasmus said before the standing committee in the other place:

If people want to understand this agreement, ask us the questions. Let's do it in public. Let's put the issues on the table, because if the general public doesn't understand it, then it's not going to work.

[Senator St. Germain]

Honourable senators, I could not agree more. Let the appropriate committee study this bill and its agreement. Let us ensure that the general public understands it, and let us conduct our examination in a prudent and timely manner. It is important legislation, and I hope all colleagues will give it their careful attention and their support.

Honourable senators, I look forward to being on the committee with Senator Sibbeston and the other members of the Standing Senate Committee on Aboriginal Peoples. I do not believe that procrastination is the order of the day on this. We should be in a position to expedite in a most efficient manner this important legislation for our Aboriginal peoples.

I only warn you of one thing: I will be stating a strong position in regard to the Metis people. From 1982, it was not until the *Powley* case that the government even looked at the Metis people. All they have done is given them welfare money. They have not dealt with anything in regard to Metis people. The Supreme Court decision in the *Powley* case brought this issue to light. It is shameful that these people have not been dealt with fairly. I do not intend to stand in the way of the Tlicho people, but I intend to put forward, in a strong manner, the case of Metis.

• (2130)

Hon. Jeremiah S. Grafstein: May I ask the honourable senator a question?

Senator St. Germain: Sure.

Senator Grafstein: The honourable senator will recall that he and I spent some time in committee studying the Nisga'a treaty. I was not a member of that committee, but I did attend many hearings.

At the time, I raised a serious question about non-Aboriginals who are resident within the Aboriginal jurisdiction. I felt that non-Aboriginal tenants on the land would not be equally treated under the Charter with respect to their rights on the reserve under this treaty.

My honourable friend has had an opportunity, although I have not, to examine this particular bill. What is the difference between this bill and the Nisga'a agreement as it relates to Canadian residents or tenants on Aboriginal lands? What rights do they have to participate fully in the governance structure where they live?

Senator St. Germain: Honourable senators, I could take all night to go through the bill in infinite detail. In this agreement, only half the council has to be Tlicho. The other half can be people other than Tlicho. That is one of the basic differences, but it is also a concern. The topic will be raised during the process of our hearings.

The Metis, in particular, have not been made part and parcel of this agreement. They have cited their concerns to us, which is why I brought them forward.

The main difference is that in the Nisga'a agreement, it will be Nisga'a only on their council, whereas with the provisions laid out in the Tlicho agreement in Bill C-14 there will be a permitted non-Tlicho group of up to half of the representation on the respective councils.

Senator Grafstein: I thank the honourable senator for that answer. I will look at the bill after it has been studied by the committee and before it goes to third reading.

The other question I have relates to the same question. My concern was that the Nisga'a treaty would end up establishing a third order of government where the federal government would not be supreme. There was some serious question as to whether the Charter would fully apply.

The honourable senator has raised those same questions and has said that he hopes to have evidence to deal with those issues. I will await that evidence as well.

If the federal government has no right to amend the treaty and if there is a Charter challenge to the Supreme Court, how can the Charter be implemented if both parties have agreed in advance that there will be no changes whatsoever to the treaty arrangements?

Senator St. Germain: Honourable senators, I am not certain of that. I made reference to the overlapping nature in the questions that I laid out in my dissertation. I believe that the Constitution applies.

There is a certain area of confusion as to who has paramountcy. Among the first questions that I will be asking the minister in committee is how he can explain this, how the government views it, and how the legal branch of DIAND arrived at a conclusion that allows this paramountcy over the federal government to exist in the Tlicho agreement.

Senator Grafstein: Honourable senators, I will put my next question on the Senate record. I am not asking for a response.

I am concerned that the federal paramountcy may have been waived by this agreement. If that is the case, and it appeared to me in the Nisga'a agreement that it was, what power does the federal government have to exceed its jurisdiction by waiving its power?

Senator St. Germain: We will seek that answer in committee. If an international agreement affects the Tlicho nation, they will have some say according to this agreement. This is my understanding, but we will take a look at it in committee.

It is a government bill, and here I am answering for the government. I should ask the government leader if I joined them.

I thank the honourable senator for his questions.

Hon. Tommy Banks: Honourable senators, may I ask a question?

Senator St. Germain: Go ahead. I may not be able to answer it.

Senator Banks: I ought to have asked this question, honourable senators, of Senator Sibbeston when he made his speech, but I had to leave the chamber and could not. I will ask him, but I also wish to place the question on the record. It may be similar to the subject that the Honourable Senator Grafstein has already raised.

I recall the Nisga'a treaty fairly well. I want to preface this question by saying that no one could possibly disagree with the points made by Senator St. Germain or Senator Sibbeston about the propriety of the desirability of getting these agreements solved quickly and with proper treaties.

There is a difference, as mentioned by Senator St. Germain. If no treaties exist, then new ones should follow along the track of the ones that already exist. The honourable senator cited the Chief Justice of the Supreme Court as having said that these are treaties that formalize pre-existing sovereignty.

If I recall, the Nisga'a treaty did not address the question of international agreements. The bill before us proposes that there should be consultation by the Government of Canada with the First Nation on any matter having to do with an international treaty that might have an impact on the lands that are dealt with in the present bill. I do not know enough about these things to have an opinion as to whether that is right. However, let us assume that it would be seen as a precedent and that there are hundreds of treaties having to do with land claims that have not yet been settled. I would be worried — and I hope that the question will be studied — that if we pass a bill that contains such a provision, meaningful consultation between the Government of Canada and a First Nation would have to take place with hundreds of First Nations each time an international treaty is contemplated that might affect those First Nations. Was that difference noted between the Nisga'a treaty, for example, and previous treaties? Is it something that ought to be addressed in committee?

Senator St. Germain: I think it should be addressed. We will ask the question. We want the negotiators there to ask them a number of questions. For example, why was this point negotiated? Why was it not negotiated in the Nisga'a treaty?

There may be a reason that is unique in this particular area because of diamond mines or something regarding defence. There may be a certain circumstance that an international agreement would impact these people negatively. There may be extenuating circumstances. It would be nice to find out. Hopefully, we will find out at committee stage.

The biggest difference I cited was the taxation aspect of the Nisga'a agreement. I thought it was wrong when they accepted taxation because taxation equates with expropriation of native lands. This was true in the case of Oklahoma natives. One should read *And Still the Waters Run*, by Angie Debo.

I am happy with this proposed bill. I laid out my concerns in my short dissertation. Hopefully, we will get answers to them and we will all work together. If the bill needs improving, I am sure that this is the place to do it.

Hon. Serge Joyal: Will the honourable senator entertain another question?

Senator St. Germain: From the resident expert, yes.

• (2140)

Senator Joyal: Thank you, honourable senator. I am grateful for your kind attention.

When you raised the issue of the Metis people at the conclusion of your speech, it triggered a question in my mind. We have exchanged views on *Powley*, which was indeed an historical decision. The *Powley* case did not settle the issue of a territorial base for the Metis people. The Supreme Court decision concentrates essentially on the process of identifying who can claim to be a Metis. It set out, for the first time, three criteria to recognize a person as a Metis.

The other revolution in the decision, in my opinion, was the recognition of hunting and fishing rights for Metis people. However, the court left open the aspect of how to define a territorial base for the Metis people.

It is very valid, in my opinion, to question how the federal government should approach negotiations with the Metis people on the fundamental issue of a territorial base, because without a territorial base it is very difficult, if not impossible, to implement the concept of self-government.

Could the honourable senator explain more precisely why he believes this bill does not give recognition to the Metis people with regard to the territory at stake in this agreement? Is it the honourable senator's opinion that we should be concerned about this because, although it is progress for the First Nations, it settles nothing in terms of a territorial base for the Metis people?

Senator St. Germain: It is my understanding that the Metis people were not even consulted in this case, that they were left out of the equation. Some of them were offered band membership in the Dogrib band, which is the dominant band in the Tlicheo region.

With regard to *Powley*, Senator Joyal is correct in saying that it establishes a basis for identification. In terms of establishing territory, *Powley* was successful in gaining the support of the Supreme Court because it recognized that there had been a continual Metis settlement in the area where *Powley* was subsistence hunting and fishing.

I have not fully explored this case, but I met with the Tlicheo and with Metis representatives, and the Metis feel they were set aside by the negotiators.

How can the Metis now assert themselves on the land they have occupied from the time they came in contact with European settlers? How will this evolve from here? That is my concern. I

hope we can get some answers. If we cannot, my concerns about how we deal with the Metis will be exacerbated. They clearly have rights under section 35.

In 1982, Senator LeBreton telephoned me to say that Prime Minister Mulroney was thinking of naming Yvon Dumont Lieutenant-Governor of the Province of Manitoba and asked my opinion. My opinion was worth something at the time, although it is not now.

I voiced the concern I did at the end of my speech because we have had Dumont and *Powley*, and not very much else. Now we see that in Tlicheo the Metis people are not being dealt with as they should be. There may be provisions in the bill that may be satisfactory, but if we are going to make agreements on comprehensive land claims of the magnitude we are looking at, and if there are Metis settlements within these lands, we have to deal with them more effectively. We cannot just say that the interlocutor has the responsibility of the Metis people and that that is the end of it.

That is my concern. I wish the honourable senator had asked Senator Sibbeston some of these questions. Perhaps he could have given better answers. However, we will get the answers in committee. I am sure that all of Senator Joyal's questions will be well answered there. I will be there to ensure that they are asked.

The Hon. the Speaker: As no honourable senator is rising, are honourable senators ready for the question?

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

THE SENATE

MOTION TO STRIKE SPECIAL COMMITTEE
ON ANTI-TERRORISM ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of December 9, 2004, moved:

That a Special Committee of the Senate be appointed to undertake a comprehensive review of the provisions and operation of the *Anti-terrorism Act, (S.C. 2001, c.41)*;

That, notwithstanding rule 85(1)(b), the special committee comprise nine members namely the Honourable Senators Andreychuk, Day, Fairbairn, Fraser, Harb, Jaffer, Joyal, Kinsella and Lynch-Staunton and that four members constitute a quorum;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That, notwithstanding rule 92(1), the committee be empowered to hold occasional meetings in camera for the purpose of hearing witnesses and gathering specialized or sensitive information;

That the committee be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings;

That the committee submit its final report no later than December 18, 2005, and that the committee retain all powers necessary to publicize its findings until December 31, 2005; and

That the committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting, and that any report so deposited be deemed to have been tabled in the Chamber.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I wish to make a few observations on this motion, which is a matter of grave importance for our country. Bill C-36, the Anti-Terrorism Act that was passed after a thorough study by committees in both Houses, was a very important piece of work that raised some fundamental questions. Perhaps due to the work of the Senate committee on Bill C-36 those who acquired special powers through that legislation were influenced to exercise those powers very prudently.

The Anti-Terrorism Act came into force as a result of the tragedy of 9/11. Other democratic countries struggled as we did in Canada to find legislation that would secure the right balance between protecting the rights of citizens from intrusion by the state in matters of fundamental human rights and the right of society to defend itself from terrorist acts.

The bottom line, honourable senators, is that the Anti-Terrorism Act was the most sweeping and complex such law ever passed in Canada. It fundamentally altered the balance between the rights of the individual and the needs of Canada as a sovereign state to protect itself.

Section 145(1) of the Anti-Terrorism Act requires that a special committee conduct, after three years of the act being in force, a comprehensive review of the provisions and operation of the act.

That was a wise and prudent provision put in the statute, given the uniqueness and necessity of the act and the circumstances of those months after 9/11.

• (2150)

The background, of course, is that the Anti-Terrorism Act explicitly recognizes the inherent balancing required when protecting Canadians against terrorist activity, while continuing to respect and promote the values reflected in the Canadian Charter of Rights and Freedoms. This is outlined in the preamble to the act itself.

The difficulty that arises when enacting legislation aimed at an invasive threat is to ensure that the measures taken are not too severe and do not unduly restrict the rights of Canadian citizens. An essential and pivotal safeguard of the Anti-Terrorism Act was the addition of a review in order to ensure that the measures implemented by the Anti-Terrorism Act were actually required and continue to be justifiable infringements on our rights. If we adopt this motion, this is the challenge and responsibility that we will be assigning to this committee of our colleagues.

The review by our colleagues on this committee will only be able to serve as a check and balance if the committee is allowed to fully access and evaluate all the evidence that would contribute to such a determination; otherwise, our committee will not be able to serve the function initially intended by Parliament. This is very serious. We must know what we are about this evening as we consider this motion to strike that committee.

It seems to me that, without unfettered and uncensored access to all relevant information, the committee that we would be establishing by adopting this motion would not be able to fulfil its mandate. We want it to fulfil its mandate. That certainly was the intent of the committee that studied the bill originally, that is, when this three-year review would come about.

Honourable senators, to fulfil its mandate, our committee ought to have the authority to do a number of things, such as scrutinize applications of the Anti-Terrorism Act and scrutinize intelligence used to trigger any such applications of the Anti-Terrorism Act. Our committee must be able to make inquiries into particular activities or incidents. In order to achieve its stated statutory purpose, the committee must have access to and receive unexpurgated reports from intelligence agencies; it must have access to and retain classified information where necessary; and it must travel in order to hear testimony from witnesses as deemed necessary by the committee.

Conversely, the honourable senators serving on the committee will need to recognize the sensitivity of their work, and we might not be surprised if the committee were to reflect upon appropriate times when its work ought to be done in camera.

Honourable senators, in addition, when we look at section 145(1) of the act, it does not impose any obligation upon the government to respond to the report of this committee. This committee would like the assurances of government that it will respond to the report completed by the committee. Reflect upon that. This committee will be doing serious work. A report is submitted but, as it stands, the government is not obligated to respond, unless the government must respond to a committee report pursuant to the general rule we now have in the Senate. Perhaps we can have assurance that that will indeed be the case.

I wish to come back to the third paragraph of the motion. It reads as follows:

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee.

It would be wise of us, so that the committee is not fettered, to add a provision to that paragraph that the committee may adjourn from place to place; in other words, that the committee could travel.

I thought that the motion would have embraced that in its wording, but as I read the motion carefully, it is clear that the committee does not have the authority to travel. We would be prudent to include that authority in this motion, so that the committee would have the faculty to do it if it deemed it necessary.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I, therefore, move:

That the motion be amended in the third paragraph thereof by adding after the words, "papers and records," the words, "to adjourn from place to place within and outside Canada."

The Hon. the Speaker: Do any honourable senators wish to speak to the amendment?

Hon. Jack Austin (Leader of the Government): Honourable senators, we have no objection to accepting the amendment.

The Hon. the Speaker: I see no senator rising so I will ask the house, are you ready for the question on the amendment?

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion in amendment agreed to.

The Hon. the Speaker: Are honourable senators ready for the question on the motion as amended?

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Losier-Cool, that a special committee of the Senate be — shall I dispense with reading the motion as amended?

Hon. Senators: Dispense.

Motion as amended agreed.

• (2200)

[*Translation*]

PERSONAL WATERCRAFT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Murray, P.C., for the second reading of Bill S-12, An Act concerning personal watercraft in navigable waters. — (*Honourable Senator Hervieux-Payette, P.C.*)

Hon. Céline Hervieux-Payette: Honourable senators, I would like to start by congratulating Senator Spivak on her efforts to protect the environment and ensure the safety of our navigable waters.

The objectives of this bill are noble ones, and these are important issues for Canadians.

Our primary role as senators, however, is to ensure that legislation addresses situations that need to be regulated, without disrupting our legal system. By this I mean that we need to take care not to legislate on something that is already covered by existing legislation. This is why we need to examine the situation as a whole before reaching the best decision possible.

I must make it clear that I cannot be in agreement with passage of Bill S-12. First, the safety of Canada's waterways is already governed by the Merchant Marine Act and its Boating Restrictions Regulations. If Parliament gets into the habit of enacting specific legislation in areas already well-regulated by more general legislation, we will end up clogging up our legal system with an undesirable number of overlapping laws. For that reason alone, I cannot agree to support this bill. Bill S-12 overlaps existing legislation.

What is more, there is cause for concern in the wording of this bill. It gives all the powers to entities that are not really well-defined and, in many instances, might not be elected by the public, thereby creating serious doubts about the democratic nature of any decisions taken. Clause 3 reads as follows:

The purpose of this Act is to provide a method for a local authority to propose to the Minister that restrictions be applied respecting the use of personal watercraft on all or a portion of a navigable waterway over which Parliament has jurisdiction, in order to ensure the waterway's safe use and peaceful enjoyment and the protection of the environment.

Cottagers' associations could probably qualify. Do we really want to allow waterfront property owners to have exclusive jurisdiction over the lake they are on? Canada's lakes and rivers belong to all Canadians. Everyone should be able to enjoy them and engage in their preferred nautical activities.

On the other hand, the users must respect the established rules. These rules are found in the Boating Restriction Regulations. These regulations establish speed limits, minimum age and navigational restrictions for any boats in Canadian waters. I emphasize this. It is already possible to limit access to a waterway. Let me read you section 6(3) of these regulations.

No person shall operate a power-driven vessel or a vessel driven by electrical propulsion in any of the waters described in Schedule II, except as indicated in that Schedule, unless authorized by the Minister pursuant to paragraph 8(1.1)(b).

You can see that this kind of restriction applies to all boats and not simply one kind of watercraft. In addition, the system for posting restrictions on such waterways is set out in the Boating Restriction Regulations and fines are set for offences against the regulations. In addition, section 43 of the Small Vessel Regulations specifies that:

No person shall operate a small vessel in a careless manner, without due care and attention or without reasonable consideration for other persons.

Thus, it is clear that any careless operator would be punished for breaking the law. Making a law to apply specifically to one kind of boat could create a precedent and thus lead to other laws of the same kind to apply to other watercraft that are also already governed by the law.

I want to be quite clear on the point I just raised. We are in the process of considering a bill that delegates the federal Parliament's regulatory power over the use of our lakes to a few shoreline property owners. We, as parliamentarians, have a duty to exercise this power in the interest of all Canadians.

To illustrate what might happen as a result of this bill, I would like to quote a passage from a speech on this bill made on May 10, 2004 by the Honourable Jim Karygiannis, Parliamentary Secretary to the Minister of Transport. He said that the bill:

... proposes a regime whereby a small group of people could dictate that a ban be imposed on the use of personal watercraft without requiring that the rest of the population of the lake or river be allowed to exercise their democratic rights to be consulted.

... the power to make regulations would be given to the minister and not to cabinet; provincial and municipal governments would be bypassed; and administrative constraints and deadlines would be imposed on the minister which could in some cases mean that he or she could not comply with the Government of Canada's regulatory policy.

My first concern is a legal one but my second is political in nature. How, as federal parliamentarians, can we delegate a power that we have the obligation to exercise in the interest of all citizens to a group that has specific interests?

This bill is not just about protecting the environment and ensuring safety; it is also about restricting the noise or disruption from a few tourists who also want to enjoy the water. If we re-read clause 3 of the bill carefully, the reasons are: "... in order to ensure the waterway's safe use and peaceful enjoyment and the protection of the environment." One has to wonder how we can justify banning access only to personal watercraft in this case.

Parliament has already set out in sections 5, 562 and 562.1 of the Canada Shipping Act the responsibility of the Governor-in-Council to make rules or regulations relating to the safety and environmental protection of navigable waters. Under Bill S-12, the only avenue remaining by which the minister can use his or her discretion — in clause 6 of the bill — is almost non-existent. Furthermore, why add the "peaceful enjoyment" as grounds in clause 3 of the bill? These grounds exist under Quebec civil law and are employed in the housing code. As a result, renters may sue their landlords if another renter disturbs them by making noise or by setting out garbage that gives off odours. So why add the "peaceful enjoyment" as grounds for prohibiting personal watercraft, and only personal watercraft?

This leads me to my third point. Given that we already benefit from legislation setting out environmental and safety standards that must be respected, is not a bill on personal watercraft only itself discretionary? Why make such a distinction when other types of craft, be they pontoon boats or outboard motors, are all regulated by the same regulations and legislation? When it comes to using our waterways and lakes, whether by kayak, canoe, pontoon boat, outboard motors or personal watercraft, users must all learn to navigate safely. The beauty of this sport is having such a choice and this difference ensures that a greater variety of people are boaters. To each his own, but as someone who was once the sports minister, I know that individual preference is not important, what is important is being able to practise the sport we love, while respecting legislation that must be general in scope. However, as I said earlier, respect for environmental and safety standards is important.

• (2210)

Legislation regulating all craft, including personal watercraft, already exists. Our energies, honourable senators, should be invested in enforcing such legislation and regulations, and in an awareness campaign, instead of creating another parallel system. Bill S-12 is useless and serves no purpose. These provisions will duplicate provisions already in place. It is clearly discriminatory towards a typically Canadian recreational product, which has been subject to a great deal of research in order to make it safer and more compatible with all national and international standards in effect.

Furthermore, if we analyze the figures in the *Economic Impact Analysis of Recreational Boating in Canada*, prepared for *Discovering Boating*, a trade magazine, we learn that, overall, recreational boating generates \$7.1 billion, or 0.7 per cent of GDP, and 84,000 full-time equivalent jobs. Direct and indirect taxes paid by recreational boaters total \$500 million. Personal watercraft alone generated \$783 million, \$397 million of it in manufacturing, and 6,259 full-time equivalent jobs, of which 1,920 were in the manufacturing sector. The vast majority of personal watercraft made in Canada is sold on the world market and the accepted standards are those of the shipping industry in various countries, as in Canada.

For all these reasons, I cannot but oppose the adoption of Bill S-12.

[English]

Hon. Tommy Banks: Would the senator entertain a question?

Senator Hervieux-Payette: With pleasure, senator.

Senator Banks: I could not help notice that Senator Hervieux-Payette made reference to the choice to be made. I wonder why the craft in this bill are singled out in comparison to other watercraft in reference to a number of studies. It is certainly the case that the manufacturers of watercraft have done a great deal with respect to reducing bad stuff coming out of the pipes. That has been improved. There is also no doubt that the noise level has been reduced by the introduction of new engines.

However, there is one important distinction between this kind of watercraft and all other personal watercraft. Senator Hervieux-Payette mentioned kayaks. I do not recall anyone having operated a kayak and killed anyone. It would be hard to do that or to cause serious injury to someone. Is Senator Hervieux-Payette aware of the studies by the United States Coast Guard which make the comparisons between all other personal watercraft, on the one hand, and powered watercraft of the Sea-Doo kind, on the other hand, that are referred to in the present bill?

[Translation]

Senator Hervieux-Payette: One comment about kayaks: I was talking about the safe use of boats. I remind the honourable senators that, this summer in Quebec, some people in a sailboat were accidentally killed when they were hit by a boat on the St. Lawrence. I am not talking strictly about the fact that one individual can hurt another but that individuals must take care when using their chosen craft. As for statistics in the United States, I am sorry; I am not familiar with them. All I know is that, out of the over 2 million such boats made in Canada, only 40,000 are sold here. I am led to believe that the legislation in other countries allows this mode of transportation, since this product is currently being exported to a number of countries around the world.

On motion of Senator Rompkey, for Senator Ringuette, debate adjourned.

[Senator Hervieux-Payette]

[English]

THE SENATE

MOTION TO URGE GOVERNMENT TO CONDEMN AND INITIATE MEASURES AGAINST THE GOVERNMENT OF BURMA FOR ITS UNDEMOCRATIC ACTIONS ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Harb, seconded by the Honourable Senator Andreychuk:

That the Government of Canada vigorously condemn the Burmese military junta's extension of pro-democracy leader Aung San Suu Kyi's term of house arrest and call for it immediately to revoke this measure, to introduce democratic reforms and to abide by its human rights obligations, and further that the Government of Canada, as an international leader in the defense of human rights and democratic institutions, make it an urgent priority to take action in the form of: implementation of effective economic measures against the military regime; increased diplomatic sanctions, including the exclusion of active participation of the Burmese military junta from trade and investment promotion events in Canada; and increased assistance to Burmese refugees in border regions of adjacent countries as well as with those in need within Burma through accountable non-governmental organizations and UN agencies.—(Honourable Senator Rompkey, P.C.)

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

Hon. Senators: Question!

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

Motion agreed to.

STATE OF POST-SECONDARY EDUCATION

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck calling the attention of the Senate to the state of post-secondary education in Canada.—(Honourable Senator Kinsella)

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I yield to Senator Atkins.

Hon. Norman K. Atkins: Honourable senators, it gives me great pleasure today to join in the debate on the inquiry started by Senator Callbeck regarding the problems which beset our post-secondary educational system in Canada. This is a subject that I have been keenly interested in for many years and I thank

her for bringing the matter to the attention of the Senate. I believe that the issue has been marginalized over the past decade. We need to broaden the debate because no one issue can be solved in isolation.

Dr. Kelvin Ogilvie, former President and Vice-Chancellor of Acadia University, best described education when he said that "education is ultimately the key to a successful society." We have heard on a number of occasions that Canada has shifted to a knowledge-based economy. The question we must ask ourselves is what does that mean to Canadians and how do we deal with it. A knowledge based economy indicates that the majority of jobs in Canada, in fact most of the better-paying ones, require or will require some post-secondary education.

• (2220)

According to estimates by the Association of Universities and Colleges of Canada, almost two thirds of all jobs will be filled by people who have more education than the generation before them. The federal Department of Human Resources estimates that 73 per cent of new jobs in this knowledge-based economy will require post-secondary education.

Canadians realize and have learned to accept that the days of gaining employment and then seeking on-the-job training to achieve their goals are limited. Canadians know more than ever that education is the key to prosperity and success. This is evidenced by the increase in enrolment throughout the last 20 years. However, despite increased enrolment, reports still indicate that not enough Canadian adults are enrolled in post-secondary education to reflect the needs of knowledge-based societies. We must understand that there are some fundamental reasons for Canadians not enrolling in post-secondary education, despite the trend in our economy.

It is my belief that investment in post-secondary education is key to Canada's social and economic well-being now and in the future. We need an educated and innovative society to be competitive within a global economy. We need federal leadership, working with the provinces, with vision to ensure that we have graduates who can live up to that standard.

One part of the answer is to ensure that all Canadians have equal opportunity to pursue and access post-secondary education. That is not presently the case. The rising cost of tuition, combined with other needed expenditures, is one thing that inhibits equal access to post-secondary education.

Recent statistics released by Statistics Canada and Queen's University indicate that tuition increases since 1993 are over 137 per cent. The average student debt is now well in excess of \$22,000. Post-secondary education is simply not accessible to many Canadians because of the cost, and with debt levels rapidly increasing the situation is not improving. The debt load for some students is producing a generation that will be so debt-ridden that it will take them yet another decade to begin to contribute to the economy of this country in a meaningful way.

I would once again like to offer some measures designed to help alleviate post-secondary debt and to offer incentives for students who are unable or unwilling to undertake the debt load needed to successfully complete post-secondary education at a college or university.

While the government has stated that it wants to increase the number of graduate students in Canada in the next decade, it nonetheless continues to tax scholarships and grants. In my view, this punishes excellence. This is exemplified for those studying at the masters and doctorate levels. At the present time, students have to pay taxes on scholarships and earnings totalling more than \$3,000. We need to stop punishing performance of students and remove federal taxes on scholarships.

In the 2004 budget, the government announced changes to the Canada Student Loans Program, changes that allowed students more funds on a daily basis. However, there needs to be further changes to this program. The government needs to increase the income threshold for parental contributions that ascertains loan eligibility. There should be an exclusive clause in the application to ensure that these guidelines do not exclude a student without parental support from attending post-secondary institutions.

The government should introduce a system that would allow tax-free withdrawals from RRSPs without penalty to pay for post-secondary education.

The government initiatives in the 2004 budget for debt reduction payments, while helpful, should be more in depth. The government should shorten the time for students to gain access to the Debt Reduction in Repayment program, which lowers eligibility for debt forgiveness to three years after graduation from five. This would combine with the allowable tax deduction for interest on their loan.

Interest relief is simply not enough if a graduate does not have the income to make the payments. The practice of exempting a graduate from the debt reduction program because they have defaulted on their loan at any time simply exacerbates the problem.

The government should also offer further debt relief to post-graduate and Ph.D. students. There are students who decide not to start the program or do not finish because of the debt load issue. Offering a standard debt elimination program upon completion of a post-graduate or a Ph.D. program would fulfill two needs within Canada: First, it would help alleviate the upcoming retirement issues within university faculties across the country. At the present time, it is becoming more difficult to recruit the best in the field because of the law of supply and demand. Second, it would help private industry deal with the upcoming retirements of the baby boomers.

One other initiative that the government should consider is a tax credit based on the Canada Student Loan principal amount, to a maximum of 10 per cent per year of the principal for 10 years after graduation, provided the individual remains in Canada. This would increase the incentive to remain in Canada to take advantage of tax implications and would help to reduce the impact of the brain drain.

One further issue that graduate students with major debt loads must face if they are unable to pay for their loan is the bankruptcy legislation introduced by the Liberal government. Bankrupt students are not able to be cleared by bankruptcy proceedings until 10 years after they graduate. This is made more difficult by the fact that, if they are unable to make payments on their loans, they must then deal with collection agencies, which are particularly brutal in dealing with students. This legislation should be adjusted to allow for a more flexible loan repayment program based on income, with a two-year minimum before repayment must begin. Students clearly would not choose to damage their credit ratings if alternatives were available.

Honourable senators, in the past I have brought to your attention a highly successful program enacted by the government called the Veterans Rehabilitation Act (1945), under which funds were provided for veterans wishing to attend universities under the university training program. Those veterans who indicated a desire to attend university had their tuition paid directly to the university by the Department of Veterans Affairs and were given a living allowance on a monthly basis. This continued as long as the candidate made satisfactory progress. That program represented an investment by the government in the future of the country. As a result of its success, Canada had a well-educated, tax-paying population contributing positively to society just a few years after the end of the Second World War. Veterans graduated with an education or trade, virtually debt free.

Through the years from 1945 to 1950, when the post-war program was in effect, the total amount disbursed for both university and vocational training, including fees and living allowances, was more than \$1.5 billion in total. Senators can imagine how much that would be worth today. For the five-year duration of the program, approximately 75,000 veterans benefited. Canada had a population of fewer than 13 million then as opposed to now when it has more than 30 million. As a result of this program, Canada had an energetic and well-educated workforce that helped make Canada one of the leading nations of the world in the 1950s and early 1960s.

• (2230)

Similar investment in the future of Canada is possible now. We are in an era of budgetary surpluses, and we must make post-secondary education accessible to all who are academically qualified. This would be an opportunity to allow for not only graduate studies but also for post-graduate studies. One solution would be to consolidate the present programs, which worked to various degrees, into one program that works well. This could be achieved by melding an approved Canada loans program with the Millennium Scholarship Fund to provide a broader program based on the model that I outlined for senators and that was available for our veterans.

At the same time, we need to establish more programs to encourage parents to save for the future education of their children. Programs such as the Registered Education Savings Plan and the Canada Learning Bond are helpful, and we must provide further incentives. Over the last 10 years, the government has produced a balanced budget by reducing transfers to the provinces that included those intended for post-secondary education — CHST. However, the provinces invested most of

that money in health care, and they had the option to do so. I believe we need a national commitment to education in conjunction with the provinces. This government must adopt a sustainable and dedicated transfer system to the provinces and to the territories that specifically funds post-secondary education, not unlike that adopted for the health care system.

This argument was also put forward by the Association of Universities and Colleges of Canada in a letter to the Prime Minister prior to the Speech from the Throne. In that letter they stated:

The design of this transfer arrangement will require federal, provincial and territorial agreement on a set of principles and purposes that ensure that the funds are invested in post-secondary education in a transparent fashion while respecting the province's need for flexibility in setting their own post-secondary education priorities.

One of the issues produced by a lack of funding to post-secondary institutions is the situation whereby they have been forced to defer necessary building maintenance. As a result, many of Canada's facilities urgently require restoration and maintenance. According to statistics released by Queen's University, the share of tuition fees as a proportion of operating revenues for universities has doubled in the past decade from 22 per cent to 44 per cent. Canadian post-secondary institutions must not only be accessible but also have the capacity and physical infrastructure to sustain the large enrolments.

The Hon. the Speaker: I am sorry to interrupt Senator Atkins, but his 15 minutes have expired. Is leave granted so that Senator Atkins may continue, Senator Rompkey?

Senator Rompkey: We would agree to another five minutes, Your Honour.

Senator Atkins: Thank you, senators.

It is clear that these institutions will require additional resources to accommodate the growing needs of Canadians who recognize the necessity for higher education.

The government needs to commit a substantial sum over and above the transfer payments over a number of years to rectify the problem of decaying infrastructure and build in funding so that the situation does not repeat itself. The federal government could commit a percentage of each surplus dollar to alleviate the situation for post-secondary institutions.

Research in Canada clearly plays an important role in our country's economic growth. Universities conduct more than \$1 billion of research each year. The advancement of university-based research initiatives is of considerable importance to the future of this country and its citizens. The federal government has stated that it is committed to ensuring that Canada's performance in research and development rises to within the top five in the world. The government indicated that it intends to double the funding for the three federal granting agencies until 2010.

[Senator Atkins]

However, as Senator Moore recently indicated in his reply to the Speech from the Throne and in his previous statements regarding post-secondary education, there has been little change over the past number of years with regard to advancing research by increasing funding. However, other countries competing in research and development have increased their budgets and are threatening to further widen the gap of Canada's international competitiveness.

This is particularly problematic for smaller universities. The small institutions have been on the losing end of an inadequate distribution of funds, and it continues to harm their ability to compete with larger, more centrally located universities.

The program for Canada Social Transfer payments to the provinces is awarded on a per capita basis and not on a per student basis, which hurts smaller institutions. The model upon which our institutions and researchers receive funds is flawed and discriminatory. The funding formula used to determine where research dollars go is detrimental to smaller universities. The use of "smaller" in the context of funding procedures does not always refer to the size of the student body, but in the case of Canada research chairs programs, it refers to the number of grants received in the history of its institution. We need a new allocation process that maximizes the opportunity for the growth of innovative university-based research across Canada, and that is not based on past performance.

The problem is furthered by the application of rules by the Canadian Foundation for Innovation, which is an arm's length government organization that promotes excellence in research. This foundation mandates that 60 per cent of a project's funding must be provided by the university, theoretically, in conjunction with the private sector and the province before it contributes the other 40 per cent. There is no way to access the foundation outside of this formula.

This then means that the majority of the funds needed to match the contribution have to come from either the provincial government or the institution itself. Many of the small institutions simply cannot afford the money needed. In provinces or regions where private sector or industrial partners are hard to find, obtaining a 60 per cent match in funding is extremely difficult.

The lack of research funding, in particular for small universities, poses a serious threat, and I would urge the government to take action and address these problems. This would allow our universities to continue to attract the best researchers in Canada, to attract some of our Canadian researchers who are presently working outside of Canada, and to attract international researchers from abroad.

In the last Speech from the Throne, the government highlighted federal investment into research and its continued commitment to it. In this respect, the government must ensure continued growth in the direct costs of university research, largely through the budgets of the three granting councils. As well, it must work towards the target of funding more of the indirect costs of research as well.

Honourable senators, I believe that, if the government were to implement the proposals I have outlined, we would be closer to solving the accessibility problem — the issue of the capability of post-secondary institutions to sustain the present and increasing enrolment, along with the problem of punitive student debt.

• (2240)

The Hon. the Speaker: Senator Atkins, I regret to advise that your five minutes has expired.

Senator Atkins: I have two and a half pages left.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Atkins: The educational institutions would benefit and, as well, they would receive the grant money necessary for research and development. This would also allow Canadian universities to have a greater opportunity to raise Canada's profile internationally as a research player.

It is imperative to Canada's future that post-secondary education be accessible and of the highest quality. There are three initiatives that this government could implement in the next budget that would impact students across the country immediately: The first is to eliminate the GST on all school-related textbooks. This would be applicable to those who have credentials to prove their eligibility. That gesture would indicate to Canadians that this government is indeed examining the issues and making a genuine effort to solve some of the problems. The second is the elimination of all tax on scholarships and bursaries; and, third, make immediate allowance for educational-based withdrawals from Registered Retirement Savings Plans.

I believe that the job of this government is to demonstrate their commitment and vision for post-secondary education. They must clearly outline what they are trying to accomplish. In conjunction with our provinces and institutions, they must devise new initiatives and ways to tackle the issues. What better time to do this than when the government is in a surplus position.

On motion of Senator Kinsella, debate adjourned.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Peter A. Stollery, pursuant to notice of December 8, 2004, moved:

That the Standing Senate Committee on Foreign Affairs have power to sit at 5 p.m. on Wednesday, December 15, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Do you wish to speak, Senator Stollery?

Senator Stollery: To tell you the truth, honourable senators, I thought I had moved this motion last week because we were discussing the question of committees sitting.

The Minister of Trade, Mr. Peterson, is coming before the committee on Wednesday, and passage of this motion will allow the committee to convene at its normal sitting time.

The Hon. the Speaker: Is the house ready for the question?

Hon. Senators: Question!

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

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

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