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Tuesday, February 8, 2005

THE HONOURABLE DANIEL HAYS
SPEAKER

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THE SENATE

Tuesday, February 8, 2005

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

Prayers.

SENATORS' STATEMENTS

ILL EFFECTS OF HIGH CORPORATE TAXATION RATES

Hon. Donald H. Oliver: Honourable senators, Canadian companies are overtaxed. Our corporate tax rates are negatively affecting our ability to compete on the international stage.

Since 2000, Canada has lowered its federal corporate income tax only five percentage points, to 21 per cent. We need to lower it further and quickly before we fall even further behind the rest of the world. The European countries have been steadily slashing their corporate rates as they vie for foreign investment.

Following the lead of Ireland, which dropped its rates to 12.5 per cent from 24 per cent between the years 2000 and 2003, one nation after another has moved towards flatter, lower corporate tax rates with fewer loopholes. Ireland's rate is nearly one half the current rate of Canada. The Netherlands is the second most popular European target for U.S. and other investment.

Let me give you a practical example of how this lower tax regime works. Earlier last month, amazon.com formally announced that it would establish a European operation centre in Ireland. Its major competitor, eBay, has set up its European base in Switzerland. Hewlett-Packard, last year, set up a major research and development center in Ireland, allowing it to take advantage of lower taxes on royalties from intellectual property. Kellogg Company, Lucent Technologies Inc. and Bell Labs Innovations also set up major facilities in Ireland last year.

One of the high-flying stocks, Google, an Internet search engine, did the same thing last year, citing Ireland's "attractive low corporate rate as one of the primary reasons for basing its operations in Ireland."

Honourable senators, more than 1,000 global companies with Irish operations have chosen that country as a base from which to manage their low-cost operations in other countries. These companies include Microsoft, Apple Computer, Inc., Pfizer, Citibank, PepsiCo, Coca-Cola and Accenture.

Honourable senators, would it not be wonderful if each of those companies were to decide to choose Canada from which to launch their world operations? It can only be a pipe dream until we do something about our corporate tax rates.

[*Translation*]

THE LATE HONOURABLE LOUIS J. ROBICHAUD, P.C., Q.C., C.C.

Hon. Joseph A. Day: Honourable senators, it is with pleasure that I pay tribute today to a good friend and fine man, a great speaker and one of the most important political figures in New Brunswick in the past several decades, the Honourable Louis J. Robichaud, former senator and Premier of New Brunswick.

[*English*]

Several senators have spoken on the many accomplishments of the honourable senator; it is not necessary for me to enumerate those accomplishments again today.

• (1410)

Honourable senators will be interested to know that Premier Robichaud studied at the Faculté des sciences sociales et politiques at the University of Laval under the tutelage of Father Georges-Henri Lévesque. Father Lévesque is known as an inspiration for social activism and equality, particularly in the provinces of Quebec and New Brunswick and here at the federal government level.

During his tenure at Laval, Father Lévesque influenced a generation of Canadian political leaders, including Jean Lesage, René Lévesque, Senator Jean Marchand, as well as Senator and Premier Louis J. Robichaud. Father Lévesque taught his students about the need for social reform, social justice and the role of the state to provide for those in need, and it was that message and that inspiration that Louis Robichaud took back to New Brunswick.

Honourable senators, there is no question that Senator Robichaud, when he was premier, achieved a tremendous amount for the Acadian minority in the province of New Brunswick. However, it is important for us all to realize that he, as the first Acadian premier of the province of New Brunswick, was able to rally and inspire the majority in New Brunswick. All of the province supported him in three separate elections. That leadership will go down as one of his most tremendous accomplishments. In achieving that equal opportunity throughout the entire province, he created a bridge between two linguistic groups that continues today.

Senator Robichaud left an indelible mark upon the province of New Brunswick and its people. The policies he implemented and the actions he took over three decades ago still resonate today. The courage and leadership he demonstrated against the business elite of the province at the time is documented in a wonderful book entitled *Little Louis and the Giant K.C.* I would recommend it as a very good read. He earned the gratitude of New Brunswickers, regardless of their political stripe, for his enormous accomplishments. His legacy set an example for the world and for our country in particular.

I know that his long-time assistant, who still works here on the Hill, Hélène Damphousse, will wish to join with all senators in expressing our condolences to his family.

THE LATE ROY FRASER ELLIOTT, Q.C., C.M.

Hon. W. David Angus: Honourable senators, I rise simply to complete the tribute I was giving last Thursday, February 3, to the late Roy Fraser Elliott, C.M., Q.C. Picking up where Hansard terminated, I will add that he and Mr. Stikeman invested in CAE in 1951 as a small start-up technology company. Fraser went on to serve as its chairman and guiding spirit for over 50 years.

CAE is today one of Canada's proudest business success stories, having become a vast global corporation and the world's principal designer and producer of aircraft flight simulators.

Fraser Elliott's philanthropy included quiet support for numerous cultural, health and educational organizations with which he became involved, often in a leadership role, and to whom he donated literally tens of millions of dollars.

Fraser's admirable accomplishments were deservedly recognized when he was made a member of the Order of Canada in 1980. He was predeceased by his wife, Betty Ann McNicoll, and is survived by their six children and their families. Fraser Elliott has now gone to his eternal resting place. May he rest in peace.

GENERAL RICK HILLIER

CONGRATULATIONS ON APPOINTMENT AS CHIEF OF DEFENCE STAFF

Hon. Ethel Cochrane: Honourable senators, I rise today to offer congratulations to General Rick Hillier, who was installed as the new Chief of the Defence Staff for the Canadian Forces on Friday.

General Hillier is a native Newfoundlander and it makes me very proud to see one of our own men serving in perhaps one of the most demanding times in our history. He is an excellent choice for the job, as his operational experience is simply second to none.

During his extraordinary military career, which has spanned more than 30 years, he has served throughout Canada, in Europe and in the U.S. Last year, he commanded NATO's International Security Assistance Force in Afghanistan. In that role, he had almost 7,000 troops from 36 countries under his command.

His unique credentials also include participation in an exchange program during which he served as Deputy Commanding Officer of the U.S. Army's Third Armored Corps in Fort Hood, Texas.

When the appointment was announced, the Minister of National Defence said this of Hillier:

> He has a vision, not just for the army but for our forces in their entirety and how they can meet the threats of the modern world.

U.S. Lieutenant-General Leon J. LaPorte described General Hillier as intelligent, confident and personable. He said, "When you put these qualities together, you can't help but be a great leader." He also added, "Our soldiers respect him and they genuinely love to be around him."

General Hillier has often been called a soldier's soldier, and it is an assessment that is easy to understand. In 2003, for instance, when two Canadian soldiers were killed in Kabul after their jeep hit a landmine, he said he felt wounded himself. More telling, however, he personally attended to the funeral arrangements for the two men.

Honourable senators, General Hillier now faces the daunting challenge of modernizing and guiding our over-stretched military. However, I am confident that, under his leadership, not only will our country's military institutions enjoy great success, but so too will the men and women who wear the uniforms and make the ultimate contribution on behalf of all of Canada.

I ask honourable senators to join with me in extending congratulations and sincere best wishes to General Hillier.

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

CRIMINAL CODE

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-10, to amend the Criminal Code (mental disorder) 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 Romkey, bill placed on the Orders of the Day for second reading two days hence.

• (1420)

[*English*]

ACCESS TO CENSUS INFORMATION

PRESENTATION OF PETITION

Hon. Lorna Milne: Honourable senators, I have the honour to present 2,364 signatures from Canadians in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick and Prince Edward Island,

who are researching their ancestry; as well as signatures from 254 people from more than one dozen states of the United States; and 171 from the United Kingdom who are researching their Canadian roots. A total of 2,789 people are petitioning the following:

> Your petitioners call upon Parliament to immediately direct the Chief Statistician of Canada to return care and control of schedules of Historic Census to the National Archivist for subsequent public access in accordance with the Access to Information and Privacy Acts; and
>
> That continued public access of Historic Census Records, without condition or restriction, be ensured by the addition to the Statistics Act of a single clause....

Including the signatures I presented to the Thirty-sixth and the Thirty-seventh Parliaments, I have now presented petitions with over 32,339 signatures, all calling for immediate action on this very important matter of Canadian history.

QUESTION PERIOD

JUSTICE

SAME-SEX MARRIAGE—FREEDOM OF RELIGION OF PROVINCIAL MARRIAGE COMMISSIONERS

Hon. Gerry St. Germain: Honourable senators, my question is to the Leader of the Government in the Senate and relates to the plight of marriage commissioners.

Judicial activism at the provincial level and the lack of leadership on the part of the federal government has led the Leader of the Government in the Senate, in response to a question on February 2, to state:

> ...the constitutional jurisdiction of marriage lies with the federal government. The solemnization jurisdiction is with the provinces. If the provinces in any way interfere with the freedom to practise religion, then those individuals who feel interfered with should insist on their Charter rights.

This means that marriage commissioners who are not religious officials but who are provincial public servants are unprotected by what we think is coming forward from the Liberal side by way of legislation.

As a result, one in 10 marriage commissioners have resigned in Newfoundland since the province's Supreme Court decided in December that having only opposite-sex marriages was unconstitutional. These commissioners resigned because the province told them to abide by the law or quit. In Manitoba, 12 marriage commissioners have resigned; in Saskatchewan, eight have resigned; and in British Columbia, 12 have resigned.

Last week, *The Globe and Mail* quoted Saskatchewan Minister of Justice Frank Quennell as saying:

> The marriage commissioners are representatives of the province; they're the ones who have to administer the law.

He continued:

> And if they won't administer the law as it now stands, then the province is not following the law.

Mr. Quennell said:

> To have civil marriage commissioners import their religious beliefs into the civil marriage...is to force people to meet religious requirements when, if they'd wanted to do that, they could have gone to a church.

I cannot see any protection for the religious freedom of people who do not wish to perform same-sex marriages for religious reasons. We are talking about a provincial jurisdiction.

Why is the Minister of Justice telling us that religious freedom is protected when basically it is not, and the federal government is doing nothing? The government is telling these people that from time immemorial in this country, from 1867, freedom of religion existed, and yet these marriage commissioners are not allowed to practise their religion freely. They are being discriminated against and fired for failing to live up to judicial activism at the provincial level, and I do not think the federal government is protecting them in any way, shape or form.

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank the Honourable Senator St. Germain for his important question. I believe his question is completely answered by the reference that Senator St. Germain cited and attributed to the Minister of Justice in Saskatchewan.

Let me make the point as clearly as I can: People who are commissioned in various provinces to perform civil marriages are obliged by the commission to perform civil marriages under the law of that province. That is their duty as provincial public servants. If they refuse to perform that duty, they are refusing to exercise the responsibilities that they have undertaken under the authority of the province. This is in no way an interference with their religious freedom. They are free to practise their religion and free to stand by the principles of their religion, but they cannot import that religion into their civil duties.

We discussed this concept last week when I referred to the role of political leaders who belonged to a religion that put their public policy duties at odds with their political responsibilities as leaders. I referred to President Kennedy, for example, who said that if he is to be President of the United States, his religious responsibilities were not relevant. He exercised his duties under his democratic franchise on behalf of all people and under the law of the United States. Again, that is essentially the principle that is involved here.

The office of marriage commissioner is a civil office in those provinces. The provinces have the right to describe how those duties are to be exercised on behalf of equality of rights for all citizens as set out by the courts of those provinces.

Senator St. Germain: I understand what the honourable minister is saying. However, British Columbia appears to be backpedalling on it's hard-line approach to marriage commissioners. According to a report last week in *The Globe and Mail*, a spokeswoman for the provincial government said that the policy of requiring marriage commissioners to perform same-sex marriages is no longer in place, but they must help the couple make other arrangements.

The argument is that these people were hired to perform a civil task. If that task contravenes their faith, there are some of us who would never sacrifice our faith and, if given the chance, would vote against it. If I were Jewish, I would most likely be an Orthodox Jew. If I were an evangelical, I would most likely follow Billy Graham. I happen to be a Roman Catholic and am proud to say that I follow Pope John Paul II.

I stand and always vote according to my conscience. I would never stand, like some politicians, and say, "I am a devout Catholic," and then deny everything that the Catholic Church preaches in the same breath. Maybe the honourable senator can live with that but I cannot. Obviously, these marriage commissioners cannot and there is no protection for them. They are being told to seek out their rights. This is something that has been basic to them and to every one of us, yet it is now being challenged. Do I see the federal government standing up? As I pointed out, the Province of British Columbia is saying that the provision is no longer in place and that they must help couples to make other arrangements.

The question is this: Are basic human rights in Canada now dependent on the goodwill of provincial justice ministers? Is this what Justice Minister Cotler had in mind when he said during his press conference after tabling the bill that "rights are not being taken away, rights are being added"?

I say to the honourable minister that there are people whose lives have been totally disrupted as a result of their faith, yet the government is sitting back and telling them that they have to abide by a judicial decision at the provincial level at this time. Is the government telling them that it is not prepared to protect their rights?

Senator Austin: Honourable senators, I cannot improve on the clarity of the answer that I gave to the first question Senator St. Germain put to me.

• (1430)

I simply want to make it clear that there is no interference with the right of any individual to practise the religion of his or her choice. When seven provinces and one territory provide, through the decision of their courts, that their law, which is a civil law, permits a civil marriage of people of the same sex, and those laws have established offices and officers to perform civil marriages according to the law of those provinces, then, by a parity of reasoning, public servants in those provinces, or people who have entered into undertakings to perform public service as the result of an appointment by the Lieutenant-Governor-in-Council, are obliged to adhere to the law of the province in which they reside.

They have taken on duties to administer the law of that province. That province has prescribed those laws and those laws have been found by the courts to be constitutional. The people who administer those laws have taken on that responsibility. They are obliged to administer those laws.

This applies not only to marriage commissioners in provinces. It applies to all public servants. Whatever their religion, they are obliged to carry out the policies of the governments and respect the laws of their provinces. There would be chaos in this country were it otherwise.

Senator St. Germain: They are being asked to perform a marriage, and marriage, in the interpretation of many, is a religious institution. Is the leader saying that, by virtue of a change in civil law, these people are not being denied their right to practise their religion? If my religion specifies that this is not permitted then I can no longer practise my religion freely. Such an act goes against my religion. I am being asked to operate outside of my religion for civil purposes, or else be fired. Therefore, as a marriage commissioner, that would be a denial of my religious rights.

That is my interpretation and I think it would be the interpretation of many. I am sure that the honourable minister is aware of the controversy surrounding this very subject across the country. Ministers in churches across this nation are spending hours speaking out on the issue.

However, I want to focus on marriage commissioners because I believe that their right to practise their religion is being denied by virtue of the legislation that has been passed by many provinces. I am not a lawyer, but I cannot see how persons can be asked to do something in contravention of their religious beliefs, and if they do not conform, they will be fired. I cannot understand how that is not discrimination.

Senator Austin: Honourable senators, I will go over the ground another time, although I am sure that Senator St. Germain and I will not view this issue in the same light.

Clearly, the office of marriage commissioner in the provinces is a civil office, not a religious office. Individuals who accept the responsibility of marrying Canadians in those provinces in a civil ceremony are obliged to marry those who are legally competent to be married. If they refuse to do so, then they are in a position of personal conflict, which has to be resolved in favour of the law of the province and in favour of them fulfilling their responsibilities according to the appointments that they hold.

This does not interfere with their right to practise their religion. I grant you it interferes with their right to prescribe the circumstances of other Canadians, but the Charter and the courts of this country have made the law extremely clear with respect to the equal rights of Canadians in those provinces.

As Senator St. Germain knows, there is a bill in the other place that is designed to make that law uniform across Canada so that we do not have a checkerboard set of rights; different rights for different Canadians depending on where they reside.

Hon. Terry M. Mercer: Honourable senators, by way of a supplementary question to the Leader of the Government, if we were to accept Senator St. Germain's argument, it would seem, then, that many other public servants at the provincial level must find themselves in the same quandary that Senator St. Germain puts forward regarding marriage commissioners. What about all those Roman Catholics who work in provincial governments across the country who are involved in the registration and the processing of divorces, when the Catholic Church stands firmly against divorce? Are they in the same boat? I would argue not. I would think it is a falsehood, but I would like to hear the government leader's comments on that point.

Senator St. Germain: I do not agree with that either. I do not agree with divorce.

Senator Austin: Honourable senators, each of us has religious convictions that are paramount in our personal behaviour because we have decided that they should be paramount in our personal behaviour. However, we live in a secular nation. Canada is not a theocracy. It is the result of long years of political evolution and the separation of the church and the state. Today, the state speaks for the civil rights of Canadians.

Hon. Anne C. Cools: Honourable senators, I have been listening to the Leader of the Government in the Senate with some interest and I wonder if he would agree with me that in Canada, for the last many hundred years, we have had the separation of church and state. Am I correct in that, or is separation of church and state a new concept?

Senator Austin: I believe I just answered that question in response to Senator Mercer.

Senator Cools: I thought I was asking a slightly different question. I thought I was asking the leader to pinpoint when, in Canada, church and state were united.

Senator Austin: I would not know when, in Canada, church and state were united.

Senator Cools: Very well. Then it is fair to say that at least since Confederation we have had separation of church and state.

Senator Austin: I do not believe they are united.

Senator Cools: Precisely; we have always had separation of church and state. I am trying to suggest to the honourable leader that he is not talking about separating church and state, but that he is talking about separating people from their religion. There is a slight difference. Church and state have been separated in Canada for quite some time, if not forever.

• (1440)

Marriage is interesting. Two people cannot, of their own volition, marry; just as two people, a man and woman, cannot, of their own volition, end their marriage. There is a third party to every marriage, just as there is a third party to every divorce, and that third party is Her Majesty. The act of performing, solemnizing a marriage in this country is a prerogative act under the Royal Prerogative. That is why there are marriage commissioners. A commissioner is an agent of Her Majesty who marries couples by Her licence.

How is it possible that, in the name of the law, the courts can force Her Majesty's agents in how they exercise their duties under the Royal Prerogative of celebrating a marriage? This may seem corny, but it is profound.

Senator Austin: Honourable senators, as Senator Cools knows as well as anyone in the chamber, laws are made by the sovereign in Parliament. The Charter is a law made by the sovereign in Parliament and confirmed by the legislatures of nine of the 10 provinces, which the Supreme Court in 1981 found to be sufficient to pass a constitutional amendment. Therefore, the situation we are dealing with is one in which the people and the sovereign have spoken together.

Senator Cools: My understanding is that the Supreme Court of Canada, in its opinion last fall, clearly stated that the Charter did not require the current proposal as the honourable senator is putting it. At the end of the day, the power over marriage rests with Her Majesty. What constitutional authority do you have to compel Her Majesty's commissioners to do what you want? I submit you have no constitutional authority. Unfortunately, it is an area of law that no one will look at.

Senator Austin: Honourable senators, I am saying something that is obvious to anyone who is a practitioner of governance. This Parliament and the provinces together have acted constitutionally in bringing about a constitutional amendment, which we describe in point of relevance as the Charter. Under our constitutional system, the courts are the instrument for the interpretation of that document. The courts have made an interpretation in which they have found that the law and the Charter permit civil marriage, and the courts of seven of our provinces and one of our territories have decided that civil marriage is lawful, and the laws of those provinces allow it. That is the chain of authority.

NATIONAL REVENUE

EXPENDITURE REVIEW COMMITTEE— PACKAGE OF POSSIBLE SAVINGS

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. It concerns the process leading up to the budget on February 23. For the past several months the Minister of National Revenue has headed the Expenditure Review Committee which is seeking to achieve $12 billion in savings, of which half is to come through operating efficiencies in areas such as property management, purchasing and service delivery, and the other half from an exercise where deputy ministers identify the 5 per cent of spending in their departments which represents the lowest priority.

When he appeared before the Standing Senate Committee on National Finance on November 17, Mr. McCallum said that he hoped to have a package of proposed costs ready for the Prime Minister before Christmas so it could be included in the budget.

Could the Leader of the Government in the Senate advise the Senate whether the package of possible savings was completed prior to the Christmas break?

Hon. Jack Austin (Leader of the Government): Honourable senators, it is my information that the Minister of National Revenue has made a full report to the Prime Minister on the subject of expenditure review.

Senator Oliver: When Minister McCallum was before the Standing Senate Committee on National Finance, he was asked about the role of parliamentarians in this expenditure review process. His answer kept coming back to the Liberal caucus. For example, he said, "I have had about 20 meetings with different members of our caucus." As to the report of the Expenditure Review Committee, which was to be completed by Christmas, the minister said, "We will certainly discuss within caucus the general lines of it."

For the benefit of those of us who sit in another caucus, could the Leader of the Government advise the Senate whether Mr. McCallum has taken either the final or the draft report of the Expenditure Review Committee to his caucus and, if so, what are "the general lines of it"?

Further, how can Parliament, as an institution, become involved in this process?

Senator Austin: Honourable senators, today seems to be a day for discussing the issue of the constitutional makeup of our governance system. Obviously, there is a difference between the government and the legislature. The process of expenditure review is an exercise carried on within the government. The non-governmental process is the way in which political parties govern their affairs here in Parliament. I can neither be exact with respect to that which is internal to the government process nor that which is internal to the Liberal caucus process.

PRIME MINISTER'S OFFICE

NATIONAL UNITY RESERVE FUND

Hon. Marjory LeBreton: Honourable senators, on March 24 of last year, in response to a question I raised about the unity fund, the Leader of the Government stated:

> Honourable senators, the Prime Minister was not aware of a fund called the national unity reserve until the time he became Prime Minister...

Senator Austin was referring to Prime Minister Martin.

This morning before the Gomery Commission, the former Prime Minister outlined the purposes of spending reserves in general and made some comments about the reserves. He then said that, during the course of his administration, the Minister of Finance and he agreed to set aside $50 million a year for expenditures related to national unity that would be decided upon during the course of the year.

In view of this, will the Leader of the Government in the Senate indicate which version is the correct one?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have not found any contradiction in Senator LeBreton's question. I presume she is referring to a fund that was set aside by all governments, going back to Prime Minister Trudeau, with respect to national unity. Such a fund was in existence during the tenure of Prime Minister Mulroney, as it was with respect to Prime Minister Chrétien. That fund has been long standing and well known.

Senator LeBreton: There is quite a difference. This one was run out of the Prime Minister's office under the signature of the Prime Minister.

This morning former Prime Minister Jean Chrétien made a number of statements that implied that the current Prime Minister knew about the government's national unity spending and was in support of it. He told the commission that his cabinet was united in its determination to do what it takes. He said that no one in government believed for a moment that federal sponsorship of community events alone would convince Quebecers to remain in Canada, but that they were certain that the absence of a visible federal presence hurt the cause of Canada. He told the commission that federal visibility was merely one element of a very comprehensive approach.

He went on to say that a cabinet committee, headed by Marcel Massé, made several recommendations that included but went well beyond this federal visibility in Quebec. He said that Marcel Massé's report was discussed in detail in cabinet on February 1 and 2, 1996, and the recommendations, including increased federal visibility, were all unanimously approved. He said that they acted on all of them over the next days, weeks, months and years.

The current Prime Minister is set to testify later this week. Could the Leader of the Government in the Senate advise whether the Prime Minister intends to stick to his story that he knew nothing about what was going on in the province of Quebec?

Senator Austin: Honourable senators, first, Prime Ministers Trudeau, Mulroney, and Chrétien all had ministerial responsibility for the national unity fund. There is nothing exceptional in that.

Second, the present Prime Minister made clear to me, and I made clear in the chamber, that I was in error in saying that he was not aware of the sponsorship fund. That is on the Senate record. There is no issue in that regard.

Third, the honourable senator has referred to a document. I believe that we have the right to have the statement by the Right Honourable Jean Chrétien tabled and appended to Hansard today so that the complete statement made by Prime Minister Chrétien is available to this chamber.

Honourable senators, am I correct in saying that the document is required to be tabled?

Some Hon. Senators: No.

• (1450)

The Hon. the Speaker: Honourable senators, I believe that leave with unanimous consent is required in order to table a document. With the permission of honourable senators, I will return to the matter later so that Senator Cochrane is able to proceed.

[*Later*]

In respect of the exchange during Question Period between Senator LeBreton and Senator Austin, the Leader of the Government in the Senate, to clarify the point, I quote from Beauchesne's *Parliamentary Rules & Forms, 6th Edition* at page 151, paragraph 495(6):

> A private Member has neither the right nor the obligation to table an official, or any other, document.

Having said that, it is the practice of the house to table documents with unanimous consent. However, there is no obligation on the part of Senator LeBreton to request it.

Is there a request, honourable senators?

HEALTH

REPORTING OF ADVERSE REACTIONS TO PRESCRIPTION DRUGS

Hon. Ethel Cochrane: Honourable senators, my question for the Leader of the Government in the Senate deals with the reporting of reactions to prescription drugs. Currently, physicians and other health professionals report adverse drug reactions of patients to Health Canada on a voluntary basis. Last December, the Minister of Health stated that he is committed to making this practice mandatory by instituting a system whereby doctors would be legally compelled to report serious side effects arising from medication use. Could the Leader of the Government tell us if the health minister has already begun talks with the provincial governments and the regulatory bodies regarding his proposal?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will look into the subject matter of Senator Cochrane's question and provide an answer for her as quickly as possible.

Senator Cochrane: Critics of the minister's proposals say that requiring doctors to file such reports may not improve drug monitoring, especially if it leads to an enormous amount of data collected without a proper method of analysis or a means to share the information. Issues of patient privacy and provincial jurisdiction may also arise from the minister's proposal. Could the leader make inquiries to determine whether the health minister entered into consultations with the provinces, the physicians' associations and other health groups before going public with his intention?

Senator Austin: Honourable senators, I will look into the matter. I do not have any specific information to offer Senator Cochrane at this time. I recall, however, a question on this matter from Senator Keon who was concerned about Health Canada and the Food and Drug Administration in the United States monitoring the use of, and negative effects of, drugs that had been approved for public use. Senator Keon asked whether there was a monitoring process in place. Of course, the front line of knowledge on the impact of drugs is with the medical practitioners. I have no further way of answering Senator Cochrane's question, but I am interested in the response.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present two delayed answers in response to oral questions raised in the Senate. The first one is in response to an oral question raised on December 15, 2004, by Senator Di Nino, regarding the airline industry and the RCMP investigation of airport workers for possible ties to organized crime.

[*Translation*]

The second is in response to an oral question raised in the Senate on December 13, 2004, by Senator St. Germain, concerning the Millennium Bureau.

[*English*]

I am presenting an appendix that should have been attached to the delayed answer tabled Tuesday, February 1, 2005, in response to Senator Forrestall's oral question raised on November 23, 2004, regarding sovereignty in the Arctic.

(*For text of Appendix A, see today's* Debates of the Senate, *p. 661.*)

I should say to Senator Lynch-Staunton that I had thought that I would have the answer to his question today; however, I do not have it. I expect to have it this week and perhaps the delay is occasioned by getting it right in view of the person who asked the question. I am assured that the honourable senator will have it this week.

TRANSPORT

AIRLINE INDUSTRY—RCMP INVESTIGATION OF AIRPORT WORKERS FOR POSSIBLE TIES TO ORGANIZED CRIME

(Response to question raised by Hon. Consiglio Di Nino on December 15, 2004)

> The Minister of Transport Canada and the Royal Canadian Mounted Police (RCMP) have signed an agreement on the sharing of sensitive law-enforcement information, including information on organized crime and criminal association for the purpose of conducting security screening background checks on transportation workers.
>
> Transport Canada, has, in cooperation with the RCMP, reviewed all existing airport clearance holders against the criteria identified by the Auditor General, and will continue to subject all new applicants to the same review process.
>
> The review has identified 73 possible cases out of the 125,926 existing airport clearance holders that may require further investigation. This does not mean that there are 73 cases of concern, only that there are 73 cases that merit further review. Of the 73 workers initially identified, a more

extensive investigation resulted in some clearance holders or applicants being eliminated as potential threats, whereas others continue to be under review. For these cases, decisions on action, if any, will be made pending the results of the reviews.

When Transport Canada obtains credible information indicating an existing clearance holder poses a risk to transportation security, the department responds immediately to suspend or revoke the clearance of the individual in question.

PUBLIC WORKS AND GOVERNMENT SERVICES

MILLENNIUM BUREAU—ALLEGED IRREGULARITIES

(Response to question raised by Hon. Gerry St. Germain on December 13, 2004)

Alleged problems within the Millennium Bureau

The Canadian Millennium Partnership Program (CMPP) was a highly successful community-based initiative to celebrate the turn of the Millennium that generated enthusiasm among Canadians for their communities and country.

The Millennium Bureau established a rigorous monitoring and evaluation framework in 2000. This framework provided for the monitoring of up to one third of the project files to assess compliance with program requirements. Furthermore, each application was assessed against clearly defined criteria. A formal contribution agreement was established for each project, to ensure that project design would be respected and project objectives met. These agreements provided clear reporting requirements for all projects over $250,000, such as submitting audited financial statements to the Bureau.

The Millennium Bureau of Canada operated in a fully transparent manner. All contributions made under the CMPP were reported in the Public Accounts of Canada and posted on the Millennium Bureau website. Like all departments, the Millennium Partnership Program reported on its expenditures and results to Parliament. It filed Performance Reports to Parliament, starting in 1999 up until 2001-02, the last year it was in operation.

Records related to the Millennium Bureau

As the Millennium Bureau is a defunct organization, its records have been under the care and control of Library and Archives Canada since it wound down in fiscal year 2001/2002.

With the consent of Library and Archives Canada, access has been provided to these records to answer Parliamentary queries, as required.

Review of Millennium Program

The Millennium Bureau operated in a fully transparent manner, and had a rigorous monitoring and evaluation framework. Paper audits were conducted by the Bureau's staff. A number of formal file audits were conducted by external Chartered Accountants. As well, an independent evaluation of the CMPP was conducted by an outside consultant in 2001, as the program was winding down. This evaluation found that the CMPP was a very well run program: it was effective in reaching its objective, it was managed within its budget, it had proper processes for assessing and approving applications and it had appropriate controls and accountability mechanisms.

[*Translation*]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I would like to present to you Christina Richard, a native of Gatineau, Quebec. She is studying Communications and Political Science at the University of Ottawa. We welcome her to the Senate.

ORDERS OF THE DAY

TELEFILM CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Maria Chaput moved second reading of Bill C-18, to amend the Telefilm Canada Act and another Act.

She said: Honourable senators, it is a great pleasure for me to speak to you today at second reading of Bill C-18, to amend the Telefilm Canada Act. This is of great importance for the audiovisual sector, and thus for the cultural and artistic life of Canadians.

Culture is part of every Canadian's life. It helps enhance our quality of life, fosters personal and social development, inspires us and allows us to define our identity as individuals and as a nation.

In Canada it is crucial for our culture to be developed, strengthened and preserved so that the stories that characterize us may link the diverse communities across the land and forge ties to unite all Canadians.

Like the cultures in many other countries of the world, Canadian culture is made up of diversity, and that diversity is constantly growing. We are a nation of numerous ethnic backgrounds, ideologies and experiences. Culture helps us understand each other. It unites us. For that to happen, however, we need tools and mechanisms by which to make the concept into a reality.

Telefilm Canada constitutes one such mechanism and its role is a crucial one. Over the past 38 years, Telefilm Canada has built up our cinematography industry and supported its creators. It has contributed to the creation of a dynamic and prosperous industry, one recognized throughout the world for its talent in producing cinematic works.

Bill C-18 amends the Telefilm Canada Act of 1967, which was intended to encourage the development of a feature film industry in Canada. As cultural policies evolved and new technologies appeared, Telefilm Canada and its feature film expertise became the natural choice when it came to allocating responsibility for programs relating to television, innovative media and audio recording. In so doing, however, Telefilm's activities exceeded its initial mandate and no longer observed the spirit of the law.

In 2004, the Auditor General pointed out these flaws within her mandate of improving government transparency and accountability, and the government responded to these concerns by tabling Bill C-18.

• (1500)

This bill gives Telefilm the mandate it requires in order to carry on its current activities in the areas of television, new media and sound recording and ultimately to contribute to Canada's success in these fields, just as it has in the feature film sector.

Bill C-18 validates Telefilm's past activities in the audiovisual sector so that there will be no lingering doubts about the excellence of the work accomplished so far.

Telefilm Canada is an institution recognized as a supporter of cultural activities. Its support for Canada's audiovisual industry has helped to strengthen Canada's cultural fabric and give expression to the hopes and experiences shared by diverse communities.

As a cultural investor in the film, television, new media and sound recording fields, Telefilm thus supports the creation of Canadian content reflecting the diversity of the Canadian population that can be seen on television and movie screens and heard through headsets by all Canadians.

Telefilm encourages and fosters excellence in Canadian cultural works. It has made possible the growth and creation of new jobs. Many of its high-quality cultural products have attracted large audiences all over the world.

Through its support for creating Canadian content, Telefilm has contributed to the recognition of Canadian works and Canadian talent everywhere in the world and has made it possible to build international partnerships that have led to profitable business opportunities.

Telefilm's participation in feature films, television, new media and music has generated innumerable achievements and successes that confirm Telefilm's effectiveness.

Thanks to these successes, more media attention is now paid to the launch of Canadian audiovisual content, and more and more Canadians are now watching these films or programs or listening to home-grown music. And they are talking about it as well, which increases their understanding of and interest in Canadian content and raises their awareness of Canadian talent and Canadian creators.

Let us talk about some of these successes: Canadian films.

In terms of feature films, for example, *The Barbarian Invasions*, a Canada-France co-production, won many awards, including the 2004 Oscar for best foreign-language film. This fascinating story, steeped in local references and situations, made a significant impression on audiences in Canada and elsewhere.

Séraphin: Heart of Stone, by Charles Binamé, had outstanding success in Canada with ticket sales of nearly $10 million.

Other films financed by Telefilm, such as *The Saddest Music in the World* by Guy Maddin, *The Statement* by Norman Jewison and *Seducing Doctor Lewis* by Jean-François Pouliot, have won acclaim at home and abroad for their captivating stories and the quality of their direction, cinematography and music.

I am sure you will agree with me that these are major productions.

Telefilm's success in the film industry points to its future success in television, new media and sound recording. Consequently, there is no question that Telefilm must continue to make its contribution.

[*English*]

Let us talk about Canadian television. We can all be proud of the Canadian performances on our television screens. The popularity of series such as *Les Bougon*, *Fortier* and *Trailer Park Boys*, as well as many others, underscores just how much Canadians appreciate their national television. These programs and others capture the lives of ordinary Canadians from east to west, reflecting the humour, the mannerisms and the lifestyles with which all Canadians can identify.

These programs can also display characteristics that some Canadians are unfamiliar with, thereby giving them a chance to learn and revel in the conventions and history of diverse communities across Canada. These programs engage and connect Canadians.

The ability of Canadian shows to resonate with Canadians and develop a large following of fans at home and abroad is a testament to the level of talent developed and refined here in Canada.

For instance, crime dramas like *Da Vinci's Inquest* and *Cold Squad* have infused a local Canadian flavour to the once American-dominated style of cop shows. *Da Vinci's Inquest*, English Canada's longest running dramatic series, has won the Gemini Award for Best Dramatic Series four times over and can be found on television schedules around the world. It is a definite success story, and one also that I dearly love.

The French-language market frequently produces top-rated programming that outperforms even the biggest foreign prime-time hits and syndicated favourites. As a matter of fact, there are no American programs ranked in the top 10 in French-language Canada, an indication of a connected culture that prefers to see itself on the screen. Canadians want to see themselves reflected.

A significant contributing factor to the success of these shows is the Canadian Television Fund, which is administered in part by Telefilm. This $267-million fund focuses more and more on audience levels rather than levels of production volume as a measure of program success.

Thanks to the programming decisions of Telefilm and the Canadian Television Fund Corporation, Canadians now have an entertaining and diverse array of Canadian prime-time programming that is quickly inching its way up the audience measurement charts.

Let us talk about new media. Of all the sectors to be discussed here today, new media is by far the fastest growing and potentially furthest reaching of all. Over half of all Canadians have access to the Internet, and for many young Canadians this translates into a vast resource for learning, sharing and entertainment.

Combined with other creative works, such as film, television or music, online content can be used as an extremely effective cross-promotional tool by directing viewers from the Internet and CD-ROMs to Canadian content on the big screen, small screen and radio, greatly increasing audience potential for Canadian works.

The New Media Fund serves to develop a prominent and visible online content industry that brings to light the creative and technological advances of Canadian work to Canadian audiences. This program is extremely beneficial to the way in which our children learn and socialize with each other and the world around them. For example, since the Internet and interactive CD-ROMs are widely used in school curricula, the Canadian New Media Fund serves as an extremely important mechanism for Canadian content to be generated and brought to the attention of teachers and students alike, introducing Canada's youth to the extensive and dynamic array of Canadian content, and presenting information from a Canadian point of view. This, as honourable senators will agree, will help to develop a better sense of who we are as Canadians during an individual's developmental stage, which will likely nourish their appetite for Canadian stories well on into their adult years.

Canada's achievements in this sector are numerous and cover a wide range of interactive and digital products. One notable accomplishment is the website www.degrassi.tv. This online site, inspired by the internationally renowned Canadian television series *Degrassi: The Next Generation*, has garnered domestic recognition by the Academy of Canadian Cinema and Television for its outstanding interactivity and enormous popularity.

Lastly, let us not forget about the Canadian sound recording industry. In concurrence with the Department of Canadian Heritage's 2001 Sound Recording Policy to build a competitive music industry for the new economy and develop audiences for homegrown talent, Telefilm was given the responsibility to administer the Music Entrepreneur Program. Telefilm's expertise in supporting cultural entrepreneurs has been utilized to allow these companies to better capitalize on their creative talent. This program has supported Canadian music entrepreneurs and has given them the necessary funding to carry out their short- and long-term corporate business plans, therefore shifting the focus from that of project assistance to one of sector building.

• (1510)

Along with these initiatives, Telefilm administers other programs ranging in focus from training and professional development to the advancement of minority involvement in the audiovisual industries. Combined, Telefilm's programs provide support to all components of the creative and commercial process, facilitate new ventures between entrepreneurs and promote cultural products domestically and abroad.

From what you have heard, it is apparent that Telefilm's involvement from creation to audience building in the major sectors of the audiovisual industry has allowed it to develop an expertise we must cherish and encourage.

There is no denying that Telefilm has been a key player in building a strong and viable industry for the long run. It has helped to develop world-class creators. It has allowed minorities to have a voice and to share their distinct cultures and heritage with the rest of Canada and the world.

It has supported young talent and provided them with the tools to build successful careers around their passions. Lastly, it has opened up the eyes and ears of the Canadian public to the rich and vibrant stories and sounds of our homeland.

Telefilm's successes have been Canada's successes and, as such, I urge you to join me in supporting Bill C-18 so that Telefilm can continue with its great work in fostering and building an industry that is essential to the strengthening of a nation, deepening our mutual understanding and contributing to our economy.

Hon. Tommy Banks: Honourable senators, may I ask a question of the honourable senator?

Senator Chaput: Yes.

Senator Banks: I apologize for not having read this bill before today. I enjoyed the honourable senator's remarks about Telefilm and, indeed, I share the high regard in which she holds Telefilm and what it has done in the past.

My question will be specific, but an answer at a later date would be quite acceptable. It has to do with the amendment to section 10(6)(*a*) on page two of the bill. The definition states:

> (6) For the purposes of this Act, a "Canadian audio-visual production" is an audio-visual production in respect of which the Corporation has determined
>
> > (*a*) ...the copyright in the completed production...will be owned by an individual resident in Canada,...

Honourable senators, that could refer to a film, a television show, a sound recording or new media work. However, it does not say that it must be owned by a Canadian.

The second part of my question is the most important part. Paragraph (a) continues by stating that the copyright could be owned by a corporation incorporated under the laws of Canada or a province or by any combination of the above.

What gives me pause is that that could include a corporation that is incorporated under the laws, for example, of Alberta, or a federal corporation, the entire ownership of which may not reside in Canada or be Canadian of any sort.

Is that the intent of the bill? That is to say, is its intent to allow foreign-owned corporations to benefit from the efforts of Telefilm, which might be perfectly all right? Is that the intent or is it, perhaps, an oversight?

[*Translation*]

Senator Chaput: Honourable senators, I will answer that question to the best of my ability. We may perhaps want to ask for additional information.

My understanding of the bill that we have before us today is that it simply reflects what Telefilm Canada has always done. Over the years, with changes in technology, Telefilm Canada, which initially dealt only with feature films, has been given additional responsibilities by different governments, in film, in video, in new technologies and in feature films.

Telefilm Canada will not change its way of doing business. If, so far, the point you raised has not been a problem, in my opinion, it will not now become a problem because nothing has been changed except for the fact that this bill, in any case, will give Telefilm Canada the mandate that it has always carried out.

In her recommendations the Auditor General drew to the attention of Telefilm Canada that everything it was doing conformed to the best public management practices; the financial statements were clear and accurate, its programs were run in accordance with its mandate, its agreements were perfectly proper, but Telefilm Canada was going further than the law because they went beyond what the law allowed them to do.

This bill reflects the current situation of Telefilm Canada. That is the best answer I can give you at this time based on my knowledge of the bill.

[*English*]

Senator Banks: Has it been the case that, in the past, Telefilm's definition of an eligible corporation was only that the corporation be incorporated in Canada, or in a province, without reference to the ownership of that corporation? If that was so, will it continue to be so, and is it intended to continue to be so under the present bill?

I will assume that the honourable senator will find out the answers to those questions and let us know later.

[*Translation*]

Hon. Jean Lapointe: Honourable senators, my first question is directed to Senator Banks. Has Senator Banks seen...

The Hon. the Speaker *pro tempore*: I am sorry but the Honourable Senator Lapointe may not put a question to Senator Banks. He may only offer comments on the remarks made by Senator Chaput.

Senator Lapointe: I will ask my question another way. Is the Honourable Senator Chaput aware of a case where a foreign corporation received subsidies via a Canadian corporation to produce a film here in Canada?

Senator Chaput: No, not to my knowledge. Moreover, according to the Auditor General, the annual report of Telefilm Canada clearly reports what Telefilm Canada has done in terms of activities and programs. I am sure that if he consults the report of Telefilm Canada's activities, Senator Banks' concerns can be put to rest.

Senator Lapointe: I have a second question: Which committee will be examining Bill C-18?

Senator Chaput: It will be the Standing Committee on Transport and Communications.

Senator Lapointe: That is what I wanted to hear. In the year 2005, must we refer artistic matters to the Transport and Communications Committee? I have been asking for two and a half years that the Library of Parliament Committee become a committee dealing with both the arts and the library. Bill C-18 is being referred to the Transport and Communications Committee. I am opposed to that. Inside, I am fuming. After so many years, it is time that we had a committee on the arts. We cannot have a committee on the arts elsewhere. There is no committee for artists. We should establish one and join it with the library committee that meets four times a year.

Senator Chaput: I understand your point of view very well and my heart is with you.

Senator Lapointe: I wish your mind were also with me!

[*English*]

Senator Banks: Honourable senators, I wish to make it clear that, with respect to the questions I asked, I never suggested that there was the slightest impropriety in the operation of Telefilm Canada, with which I used to have a great deal to do. I know how well they have managed the business that they have been given.

• (1520)

It has never occurred to me before, however, that the question of the ownership of a Canadian corporation might be absent in this act or in the one which preceded it. My question is limited strictly to that matter. I am not suggesting the slightest impropriety in the operation of Telefilm Canada now, before or, one hopes, in the future.

[*Translation*]

Senator Chaput: I thank Senator Banks for those remarks. In my opinion, it is always a good idea to ask the question, even if only as a precautionary measure.

On motion of Senator Tkachuk, debate adjourned.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore***:** Honourable senators, I would like to recognize the presence of a group of students from Curve Lake Secondary School near Peterborough. They are the guests of Senator Adams.

Welcome to the Senate.

Hon. Senators: Hear, hear!

[*Translation*]

FIRST NATIONS GOVERNMENT RECOGNITION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator LeBreton, for the second reading of Bill S-16, An Act providing for the Crown's recognition of self-governing First Nations of Canada.

Hon. Aurélien Gill: Honourable senators, a few weeks ago, the Honourable Senator St. Germain introduced Bill S-16.

The senator, like many others in this chamber, pointed out the many incarnations of government policy over the years. He reviewed the essential aspects of the Indian Act, the reserve system, the Indian registry and the issue of treaties and rights, from the Royal Proclamation of 1763 to the Constitution of 1982. The senator's presentation is invaluable for an understanding of where we are, but above all to see the direction in which we must go if we want to break with a past encumbered with paternalism, bad faith and misadministration.

In terms of what needs to be done to truly embark on a new future, I support what the senator said, but I would like to go still further.

The general intention, honourable senators, as we know and as some of our colleagues have recalled in this chamber, is the creation of responsible First Nations self-government. However, more than that, it is important to point out, and it encapsulates my firm conviction, the essential prerequisite is the emergence of new and original Aboriginal political institutions in which this responsible self-government will be conceived.

We must move towards the creation of a permanent representative assembly of First Nations to ensure that our interests are handled politically within our nations, coming together in a political forum that does not exist at present. There is a link missing in the chain. In order to found new institutions, we need a founding body that belongs to the First Nations themselves.

I am personally convinced that the current Assembly of First Nations must metamorphose into a kind of political assembly that will hold an estates general out of which our new political institutions will emerge. This permanent assembly of the government of the First Nations that our leaders would like to have must be interpreted, viewed and accepted as part of the inherent rights of our nations, as provided for in the Constitution of our country.

You cannot make something new out of something old, especially where history has served us First Nations people so ill. I know that it is difficult to break with and forget the old ways of thinking. It is unfortunate to see that people still say "First Nations" when they refer to a band, thinking of band councils, Indian reserves and other similar terms. People in English Canada often say "the band." It is no longer possible, to the point of becoming exasperating, to use these old concepts to attain new realities. If the term "First Nations" merely replaces the expression "Indian reserve," we are starting out on the wrong foot.

Accountable government, good governance, self-government, all these new concepts cannot refer to a band council, even to the concept of a band council.

I know whereof I speak, as I was Chief of the Pointe-Bleue band. This — wrongly named — political structure has always been, it must be said, an administrative branch of Indian Affairs in Ottawa, where all the money, all the power and all the policy were concentrated. Throughout history, these band councils, created by and described in the Indian Act, isolated, divided and scattered our peoples in so many small communities.

[*English*]

The federal concept of "band," as defined by the Indian Act and as administered for generations by a non-Indian bureaucracy, killed the concept of "nation." Because we became bands under the law we were no longer people.

[*Translation*]

I personally experienced, in the 1970s, the period of taking charge, the era when the federal government wanted to transfer to the band councils direct responsibilities for administering services on the Indian reserves. It was a special present, to put it mildly. The councils were often not ready to receive these budgets and obligations, and above all the structure was not appropriate — and it never will be. A band council, in the meaning given to it, is not a general government. The intention was to make these local agencies of Indian Affairs the autonomous governments of isolated villages. More recently, things reached the point where these councils were considered entirely responsible for their administrative debacle. Facile accusations are levelled at the members of First Nations that they were responsible for this debacle. They talk of governance without taking into account the ungovernable.

The band councils did what they could. They dealt with a situation that was imposed on them. The councils picked up the pieces — as they have always done. Far be it from me to denigrate band councils in general, but even the best band councils cannot give what they do not have: a genuine political dimension at the national level. Nor do they have the legal framework to do so.

I say simply but in all seriousness that our new political institutions must distance themselves from the existing structures, all of which are related to this paternalistic, infantilizing federal system. Our communities must rediscover their identity, their confidence and their political maturity.

• (1530)

Our communities are no longer camps numbered in Ottawa by bureaucrats who, for so long, were able to get away with not knowing that an Indian reserve had a cultural affiliation. The autonomous, responsible, accountable government that we are all seeking is not, therefore, that of a band or a group of bands. We will all have to relearn how to talk about local communities or groups of communities, but above all about peoples and nations. The original political institutions that we are seeking must make reference to the founding nations and must be applicable to the realities of First Nations. These institutions must reinvent the notion of local, regional, national and intergovernmental democracy. Our nations, which have been ignored for centuries, separated by provincial and territorial borders, buried under structures that do not recognize them, must be reborn in a country that has done everything, consciously or unconsciously, to erase them from the map.

How many First Nations are there in Canada? I do not know. The Erasmus-Dussault report, which examined this question in 1997, estimates that there are about 50. The mere fact that we no longer know how many there are and will have to re-establish this is a good indication of the extent of the damage done to us by government policy over the generations. There are over 600 Indian reserves; this we do know, but which nations they belong to, we no longer really know, at least not with any precision. They straddle provincial borders; sometimes they are extremely small, sometimes big. Each one has its own history, but they all have in common the Indian Act, assimilation policies and exile in marginalization. As a result, I believe that, despite wishful thinking, the efforts made, the rhetoric and the good intentions, the time has come to wipe the slate clean and start anew.

Honourable senators, for years now governments have been ignoring our political leaders, considering them more as advisers, consultants or what have you. Our political leaders do not have any power in Canadian politics. Both federally and provincially, this is truly absurd, considering how fed up we all are with consultations, studies and study findings. My colleague Senator St. Germain has stressed this himself: enough studies, now we need action. From now on we need political will, along with recognition of the political actions of the First Nations. What is required, therefore, is innovation, invention and new political institutions that reflect what we are and what we want to be. This will not be done overnight. I think we need to encourage the creation of a permanent First Nations assembly, the general mandate of which would be to design the appropriate political institutions, tailored to the needs of all the First Nations of Canada.

This constituent and founding assembly should have all the time required, years if necessary, and all the resources and means at its disposal to achieve its goals. It should be absolutely, entirely and fully under the control of our leaders, whose task it would be to invent the world of tomorrow while meeting all the challenges there are in our communities. Given the very small extent to which it has been possible to adapt existing Indian Affairs legislation and practices, clearly this process would definitively sound the death knell for the system as we know it. It would ring in a new era. This is a major challenge because it affects everything. Everything will have to be rethought. Senator St. Germain's work on Bill S-16 is clear evidence of its complexity and difficulty. However, I see his proposal as just one example, one model among many, for what we really need, as I have said, to go back to square one ourselves, without any reference to the present institutions. This will be quite an undertaking, but do we have any choice? We must look at the representativeness of the national First Nations government and the governments of each nation. We must, I repeat, start with the people, not the bands or communities, and to think in terms of nations. We need to create these new political institutions and then we would be able to talk seriously about an Aboriginal government and Aboriginal governments in this country.

There are the issues of land, resources, revenues, tax bases, public funds, equalization with the federal government, agreements with the provinces; in short, issues of financing and viability. There are also all the issues related to good governance: budgets, public health, culture, social affairs, justice, public safety, education, economic development and intergovernmental affairs. As well, there are the Charter, the Constitution and redesigning the Canadian political landscape, because all of this is happening within today's Canada, consistent with the Constitution in which our rights are enshrined.

Honourable senators, you can see how ambitious my proposal is. Year in and year out, for countless years, Aboriginal matters have been costing billions of dollars, and everyone keeps saying those dollars are badly spent. The Erasmus-Dussault commission foresaw this. Let us give the money back to those who are entitled to it, who will make better use of it, that is, a genuine Aboriginal responsible government, but first and foremost, let us ensure that such a political institution exists. It will be up to that government, with its leadership and its various levels, which does not yet exist, to set its own goals and methods, its priorities and decisions. With such responsible governments, we will have the ability to take back all our responsibilities. It is the only way.

For 30 years, we have been moving forward case by case through a costly process of legal quibbling, nation by nation, sometimes village by village, which is very unfortunate, but a model is finally taking shape — specific agreements which each aim at self-government for the nations involved. Rather than continuing to take each of these steps in isolation, rather than beginning anew each time, with the pace varying across Canada and no end in sight, let us do it once and for all, because our rights are not subject to discussion; our existence has been recognized. There are no further arguments to add.

Of course, I repeat, the last stretch will be the most difficult for everyone. It is not up to the federal government or any existing government to build the new Aboriginal political reality; it is up to the First Nations themselves. No law can miraculously bring about what must take time to develop under legitimate conditions. It is not the task of the Senate, the House of Commons, a minister, or even a first minister; it is totally up to the First Nations. I therefore come back to my proposal: We have to give ourselves the time, conditions and means to develop new political structures that will enable us to truly talk about First Nations self-government in this country. These structures must not, in any way, be the product of existing structures. They must be designed by the First Nations themselves, the product of a monumental process over many years, which has not yet taken place. That is why I am talking about a permanent assembly, or a commission, without a fixed time frame, mandated to deliver an original proposal. The First Nations, through their leaders, may well decide on the national forum provided by the Assembly of First Nations to create this government or an alternative. This is not to take anything away from the merits of Senator St. Germain's Bill S-16; I simply find that it does not come from the right authorities.

• (1540)

Furthermore, it does not distinguish itself sufficiently from the traditional structures that are the heritage of Indian Affairs and the Indian Act.

Lastly, it is up to Aboriginal thinkers, to the leaders of the nations and to a broad range of minds to agree on a general institution that will ensure a place for the First Nations in the political landscape of Canada.

We have done everything to achieve a synthesis, whether it be the old treaties of alliance and friendship, the territorial treaties, the modern treaties; whether it be the rights of the Metis, the Iroquois, the Nisga'a, the Inuit or the Malécites, from north to south, from east to west. It is high time to reunite what should be reunited, to bring together what should be together.

Honourable senators, let me conclude by repeating to you my conviction that if there were a firm will on the part of the members of this chamber and of the other place to change radically the way we think and act towards the First Nations of this country, we could greatly help the First Nations to establish their own formula of governance, and thus enable these First Nations to emerge from this marginality, to participate fully in the development of our country.

[*English*]

Hon. Gerry St. Germain: I should like to congratulate Senator Gill because he brings a host of experience to this subject.

[*Translation*]

I have a question for Senator Gill. Does he think that this is a first step towards beginning the debate?

[Senator Gill]

[*English*]

Every giant journey begins with a single step.

[*Translation*]

Senator Gill speaks of nations instead of bands, et cetera. Could we begin the debate in committee in this way? Does he consider it important? Does he think that we have at least a chance of going further if we refer this topic to committee and continue the discussion?

Senator Gill: Honourable senators, we have always tried to take things in small steps. We have tried to climb the stairs gradually. One basic element is missing, and that is the official recognition of institutions or of Aboriginal citizens as full citizens. As long as the Indian Act exists in its present form, the First Nations will be considered minors. This is something on which everyone can agree, in particular those in the legal field.

As long as we do not have official recognition, even if it is not legal or enshrined in the current legislation, let it at least be enshrined in our heads, in our minds, in our attitudes, and say that an Indian is not worthless because he is an Indian.

I am not saying that that is everyone's opinion, but it is the opinion of a good proportion of the population that an Indian should live on a reserve. You all know the adjectives that are used to describe them. We have to change our use of the word "band," which is itself a pejorative term. You talk about "a band of wolves," "a band of animals," but not "a band of people" or "a band of Indians." It makes no sense. These things have to be changed so that we can move forward.

We have to give things a huge push, otherwise, the mistakes of the past will be perpetuated. As a general rule, the efforts that have been made are laudable. We have to continue taking small steps, but a huge push is what is needed.

Senator St. Germain: Honourable senators, how can we do that? Senator Gill says that Aboriginal people are minors, but how can we change that perception? Does it take a duly constituted Aboriginal assembly? Does Senator Gill have any suggestions?

Senator Gill: Over the holidays, I was invited to speak to a committee organized by the First Nations. I spoke to my Aboriginal colleagues. I suggested that this assembly be constituted and that we muster the determination to assert ourselves in the eyes of Canadians in general.

We must assert ourselves as a nation, as a people, and act accordingly, in other words, demand that space be created. The First Nations must be told that this is their home and that they must assume their responsibilities. We have to start somewhere.

It is with the Assembly of First Nations, with the Inuit Assembly, and with all the existing organizations that, for once, we must make an official declaration and say that we are full citizens, that it is accepted, that the necessary spaces will be created and that we will have help to reach our goals and to become full citizens. Aboriginal people themselves must acquire institutions capable of governing themselves, asserting themselves in Canada and contributing to the development of Canada.

Senator St. Germain: If the debate continues on its present course, there is at least a chance. If we say nothing and do nothing, there will be no debate and no response.

I understand the importance of what Senator Gill is saying. Lawyers are costing our Aboriginal peoples millions of dollars. Bill S-16 introduces various aspects and I wanted to begin the debate, as we are doing now.

I would add that, in my view, people like Senator Gill are the ones who should take the lead and speak to the assemblies.

Senator Gill: Honourable senators, the people or the representatives of the Aboriginal leaders could do the same thing. The Assembly of First Nations, the members, the chiefs and the representatives meet only two or three times a year, for a few days, to settle the complex problems facing the Aboriginal nations of this country. This makes no sense.

The Senate, the House of Commons and all the provincial legislatures debate for months to find solutions to problems. The Aboriginal people do not have that opportunity. We try to solve the problems in their stead. That is why I am so reticent and my leader may find me somewhat tiresome.

I would like us to make an effort in the Senate to give the Aboriginal peoples the opportunity to discuss their affairs in an assembly where they can suggest solutions, rather than have these come from the initiatives of the Senate or of the government. That is what I would like.

I am convinced that with this approach — if the means to implement it were found — solutions could be reached and we would not have the same problems in ten years that we have today. Someone has to take a stand, so that the Aboriginal people can have representatives to discuss their affairs. We do not have this possibility at this point, but I am convinced that the leaders would accept favourable spaces being created. I guarantee you that we would not have the same problems in ten years.

[*English*]

Hon. Charlie Watt: Honourable senators, as you can see, the subject matter brought forward by Senator Gill is not easy to deal with, and the complexity of the matter requires a great deal of work and attention.

Honourable senators, there is a definite need for local political development, a definite need for regional political development, a need for provincial political development and also a need for national political development within Aboriginal society. This area has been touched upon from time to time. We have tried many different solutions, such as dealing with the Constitution back in 1982 and the subsequent Meech Lake and Charlottetown accords, attempts to get into the grassroots of those areas so we could begin to raise matters that could be beneficial to Aboriginal people and the country as a whole. Until now, we have not succeeded. If we continue the way we are going, we will not succeed. Economically, Canada will be hampered every step of the way.

As I recall, the senator across the aisle mentioned the cultural issue. There is money in that option, an economic side that has not been examined.

• (1550)

Today, governments are hesitant to talk about sovereignty. Why is that so, when we all know that we have to share the country? Everyone is afraid to talk about jurisdiction and powers, just as everyone is afraid to talk about the national deficit, that is, the deficit in the sense that Aboriginals are the ones who are being left way behind.

I believe that is what Senator Gill is addressing. Aboriginal people must be given opportunities. We must not be excluded from the system. The system, in some way, has to participate in what we do at the local level.

Who is the authority? Where do we seek consent? We have our own political institutions such as the Assembly of First Nations, ITK, and various regional organizations which are incorporated under Part II of the Canada Act, not the Indian Act or any other act. Therefore, those political institutions are not a political institution per se. The act itself states that they must be non-political and non-profit. The question is: What are we? We do deal with political issues from time to time.

Aboriginal people need a genuine political instrument to come at least halfway to see whether they can survive with their counterparts. That is what the Aboriginal people are asking for. We are not asking for special treatment. We are asking for acknowledgment of what is contained in the Constitution. Let us move ahead and implement that. If we only deal with it on a piecemeal basis, as we have been doing over the years, we will not get there. We have looked at the big picture to see what we can do to improve our relations, our economy, and the social fabric of the people so that we can live harmoniously with one another and respect can be restored.

Let me give the example that I always use. Under the James Bay and Northern Quebec Agreement, our ability to be a hospitable people has been taken away. We cannot give fish or caribou meat to anyone, because it is illegal. Is that right? I do not think so.

Honourable senators, I would like to go on and talk about those things because much can be said. We have to talk about the civil law and the common law. Where do we fit in? How do we transact? We must deal with all of those areas.

Honourable senators, I would ask that the debate be adjourned in my name so that I may have an opportunity to highlight some of those areas.

On motion of Senator Watt, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. John G. Bryden moved second reading of Bill S-24, to amend the Criminal Code (cruelty to animals).

He said: Honourable senators, Bill S-24 increases the maximum penalties which a court may impose for offences under sections 444 to 447 of the Criminal Code dealing with animal cruelty. Otherwise, the code is unchanged.

Before I go further, I would point out that that is one of the reasons this booklet containing the bill is constructed in the manner it is. The explanatory notes on pages 1A and 1B at the back set out the Criminal Code as it is now, with the penalties as they are now. This makes it easy to compare the changes proposed by this bill. Only the penalties will change. The sections that create the offences will remain exactly as they exist and have existed for a long time. That is a significant point.

These sections and the offences under them have evolved over many years, some of them from the common law before there even was a code. Undisturbed, these sections have the great advantage of having been used and interpreted many times and have left a trail of legal precedents that are accepted by and instructive to present day judges, enforcement officers, prosecutors and all members of the public in regulating our treatment of animals.

I have introduced this bill now because of the recent history of this issue. Over the last three years, Bills C-10, C-10B and C-22 dealing with cruelty to animals have been introduced into Parliament, and it is likely that a fourth bill will be introduced in this Parliament.

When each of the bills was introduced, we were told by ministers of justice and several senior officials from the Department of Justice that the purpose of the proposed amendments was very limited; namely, to increase the penalties for existing offences and to simplify and rationalize the existing law.

Ms. Joanne Klineberg, a lawyer with the Criminal Law Policy Section with the Department of Justice, said:

> The main thrust was increasing penalties, but as well there are certain elements of the existing regime that are complicated and not as clear as they could be. The other guiding principle was to clarify these things so that everyone could have a better understanding of what the law actually required.

We were told repeatedly that what is lawful today will be lawful under the proposed measures in the bill. We were told this, for example, by then Justice Minister Cauchon on November 20, 2002 and on December 4, 2002 by Mr. Richard Mosley, then the Assistant Deputy Minister, Criminal Law Policy and Community Justice Branch, and now a justice with the Federal Court of Canada.

Upon examination, it was the opinion of a number of us in this chamber and of many expert witnesses who appeared before the Standing Senate Committee on Legal and Constitutional Affairs that those bills went much further. Those bills made substantive changes to the criminal law. Even if those changes are appropriate or indeed necessary, the public policy of those changes was never openly debated, nor was the impact and implication for the people most directly affected ever tested. For example, evidence before our committee indicated that no consultation occurred with Aboriginal peoples, as is required under the non-derogation clause in the Constitution.

I believe that my bill could achieve the principal objective of the government while avoiding the problems. To understand why I chose the approach reflected in my bill, one first needs to understand the problems with the government's bills. For clarity I will use Bill C-22 as my reference point, the last such bill introduced by the government in the last Parliament. Like its predecessors, it moved the sections on cruelty to animals from the Crimes Against Property part of the code to a new part of the Criminal Code, Part V.1, entitled "Cruelty to Animals." It then sets out the offences of cruelty to animals in three main sections.

• (1600)

Honourable senators, a number of us — and a number of witnesses who appeared before the committee — were concerned about the potential impact of moving these sections to this newly created part of the code. Professor Ruth Sullivan is an expert on statutory interpretation, with years of experience teaching statutory drafting and interpretation at the University of Ottawa Faculty of Law and with years of drafting experience at the Department of Justice. She testified:

> Mr. Chairman, I was invited to address two issues. One is whether moving a provision from one section of the code to another, or one part of the code to another, could have legal significance. The short answer is, definitely. Where you place a provision in a legislative scheme naturally colours its interpretation.... Moving things from one part of the code to another can make quite a significant difference.

She later elaborated:

> I think of law as being broader than the rules set out in the code. It is also how they are applied and interpreted. You are signalling that attitude by moving it to a new section. You are saying, "We will take a different attitude towards this." Even though the words remain the same, we might interpret it a little more broadly than we did before.

I should note that Ronald Sklar, a professor of animal law at McGill University, agreed completely with this statement by Professor Sullivan.

Mr. Gerald Chipeur, a lawyer who specializes in constitutional law and who is well known to many of us, noted that the new part for cruelty to animals was to be placed directly after section 182 of the Criminal Code which deals with the treatment of dead bodies. Mr. Chipeur said:

> If I were a judge and wanted to engage in some mischief, I would say that section 182 deals with dead bodies and that, although dead bodies are not property, they are not human beings, and so they have some special status within our society. In placing section 182.1 —

— cruelty to animals —

> — and following right after section 182, Parliament was intending to create some special status for animals that derogates from their former status as property. I think even Professor Sklar would admit that the intent here is to upgrade the treatment and status of animals within our society.

Honourable senators, my training as a lawyer ingrained in me the principle of statutory interpretation that Parliament does not act without a purpose. If we were to pass an amendment moving these provisions from one part of the Criminal Code to another, the implication would be that there is a reason. Just as there are no rights without a remedy, it would not be unreasonable or far-fetched for someone to argue persuasively that consequences must have been intended to flow from such a change.

Ms. Bessie Borwein, Special Advisor to the Vice-President of Research at the University of Western Ontario, has had a great deal of experience with animal rights groups. She told the committee:

> I and all the researchers I know approve of much in the bill and wholeheartedly support increasing the penalties for wanton cruelty to animals. However, it is our contention that in order to do this, it is not at all necessary to move the cruelty to animals provisions out of the property section in the Criminal Code. The worry that researchers have, and that one hears so often, is not the bill itself but the context in which we function and where the bill stands....
>
> I have been following and documenting animal rights extremism for 20 years — its history of arson, break-ins, vandalism, razor-bladed letters, theft of research animals, harassment — even at people's homes — costs in dollars, threats and intimidation. This has become a matter of grave concern for researchers, in certain domains in particular. Millions of dollars of public money have been spent on security, which does not further education, research or patient care....
>
> There are animal rights groups in Canada that have specifically and publicly stated their intention to use Bill C-10 —

— which is the number it had at the beginning —

> — to further their agenda. They say they will use the law to press charges and to test it to the utmost. They will use peace officers or authorized organizations like the SPCA or humane societies sympathetic to their cause in order to press this....
>
> We know there are many bona fide animal welfare organizations, which we need. However, some of them have been radicalized and taken over by extremists, and many of them feel vulnerable to that pressure.

Ms. Borwein asked the committee "to very seriously consider reinstating the crimes against animals in the property section of the Criminal Code, as it exists in many jurisdictions." She explained:

> The move away from animals as property must have ideological meaning in the animal rights philosophy and mindset because it is part of their campaign to move animals toward what is called "personhood." In fact, they have written that this bill heralds the emancipation of animals.

Honourable senators, I cannot stand here and tell you that Ms. Borwein is right and that by simply moving these provisions to a new part of the Criminal Code that specifically and expressly addresses cruelty to animals we would be opening the door to creating a brand new status for animals in our legal system and inviting claims for animal rights. However, given the testimony of one of our leading experts on statutory drafting and interpretation, who trained many drafters in the Department of Justice, and hearing about the on-the-ground experience of a researcher at a well-known Canadian university, among other testimony on the issue, doubt was raised in my mind that this may not be a simple, benign or neutral act. Indeed, the creation of this new part alone may change the law.

Honourable senators, I will speak to an analysis of the offences as set out in the previous proposed legislation, Bill C-22. For the first time, the bill would have included a definition of "animal." Section 182.1 provided that "animal" means a "vertebrate other than a human being." This in itself would seem to broaden the scope of the offences significantly from the existing law. Section 182.2 of Bill C-22 addresses offences committed wilfully and recklessly. Most of the offences under this section can be traced back to the existing code. However, paragraph (*c*) creates a new criminal offence. Section 182.2 states:

> (1) Everyone commits an offence who, wilfully or recklessly,
>
> (*c*) kills an animal without lawful excuse.

Under the Criminal Code today, it is an offence to, wilfully and without lawful excuse, kill a dog, bird or animal that is kept for a lawful purpose. However, wild animals are deliberately not within the spectrum of the offences. This would be a new offence under our criminal law. Many of us were concerned about the impact of this provision on those Canadians who hunt or fish lawfully, under today's law, with valid provincial hunting or fishing licences.

As I said in this chamber on November 4, 2003, the courts have said that the phrase "without lawful excuse" only means that an accident, duress or mistaken fact are implied by that phrase at common law. The phrase has very little significance, according to the courts, unless Parliament specifically indicates that it has a particular meaning. The case law further indicates that the possession of a permit or licence issued by a provincial government does not constitute a lawful excuse.

• (1610)

Honourable senators have heard about this a number of times over the history of these bills, so I will not repeat the case law now. However, no less a court than the Supreme Court of Canada has held in the *Jorgensen* case that the approval of provincial authorities does not constitute a lawful excuse under the Criminal Code. Indeed, this was admitted by officials from the Department of Justice. Ms. Klineberg said:

> You are absolutely right in your understanding of *Jorgensen* that the piece of paper that comes from the province is not, in itself, a legal excuse.

Honourable senators, I listened closely to the testimony from several Justice officials on this point. They appeared to me to be saying that what is really at issue are not traditional hunting practices, but vicious or brutal killing. For example, during an exchange on this issue of whether a provincial statute or licence would be considered an excuse for the purpose of the provisions of the bill, Rick Mosley said:

> This is aimed not at the type of practice to which the honourable senator referred but to the cases you have all read about in newspapers in recent years. For example, someone on the St. Lawrence decided to get rid of an unwanted dog by bashing it on the head and throwing it into the river.
>
> Virtually every group that has commented on this legislation has agreed that the existing penalty structure is inadequate for these offences and that there is a need to provide for longer terms than the present summary conviction maximum of six months.
>
> This goes to the moral culpability of the individual. With the greatest of respect, I cannot see how viciously, brutally and without any justification whatsoever killing an animal in any way accords with traditional hunting or fishing practices.

Honourable senators, I would have no problem whatsoever if the proposed provisions only had prohibited vicious and brutal killing. My difficulty is that, as drafted, the section goes much further. Paragraph (*c*) makes it a criminal offence to wilfully kill an animal without lawful excuse, period. Indeed, paragraph 182.2 (1)(*b*) is the section of Bill C-22 that would have prohibited vicious and brutal killing. It read:

> (1) Everyone commits an offence who wilfully or recklessly
>
> (*b*) kills an animal or, being the owner, permits an animal to be killed, brutally or viciously, regardless of whether the animal dies immediately.

Honourable senators, the bill already would have made it an offence to kill an animal brutally or viciously. Why, then, paragraph (*c*)? Why is it included? If I were a judge, I would have to say that Parliament intended to cover something more than brutal or vicious killing. I believe there is a real possibility that our current hunting and fishing practices would have been at risk under this bill and, contrary to what we were led to believe, what is lawful today would not necessarily have continued to be lawful under the bill.

Another section of Bill C-22 that caused me concern was section 182.2(1)(*a*). That section would have provided that everyone commits an offence who "wilfully or recklessly, causes or, being the owner, permits to be caused unnecessary pain, suffering or injury to an animal."

Honourable senators, could someone engaging in "catch-and-release" fishing be said to be wilfully causing unnecessary pain, suffering or injury to a fish? Remember the definition of "animal" includes a fish under this bill. Some animal rights activists are adamantly opposed to "catch-and-release" fishing. The American organization, People for Ethical Treatment of Animals, or PETA, has a website — www.FishingHurts.com — where they say, among other things, that:

> Catching fish is cruel and unnecessary, whether they are killed on the spot or thrown back in the water, injured and exhausted.

PETA is an American-based organization, but it has not stopped its activities at the border. In August 2003, they sponsored a billboard in St. John's urging people in Newfoundland to stop catching and eating fish. Honourable senators, after taking on the people of Newfoundland and Labrador and trying to convince them to stop catching and eating fish, I think a legal challenge to "catch-and-release" fishing would look easy indeed.

Senator Rompkey: Can we breathe?

Senator Bryden: We also heard testimony that the bill, as drafted, could be used to prosecute those engaged in "catch-and-release" fishing. In this regard, Gerald Chipeur stated:

> Let me give you a few examples of how the first three subsections of 182.2 could be, and most certainly will be, misused if this amendment is passed as written.
>
> ...
>
> Fly fishing and other forms of fishing where you have catch and release would be at risk. I have the most recent *Fish Magazine*. They encourage all fishers to release. Catch and release is an important part of stewardship and maintaining the environment. If you read these sections, it is clear that if you are fishing for pleasure and you cause harm to that fish by snagging it with that hook and then throwing the fish back alive, you simply did that for your own pleasure. There is no lawful excuse for doing that, no excuse that would stand up in court.
>
> Say goodbye to the Calgary Stampede. No doubt about it. I came from a program at the Hyatt in Calgary. There was a dog show there. I could not give an opinion to a dog show that they would not be prosecuted for what they would be doing.

He was referring to the passage of this amendment. That comes from the testimony of the Standing Senate Committee on Legal and Constitutional Affairs, February 26, 2003.

Again, honourable senators, the main issue for me right now is that the bill went further than simply increasing penalties and modernizing language. It was absolutely not clear that what is lawful today would have been lawful under the bill. My analysis, and that of eminent lawyers in the field, suggest that the bill would have criminalized certain activities that are lawful and, in fact, quite common today.

An interesting statistic that I discovered in the course of preparing this speech is that twice as many people fish as play hockey in Canada. My apologies to Senator Mahovlich and some others who feel that hockey is our real national sport. I suspect the figures may be different if one were to speak of watching the sport on television.

Honourable senators, the more I analyzed the provisions of the proposed legislation, the more problems I found with them. Professor Gary Trotter, former prosecutor and now professor of criminal law at Queen's University, appeared in his personal capacity in front of the Standing Senate Committee on Legal and Constitutional Affairs. He summed up the situation well:

> As I understood it, there were two points to this bill that the Department of Justice explained. The first was to increase penalties in response to certain horrendous and publicized events regarding animals. That is a value judgment made by the department. That is fine.
>
> The problems with this legislation are taken up in the Department of Justice's second objective, which is to try to simplify and rationalize the offences. That would seem simple given that there are only a couple of sections in the Criminal Code with which to tinker.
>
> However, it is not so simple because the Department of Justice had to negotiate an irony here. We have animal cruelty provisions that operate in an environment where society accepts a certain amount of killing of animals, sometimes even for sport. Killing animals is justified in certain circumstances. We operate in an environment where animals are killed for other types of greater good reasons.
>
> The Department of Justice has not put forward a package that allows proper negotiation in this environment. People are entitled to know in advance whether their acts will be criminalized. In my respectful submission, this bill is problematic because it does not guarantee that assurance.

I have two more quick quotes from eminent witnesses who spoke of the real potential that the bill was exposing currently lawful activities to charges of criminality. The first is from Mr. Seth Weinstein, who appeared on behalf of the Canadian Council of Criminal Defence Lawyers:

> The concern that we have with the proposed legislation is, notwithstanding the Department of Justice's assurances that what was lawful will remain lawful, the way in which the legislation is currently drafted. It brings profound changes that expose both animal-dependent communities and those with domestic animals to unfounded charges that they would not otherwise be subjected to under the current legislation.

• (1620)

Finally, Mr. Chipeur again:

> We are walking into unknown territory. We do not know where we are going. I am convinced that those who do not have your goodwill in mind will use this to abuse their fellow citizens in an unfortunately misguided effort to try to ensure that there is humanity. We all agree that cruelty to animals is terrible and the current Criminal Code prohibits such cruelty. That is all you need.

Honourable senators, I agree. I sat through many hours of hearings on this issue. I did not hear any examples of acts of cruelty to animals that would not be caught by the current provisions of the code. We simply do not need to amend the substantive provisions in order to prosecute the terrible acts that so horrify all of us.

In my amended bill, we go from almost all the penalties being by summary conviction with a maximum of six months up to, by indictment, five years in prison or, on summary conviction, a $10,000 fine and/or six months. Absolutely, we need stronger penalties. That is what Canadians want and expect. However, it would be wrong under the guise of a bill to increase penalties and do some minor housekeeping of language to then significantly change the criminal law. That is back door legislating, honourable senators, and that is wrong.

The bill I am putting forward today would leave the substantive provisions of the code intact — ensuring that what is lawful today would continue to be lawful — but would increase the available penalties to the levels proposed in Bill C-22. It is short and to the point. My hope is to facilitate an end to the situation in which we find ourselves, to propose a solution that cuts to the heart of our real objective in a way that, I hope, we can all support so that Canadians' real objective — making the punishment better fit these crimes — can be achieved as quickly as possible.

I hope all honourable senators will join me in supporting this bill.

On motion of Senator Stratton, debate adjourned.

STUDY ON STATE OF HEALTH CARE SYSTEM

FIRST INTERIM REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE

On the Order:

> Resuming debate on the consideration of the third report (first interim) of the Standing Senate Committee on Social Affairs, Science and Technology entitled: *Mental Health, Mental Illness and Addiction: Overview of Policies and Programs in Canada*, tabled in the Senate on November 23, 2004.—(*Honourable Senator Callbeck*)

Hon. Catherine S. Callbeck: Honourable senators, I would like to bring your attention to the reports tabled in the Senate by the Chair of the Standing Senate Committee on Social Affairs, Science and Technology on mental health, mental illness and addiction.

The committee has learned a great deal about mental illness and addiction since starting the study. Mental illness and addiction affect one in five over the course of their lives, ranging from short-term anxiety or crisis to enduring and serious mental illness.

Those aged 15 to 24 are more likely to be affected than any other group. In addition, the prevalence of mental disorders among seniors in nursing homes and long-term facilities is very high. The prevalence of mental disorders among Aboriginal peoples, homeless people and inmates is much higher than in the general population.

Mental illness can affect people across the country, young and old, from all walks of life. Mental illness and addiction rank first and second as causes of disabilities in Canada. It is no surprise that the economic impact of mental illnesses was estimated to be more than $14 billion in 1998. That is through direct health care costs like physicians, hospitals and medication, and indirect costs like lost productivity for long- and short-term disability. In addition, the cost of substance abuse was estimated to be nearly $9 billion in 1992 through direct health care costs, as well as lost productivity due to illness and law enforcement.

Individuals with both mental illness and an addiction have specific needs. Both disorders need to be treated together in an integrated way. Most government addiction services have now become part of community health and social services delivery programs. That is the case in my home province of Prince Edward Island. We are now more aware of the need to integrate alcohol and drug services not only into the mental health care system, but also into our broader social support services.

Although we have studied the mental health care situation here in Canada, as well as the progress being made in other countries, there is still considerable work left to be done. The committee heard over and over again about the very real challenges facing those suffering from mental illness and addiction, and their families.

The committee's initial findings from these public hearings have been released as three reports. The first report, entitled *Mental Health, Mental Illness and Addiction: An Overview of Programs and Policies in Canada*, begins with the personal stories of people living with mental illness and addiction, and their families. The report then examines the current state and delivery of mental health services and the provision of addiction treatment in Canada.

The second report, entitled *Mental Health Policies and Programs in Selected Countries*, compares the structure and funding of mental health care in four countries — Australia, New Zealand, England and the United States — and points to some important lessons that we can learn from these countries.

The third report, entitled *Mental Health, Mental Illness and Addiction: Issues and Options for Canada*, contains a series of questions and options for action that need to be addressed in order to improve the delivery of mental health services and addiction treatment.

A number of issues and options are up for discussion. During its first consultations, the committee heard over and over again about the fragmentation and the lack of integration in the mental health care system across Canada. Some collaboration does exist, such as the partnership in Prince Edward Island between the province and the Canadian Mental Health Association. However, in many areas nationwide, there are so many different players involved that it is a very difficult task to get everyone working together and even more difficult to follow patients.

The whole mental health care system is a complex array of services delivered through federal, provincial and municipal governments, as well as private providers and non-governmental organizations. The committee heard that what is needed is a more seamless transition between each service. This would involve making sure there is coordination of all the various services and supports needed by the people living with mental illness or addiction. The person can then move through treatment and discharge, through to skills enhancement, then to housing and employment.

There is a desperate need for a patient-centred system that focuses on each individual's recovery and creates a personalized care plan.

This fragmentation also makes it difficult for care providers to address those with more complex needs, such as mental health and addiction. They can be so closely intertwined that both must be addressed simultaneously and require major intergovernmental and cross-sector action.

With input from the various stakeholders, the committee hopes to offer recommendations on how mental health services and addiction treatment can best be integrated and how these can then be integrated into the health care system as a whole.

• (1630)

The committee was also told that, in addition to intergovernmental collaboration, Canada needs to develop a comprehensive national plan on mental health, mental illness and addiction to ensure successful reform and restructuring nationwide. Some provinces have already focused on reforming the system, and progress has been made in various places across the country. However, different provinces and territories are at different stages of reform in their own systems.

There is a clear need for leadership if Canada is to move forward in ensuring uniformity and equity in service provision. The committee will investigate the potential of a national action plan and define the roles and responsibilities of the various levels of government and organizations involved.

Since the provinces and territories have the major responsibility for the delivery of services for mental health and addiction in their particular jurisdictions, a great deal of effort must be devoted to intergovernmental consultation, partnerships and collaboration in creating a national strategy. Any consideration of a federal role cannot reduce the primary provincial responsibility for the design and delivery of programs for individuals with mental illness and addiction.

Some provinces have already made strides to reform these programs under their jurisdiction. In 2002, Prince Edward Island released its own model for mental health service delivery.

Every year in my province, about 4,000 people receive care through community-based organizations in the mental health system. In addition, approximately 1,500 more are treated in an institutional setting.

Since the model's release, the province has implemented a number of initiatives focusing on service and supports for those with persistent and serious mental disorders. They have begun outreach services and a crisis response program for those individuals experiencing acute mental distress. They have also initiated a telemental health service, a 24-hour crisis response line which provides support and refers clients to P.E.I. mental health programs.

P.E.I. is currently engaged in policy planning and programming for seniors and children, as well as those individuals suffering from concurrent disorders. They are working closely with the Canadian Mental Health Association to help address support needs, such as housing and employment, for those with mental illnesses. They have also begun work on a suicide prevention plan for the province. They are clearly making progress.

The committee also heard about the tremendous impact of stigma and discrimination. For many individuals, stigma can cause as much stress as the disorder itself. Stigma may discourage people from seeking the treatment they need, which leads to underfunding of treatment and support services.

Such stigma and discrimination can be so much more damaging in rural or remote communities. In areas with smaller populations, individuals may be less likely to come forward to seek the necessary treatments. It may be difficult for those suffering from mental illness or addiction to admit their need for assistance. Family and friends may shield the individual, further discouraging them from seeking treatment.

Combating this kind of stigma and discrimination will require a broad effort over a long period of time. Other countries, such as Australia and the United Kingdom, have already implemented some educational programs. In Australia, journalists are taught about mental disorders, and in the U.K. a group of affected individuals has been trained to speak to the media.

Canada must do its part to enable those living with mental illness and addiction to receive the treatment they require without adding the strain of stigma. We must ensure that consumers are able to access services such as housing, employment and education without fear of discrimination due to their disorders.

The goal of the committee's study is to make a real difference in the range, quality and organization of mental health and addiction services in Canada. Although improvements have been made, we must ensure such programs and services are available to all Canadians across the country. Collaborating with various levels of government, the Government of Canada will be able to create a plan for reforming and restructuring mental health services in this country. I believe that by working together we can make a difference in the lives of the tens of thousands of Canadians who are living with mental illness or addiction in their families.

The Hon. the Speaker *pro tempore***:** If no other senator wishes to speak, this matter will be considered debated.

THE SENATE

MOTION TO URGE GOVERNMENT TO REDUCE CERTAIN REVENUES AND TARGET PORTION OF GOODS AND SERVICES TAX REVENUE FOR DEBT REDUCTION—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Kinsella seconded by the Honourable Senator Stratton:
>
> That the Senate urge the government to reduce personal income taxes for low and modest income earners;
>
> That the Senate urge the government to stop overcharging Canadian employees and reduce Employment Insurance rates so that annual program revenues will no longer substantially exceed annual program expenditures;
>
> That the Senate urge the government in each budget henceforth to target an amount for debt reduction of not less than 2/7 of the net revenue expected to be raised by the federal Goods and Services Tax; and
>
> That a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.—(*Honourable Senator Austin, P.C.*)

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I am pleased to have this opportunity to speak to the motion before the Senate. In particular, I will focus on urging the government to reduce personal income taxes for lower- and modest-income Canadians.

[*Translation*]

I also want to thank Senator Kinsella for putting this motion before the Senate, as it will allow us to debate the issue of alleviating the tax burden on Canadians.

[*English*]

I will start with some figures from the Fraser Institute so that we may have a clear picture of the current tax situation in Canada. Taxes in this country are at an all-time high. If you think you are paying more and more in taxes each year, you are right. The total tax bill of the average Canadian family has increased by 1,550 per cent since 1961.

Back then, the average Canadian family income was $5,000, and the tax bill for that family was just over $1,500, or one third of its income. By 2003, the average family income had risen to almost $60,000, but the total amount of taxes paid is almost $30,000, or one-half of the family income.

Honourable senators, the reality is that just about half of what Canadian families earned last year went to taxes. Half of their paycheques were gobbled up by their massive governments, not just in income tax, the one we all like to think about, but also in EI premiums, CPP premiums, property taxes, sales and excise taxes, motor vehicle taxes and so on.

The C.D. Howe Institute tells us that each year the federal and provincial governments together collect some $475 billion in revenue, a figure that translates into almost $16,000 for every man, woman and child. That works out to $64,000 for a family of four paid out every year. That is more than what some families are even able to earn in a year.

This is a burden that is too much for anyone to bear, especially when our government is looking for ways to spend its $9 billion surplus this year.

This burden is greatest on those who can least afford these taxes, low- and modest-income Canadians. This is where we need to focus our efforts the most. The Canadian Chamber of Commerce suggested this very step in its pre-budget submission this year, stating:

> More needs to be done in terms of providing tax relief for low- and modest-income earners, especially families earning between $25,000 and $35,000 annually, who see many of the public transfers they receive (including child tax benefits, the GST and provincial sales and property tax credits, student financial assistance and social welfare) clawed back as income rises.

• (1640)

Honourable senators, including clawbacks, the marginal tax rate these people face is over 60 per cent and in some cases as much as 80 per cent, which is more than the rate facing Canada's highest earners. Taxing people at this income level discourages working and saving to improve their situation. Frankly, it is just not fair.

I agree we need to continue our fight to bring down the debt, but heavy taxes are not the way to go. They are strangling us. These numbers are staggering and, frankly, Canadian families cannot continue to fork over half their income each year. These taxes prevent Canadians from spending money where they need to, such as on food, shelter and education. These taxes stop them from saving for their future and investing in their children's future.

The time has come to cut taxes and lift this burden off the backs of Canadians. Only by doing this can we give the men and women of this country breathing space and allow them to put their money where they want it to go, instead of to the big black government box.

Cutting taxes in this way will also benefit the government. Last June, in a letter to the minister, the Vancouver Board of Trade wrote:

> Decreasing taxes encourages Canadians to work, save and invest, and will allow the economy to grow at a greater rate and provide additional funding for Canada's important social programs.

Tax cuts do not stop the flow of money into the government purse. It is quite the opposite. Tax cuts give Canadians more money to invest and that investment increases the government's tax base and the taxes they can pull in.

The bottom line is that tax cuts ultimately mean more tax revenue. Of course, individuals are not the only ones bearing the costs of taxes. Companies pay them as well and business taxes take a heavy toll in this country by increasing the cost of doing business and making it harder for Canadian firms to compete with those that pay fewer taxes.

According to an OECD report released in October, Canadians have a heavier tax burden than people from either of the other countries in NAFTA. In particular, our tax burden "remains high relative to the United States," which they refer to as our greatest economic competitor for investment capital and skilled labour.

While our corporate tax rate is lower than that of the United States, we have a higher effective tax rate on capital because of capital taxes, which are rare in the United States, and unfavourable depreciation and inventory cost deductions compared to the U.S.

The already wide gap between taxes paid in Canada and those paid in the U.S. will only get worse. When the Canadian Council of Chief Executives spoke to the House of Commons Standing Committee on Finance in November, they pointed out that:

> While Canada's statutory corporate income tax rate is now marginally lower than that of the United States, the effective tax rate faced by companies is still higher.

Furthermore, they said:

> Further tax cuts in the United States are very much on President George W. Bush's agenda for the second term.
>
> We have seen that already in his recent State of the Union address.

The tax gap will only get worse. This tax gap hamstrings Canadian companies as they try to compete against our trading partners. The winner is the other guy because he does not pay the taxes that Canadians do.

We do not compete just against Americans. We compete with countries around the world, but even there we are knocked down time and again by our own heavy taxes.

High taxes cut into investment in Canadian firms. According to the most recent information from the OECD, in 2001, taxes on personal income represented 13 per cent of Canada's gross domestic product, the highest percentage of any G7 country. As a result, we are not getting our share of North American job creating investment. The Canadian Chamber of Commerce in its pre-budget submission stated:

> Canada's tax treatment of depreciation, inventory costs and the general absence of capital taxes in the United States puts Canadian investment projects at a significant disadvantage.

This lack of investment translates into lower productivity which leads to fewer jobs, a lower standard of living, a shrinking tax base and less money for the government. Can this happen? It already has. The numbers show it. According to the C.D. Howe Institute, Canada's business investment has been falling steadily relative to GDP for 20 years. Look at how far we have fallen. Canada is now fourteenth in per capita research spending of the top 15 industrialized nations. Our productivity is plummeting compared to that of the other OECD nations. We have gone from sixth place in the world competitiveness ranking in 1997 to ninth place in 2001 and fifteenth in 2004; from six, to nine, to 15 in a simple span of about seven years. According to the *World Competitiveness Yearbook*, Canada has the fourth highest corporate tax rate of the 60 economic jurisdictions that it measured. This tax grab does not result in a lot of money as we rank only thirty-third in terms of corporate tax revenue as a share of the economy.

High taxes lead to less investment which results in fewer jobs, lower productivity and ultimately, less tax revenues. The time has come to cut taxes. Cutting taxes encourages companies to come to Canada and set up shop. The Canadian Council of Chief Executives told the government on November 4, 2004:

> Low corporate tax rates do more than accelerate growth by encouraging business investment. They also attract more companies that make more money and at the end of the day generate more revenue for governments.

If we do not cut taxes, businesses may be driven south. A *National Post* editorial of November 17, 2004 said:

> With taxes already much lower in the United States and George W. Bush is cutting them further still in his second mandate, businesses will be drawn south of the border if our rates aren't made more competitive — especially since we can no longer rely on the advantage of a low Canadian dollar.

The *Post* went on to advise: "Rather than waiting until our economic growth slows, the government should act now to lower corporate taxes."

The time has come to cut taxes. The C.D. Howe Institute in a speech to the Economic Club of Toronto, September 20, 2004 said:

> High rates substantially erode Canada's competitiveness by discouraging people from working, investing in capital and up-to-date technologies and taking on risk. Recent economic studies have largely come to the same conclusion — a country's tax levels strongly influence its people's economic decisions.

The time has come to cut taxes, but with all this evidence, it does not look like Paul Martin is even considering tax cuts. He wants to spend the surplus on his pet projects and if there is something left over maybe, and that is a big maybe, Canadians will get a tax break and get some of their money returned to them.

This is the wrong way to go. Listen to what the Canadian Chamber of Commerce in its pre-budget submission on November 2004 said:

> A tax system that unleashes the creative forces of the economy and improves the incentives to work, save and invest is necessary to provide a framework for prosperity....Most industrial countries have pursued tax reforms to ensure that their jurisdiction remains an attractive location for both individuals and businesses. Canada must do the same.

Low- and modest-income Canadians cannot afford the current level of taxation. Canadian companies cannot afford the current level of taxation. We cannot afford to drive companies and investment dollars away. We cannot afford to let our productivity freefall and take our standard of living down with it. It is time to cut taxes now.

On motion of Senator Rompkey, debate adjourned.

• (1650)

[*Translation*]

THE SENATE

RULES OF THE SENATE—MOTION TO CHANGE RULE 135—OATH OF ALLEGIANCE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Lavigne, seconded by the Honourable Senator Robichaud, P.C.,
>
> That the *Rules of the Senate* be amended by adding after rule 135 the following:
>
> **135.1** Every Senator shall, after taking his or her Seat, take and subscribe an oath of allegiance to Canada, in the following form, before the Speaker or a person authorized to take the oath:
>
> I, (*full name of the Senator*), do swear (*or solemnly affirm*) that I will be faithful and bear true allegiance to Canada.

Hon. Eymard G. Corbin: Honourable senators, I have done a lot of reading and research and I deliberated for a long time before deciding to speak today. The motion of Senator Lavigne, you will recall, asks that a paragraph be added to rule 135. Rule 135.1 would read as follows:

> Every Senator shall, after taking his or her Seat, take and subscribe an oath of allegiance to Canada, in the following form, before the Speaker or a person authorized to take the oath:

The proposed text of the oath is:

> I, (*full name of the Senator*), do swear (*or solemnly affirm*) that I will be faithful and bear true allegiance to Canada.

If I had not already sworn allegiance, I could not rise today to speak in this place. I must admit that, basically, I am rather indifferent to taking the oath — whether to the Queen or to Canada — because it is something imposed upon me. I do not like impositions, whatever they may be. I am not a great one for symbols. Anyone wanting to question my sincerity or loyalty is free to do so. I do not feel I have to prove my loyalty to the Queen in right of Canada, my love of this country, or my respect for my forebears and all that Canada represents. On the other hand, I am perfectly prepared to support the Constitution of Canada, the Charter of Rights and Freedoms and everything connected with them.

Therefore, my remarks are in this vein. I will begin by reminding honourable senators of the oath of allegiance we all have taken, which is proposed by the Constitution and found as the Fifth Schedule of the Constitution Acts of 1867 and 1982.

Oath of Allegiance

> I, Eymard G. Corbin, do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Elizabeth II.

That is what was used for me and for most of you.

In my research, I consulted just about every dictionary in my collection. I am an aficionado of dictionaries. I look through dictionaries from morning to night; when I am home, I go back and forth between my desk and the table. When I am not sure about the meaning of words used by my honourable colleagues in their speeches, I like to understand what the words meant. I especially like checking the root of the words, getting into semantics. I am not qualified to do so, but I have a natural predisposition because of my classical studies background, and I must admit that I enjoy it with a passion. I realize this is not likely to bring applause, but that is how I am.

It occurred to me to check not only dictionaries, but also texts, to see how the word "oath" had evolved over the history of humanity. I did not go back to the dawn of time — I do not have the training required — but I started with the Bible. I found a concordance of the Jerusalem Bible, and looked under "oath". Just about every book of the Bible has a reference to oath.

What amazed me the most, however, and refreshed my memory at the same time, because I have read the Bible several times, was the fact that oaths were not only sworn to God, but that God, or Yahweh, Himself had sworn oaths, had made commitments to His people — unheard of, in a way, but it was said eons ago, in sacred texts. I could quote in passing, from Deuteronomy, chapter 1, verse 8:

> [the land] that Yahweh swore to give to your fathers,

In chapter 11 of the same book, verse 9:

> in the land that Yahweh swore to give to your fathers —

There is something like a column and a quarter of references to the word "oath" in the Bible.

I took out my Latin pocket dictionary, which I have been carrying with me since my versification year. I looked under "*sacramentum*," or "solemn oath." According to the Romans, "*sacramentum*" involved putting a matter in dispute into the hands of the pontiff — in other words, a priest — or putting up money as a stake, paid by those who lost in a trial.

Second, it can mean a civil proceeding, *justo sacramento coniendere eum aliquo*, to give someone due process — literally and figuratively. Third, it can mean a military oath, enrolment — *dicere aliqui:* to swear an oath, to swear allegiance. "*Sacramentum*" also means "oath, commitment, obligation".

In my library I have a book entitled *Les mots de l'histoire*, or words in history; it is quite a thick book, which provides me with excellent bedtime reading. It contains thousands of references to historical situations and figures.

With reference to "oath," I found the following. I think it is something we should remember in this debate:

> Elizabeth II — our Queen — this oath by which the sovereign promises to govern in the name of the law is the essential moment in the British Coronation. It is a contract between the monarch and the people. Two English kings, Edward II and Richard II, lost the throne because they violated this oath which made them constitutional monarchs.

The ritual established by Saint Dunstan for the coronation of King Edgar in Bath in 959 has been retained in its entirety. The oath sworn by the king of France, Charles X, at Rheims in 1825, was taken from the *mandatum regis* of King Edgar — very nearly the same oath as the English one.

Queen Elizabeth took the oath at her coronation on June 2, 1945.

• (1700)

The Archbishop of Westminster solemnly asked her if she was willing to take the oath. She answered:

> I am willing.

The Archbishop then asked:

> Will you solemnly promise and swear to govern the Peoples of the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand and the Union of South Africa, Pakistan and Ceylon...

That was the situation in history at that time. I continue:

> ...and of your Possessions and the other Territories to any of them belonging or pertaining, according to their respective laws and customs?

To which the Queen answered:

> I solemnly promise so to do.

The Archbishop next asked:

> Will you to your power cause Law and Justice, in Mercy, to be executed in all your judgements?

The Queen responded:

> I will.

Next came questions concerning the Church.

> Will you to the utmost of your power maintain in the United Kingdom the Protestant Reformed Religion established by law?
>
> Will you maintain and preserve the doctrine, worship, discipline, and government of the Church of England? Will you preserve all such rights and privileges as by law do or shall appertain to the Bishops and Clergy of the Church of England?

Having answered in the affirmative, the Queen proceeded to the altar, placed her right hand on the Bible and said:

> The things which I have here promised, I will perform, and keep. So help me God.

She kissed the book, signed the oath and returned to her chair. At that point began the ceremony which would make her Queen.

That is the legal source for our own oath of allegiance to Queen Elizabeth II when we are called to the Senate. It is founded in the law, on the observance and respect of the law, of the peoples who come under the authority of the Crown.

It is not a question of love; it is not a matter of sentiment. It is something that is legally established, and that is what we are committing ourselves to when we take the oath of allegiance. We are a link in the continuing chain of legal authority giving rise to a Parliament in Canada, to senators, to members of Parliament and to the whole public service that flows therefrom.

I told you that I was very much at ease in taking the oath of allegiance to Queen Elizabeth II. It follows logically in the continuous line represented by the right of Parliament.

I listened with much attention and great interest to the remarks of Senator Lavigne, the sponsor of this proposal. I listened to Senator Carstairs, and to my friend Senator Robichaud. I noted their comments and questions. I concluded that what motivated the sponsor of this proposal and my colleagues was not really a desire to ensure a kind of legal continuity, or to impose an obligation of respect; rather, it was an overflowing of love for what Canada represents. I would be the last person to object to that. I, too, love my country. It is as simple as that.

However, is it necessary, by means of a new oath, to affirm what, in my opinion, is already contained in our oath of allegiance to the Crown? If it could generate some enthusiasm, if it might renew our pride in being part of this country, I would gladly take such an oath, but I do not believe that this kind of feeling can be dictated. There are too many things we are being told to do these days. In the name of security, we are subject to intensive searches before boarding an airplane; we are asked to make detours to be recognized by a mounted police officer. New codes of ethics are being imposed on us when there already exist ample provisions in the Constitution and the rules that govern us to deal with all these eventualities. That is my opinion.

As I read the text today, I am being asked to accept the taking of a second oath. I must tell you that idea does not appeal to me very much. However, I will not be the one to interfere with those who want to proceed in that way. I understand that there may be good reasons. I realize that there are still some tensions in Canada.

Surely I have not used up my time. I would like to try to finish my remarks.

The Hon. the Speaker *pro tempore***:** Honourable senators, is leave granted the honourable senator to complete his remarks?

Hon. Senators: Agreed.

Senator Corbin: I would simply like to say that I feel comfortable with the current provisions of the taking of the oath. It was with some trepidation that I rose to speak, knowing that Senator Joyal will follow me. It goes without saying that he is an expert in constitutional matters.

I quickly wanted to refresh my memory on the procedure for amending the Constitution of Canada. The oath is imposed on us by the Constitution. In Section 44 of the Constitution Acts 1867 to 1982, I quote:

> Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

If you wish to add an oath, I suggest that you follow the royal road. There is already a provision, there is already a text. If you wish to feel more comfortable, in order to more eloquently express or more solemnly declare your love and your commitment to Canada in public, I suggest that you should bring forward an amendment to change the form that is contained in the constitutional texts.

I would have liked to say a few words about the Republic of Madawaska because an honourable senator had mentioned this republic, but I will save it for another day, especially since the senator is absent.

The subject is the love of one's country. I do not question the deep love of Senator Lavigne, a strong federalist. I want to read a translation from Spanish, a poem by Jorge Luis Borges, the famous Argentine poet, who passed away a number of years ago. When I read this ode for the first time, it gave me the shivers. Never before had I been deeply moved by the expression of what it means to love one's country:

• (1710)

Ode Written in 1966 is the title.

> No one is the homeland. Not even the rider
> High in the dawn in the empty square,
> Who guides a bronze steed through time,
> Nor those others who look out from marble,
> Nor those who squandered their martial ash
> Over the plains of America
> Or left a verse or an exploit
> Or the memory of a life fulfilled
> In the careful exercise of their duties.
> No one is the homeland. Nor are the symbols.

No one is the homeland. Not even time
Laden with battles, swords, exile after exile,
And with the slow peopling of regions
Stretching into the dawn and the sunset,
And with faces growing older
In the darkening mirrors,
And with anonymous agonies endured
All night until daybreak,
And with the cobweb of rain
Over black gardens.

The homeland, friends, is a continuous act
As the world is continuous. (If the Eternal
Spectator were to cease for one instant
To dream us, the white sudden lightning
Of his oblivion would burn us up.)
No one is the homeland, but we should all
Be worthy of that ancient oath
Which those gentlemen swore —
To be something they didn't know, to be Argentines;
To be what they would be by virtue
Of the oath taken in that old house.
We are the future of those men,
The justification of those dead.
Our duty is the glorious burden
Bequeathed to our shadow by those shadows;
It is ours to save.
No one is the homeland — it is all of us.
May that clear, mysterious fire burn
Without ceasing, in my breast and yours.

That is enough for me, thank you.

[*English*]

Hon. Serge Joyal: Honourable senators, I rise to speak to the motion of Senator Lavigne, which aims to serve an objective that we share, namely, to recognize the importance of our country and our dedication to the service of Canada. Those were the intentions expressed by Senator Lavigne when he introduced his motion.

As always, the devil is in the detail. Senator Lavigne's proposal is essentially that we add a new oath of allegiance. It states:

> Every Senator shall, after taking his or her Seat, take and subscribe an oath of allegiance to Canada, in the following form, before the Speaker or a person authorized to take the oath:
>
> > I, (*full name of the Senator*), do swear (*or solemnly affirm*) that I will be faithful and bear true allegiance to Canada.

The text of Senator Lavigne's motion is essentially the text in Schedule 5 of the Constitution. Senator Corbin has quoted from it as follows:

> I...do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

In his proposal, Senator Lavigne has removed "to Her Majesty Queen Victoria" or "Queen Elizabeth II" and replaced it with "true allegiance to Canada."

To understand the implications of what we have been asked to do today, the first thing to say is that each word in an oath counts. What is an oath, what is allegiance and what is Canada? This will become the text of an oath, and if one fails to abide by the oath, there are consequences. It is not just a polite formula or a greeting; it is an oath.

I have searched Canadian legislation for oaths of allegiance. We have an Oaths of Allegiance Act, adopted in 1985, that prescribes a form for the oath. The text of that oath reads as follows:

> I, ..., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Canada, Her Heirs and Successors. So help me God.

There is already an act entitled "Oaths of Allegiance" that defines allegiance. Allegiance is to the sovereign, to the head of state. The head of state in Canada, according to the Oaths of Allegiance Act, is Her Majesty Elizabeth II, Queen of Canada.

In the Citizenship Act there is an oath that new citizens must take. It reads:

> I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Canada...

It is quite clear from the text of the Constitution, the Oaths of Allegiance Act and the Citizenship Act that when we, in Canada, say "oath of allegiance," we mean oath of allegiance to the head of state of Canada.

Senator Corbin spoke about the definition of an oath. I will not quote the reference in the Bible, as Senator Corbin did, but rather *Jowitt's Dictionary of English Law*, because we are dealing here with law. I do not question the appropriateness of referring to holy scripture. That is important because statute law usually comes from the holy scripture of 2,000 years ago, through the evolution of Roman law and canon law.

Jowitt's Dictionary of English Law says that an oath is an appeal to God or to a sacred trust to witness the truth of a statement. It is called a promissory oath when it relates not to past evidence but to an intention to do something in the future.

Of course, when we swear true allegiance to Her Majesty the Queen of Canada, it is not because we, as in court, take it upon ourselves to tell the truth. That is past evidence. Rather, it relates to an intention to do something in the future, and we take God, or a sacred trust, as the testimony of our pledge.

• (1720)

Of course, in the Christian religion the corollary is that if we fail to observe the oath, we will incur the wrath of God. That is essentially what it means. That is why the oath was originally a religious initiative. Now, of course, it is a civil initiative, which is clearly stated in the Constitution, in the Citizenship Act and in the

Oath of Allegiance Act. It is important to understand the meaning of the words "oath" and "allegiance." What is allegiance? The text proposed by Senator Lavigne to take an oath of allegiance to Canada is as follows: "I do swear that I will be faithful and bear true allegiance to Canada." What is the meaning of "allegiance"? If I swear allegiance, what does that mean? If I look at the same English dictionary of law, under "allegiance" it states that allegiance is by statute, due to the sovereign, and the subjects are bound to serve in war against every rebellion power that might rear against the sovereign, and are protected in so doing from a tender of high treason and from all forfeitures and penalties. The same source states that allegiance is a thing to which there are two parties: the sovereign and the subject. Lord Cook said that allegiance is the mutual bond and obligation between the king and his subjects whereby subjects are called to his liege. They are called "subjects," and he is called their "liege lord" because he should maintain and defend them.

Allegiance is a two-sided obligation according to those definitions. What is allegiance in our statutes? If I am called to swear allegiance to something, I want to understand the responsibility of such an undertaking as pledging allegiance to Canada. Those are the last three words of the oath that Senator Lavigne is proposing. What is Canada? That is a simple question to answer but, as I said, the devil is in the details.

Senator Cools: We could have two Canadas.

Senator Joyal: I know that I have triggered Senator Cools' response but these aspects are important, so I will finish.

Honourable senators, let us look to section 35 of the Interpretation Act, which states:

> In every enactment...
>
> "Canada", for greater certainty, includes the internal waters of Canada and the territorial sea of Canada;

That means "the territory." The English version of our national anthem states: "O Canada! Our home and native land!" The French version states: "O Canada! Terre de nos aïeux..." If one were to pledge allegiance to Canada in the way that Senator Lavigne is proposing, there would be the bond between the sovereign and the subject, and vice versa, and there would be the bond to the land — not to Canada, the Constitution; not to Canada, the Charter of Rights and Freedoms; and not to Canada, the Statutes of Canada. Essentially, there would be an allegiance to the land. That is literally and legally what it means.

One might say that I am nitpicking legally but, honourable senators, this is extremely important because it deals with our oath of allegiance. All senators in this chamber today are here for a specific reason: because Her Majesty, Elizabeth II, has summoned them, as individuals and as citizens. I quote the summons that senators receive:

> Know you, that as well for the especial trust and confidence We have manifested in you, as for the purpose of obtaining your advice and assistance in all weighty and arduous affairs which may the State and Defence of Canada concern, We have thought fit to summon you to the Senate of Canada...

That means that the Queen of Canada has ordered you to come here and give your advice and your consent to her, because section 17 of the Constitution clearly states:

> There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

The Queen is part of this chamber. The Queen has requested that you come here, to leave everything aside and to give your advice and your consent to the legislation. Before you sit in your seat, you have to pledge personal allegiance to the Queen because she requested that you give your advice to her because she is one part of Parliament.

When we touch on those details, honourable senators, and approach those issues, it is much more complex than one would be tempted to think at first sight. Of course, as Senator Corbin said, I do not mind this and I do not mind the institution. However, we must understand from whence it comes. Senator Corbin has described it well, historically and into the future.

The next question is: Where do we want to go? Honourable senators, I have looked into the status of the oath in other jurisdictions of the Commonwealth that are under the head of state representing by Her Majesty. I was astonished to find that two institutions, Quebec and Nunavut, have adopted a second oath to follow the first oath of allegiance. I want this information on the record because, as I said, this is a complex set of issues. If we are to move on this, and I hope the committee will study the matter, there will be implications.

In Quebec, in addition to taking the oath of allegiance to Her Majesty prescribed in the Constitution Act, 1867, to which I just referred, a member must also take the following oath:

> I declare under oath that I will be loyal to the people of Quebec and that I will perform the duties of members honestly and justly in conformity with the Constitution of Quebec.

That is what we call an "oath of office," whereby one pledges to perform one's duties to the best of one's knowledge. I would like to quote the Oath of Allegiance Act that clearly recognizes the oath of office. An oath of office is not an oath of allegiance. An oath of allegiance, as I mentioned, is directed to the head of state. An oath of office is the responsibility undertaken by someone to exercise his or her duties to the best of his or her knowledge, or in other words, to perform those duties within the framework of the statutes and regulations that govern the responsibility or the duty.

That is the second oath taken by legislative members in Quebec.

[*Translation*]

The Hon. the Speaker *pro tempore***:** Honourable senator, your time is up. Do you seek leave to continue?

Senator Joyal: Yes.

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

Hon. Senators: Agreed.

[*English*]

Senator Joyal: In Nunavut, there is a second oath as well, which essentially states that members will duly and faithfully and to the best of their skill and knowledge execute the power and trust reposed in them as members of the legislative assembly. That too is an oath of office.

• (1730)

I have considered the situation in the United States and in India, which are both republics, of course. The country to the south of us has an oath. When someone enters into his or her duty as a senator in the American Senate, that person must take an oath of allegiance. It reads as follows:

> I do solemnly swear and affirm that I will support and defend the Constitution of the United States against all enemies, foreign and domestic, that I will bear true faith and allegiance to the same.

What is it? It is allegiance to the Constitution of the United States. In other words, you cannot have two allegiances. You have allegiance to either the head of state or you have allegiance to what is the body of law that governs the country, the United States.

I have also considered the most interesting example to be found in India. The oath in India reads as follows:

> I,..... having been elected (or nominated) a member of the Council of States (or the House of the People) do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter.

There are two parts to the oath of India. There is an oath of allegiance to the Constitution and an oath of office that you will do your best in performing your duty.

Honourable senators, I wanted to draw your attention to those aspects of the proposal put forward by Senator Lavigne, because I think that he has, in fact, done us a service by raising this issue. I think it will help us to reflect on the structure of our chamber and on the status of individual senators and how we should frame an oath to serve our country.

The question raised by Senator Lavigne is not dispelled by the comment I made today. I would just say that the words used by Senator Lavigne, to me, are in conflict with the constitutional concepts that are entrenched in our system of law in Canada.

The purpose of his proposal is a valid one, but we must be sure that we use the correct words because, in moving forward and adding a second oath, we must not contradict the objective of the first oath. We cannot duplicate the allegiance of the first oath. There is only one allegiance. That is clear throughout the world.

I would invite honourable senators to peruse the constitutions of the Commonwealth countries or other countries. You will realize that allegiance is due only to one entity. It cannot be split in two.

As Senator Corbin properly said, as long as we do not amend The Fifth Schedule of the Constitution Act, 1867 and the Constitution Act, 1982, we are bound to respect the concept entrenched in the Constitution. If we were to change that, that would be another matter. That is an avenue other than the one proposed by Senator Lavigne. However, if we were to accept the proposition put forward by Senator Lavigne, which is the recognition of the dedication of a senator to serve Canada, to fight for Canada, to maintain the integrity of Canada as he did through referendums on at least two occasions, then that, I believe, would require different wording. Fundamentally, we must have a clear perception of what we are doing. They seem innocuous, but in fact the concepts entrenched in those initiatives are complex and we do not want to adopt a proposal that would not be enforceable in court. At the end of the day, if you fail to abide by your oath, you are open to the justice of the courts. I am sure that each and every individual senator will want to do the right thing at the right time.

[*Translation*]

Hon. Raymond Lavigne: There is one question I would like to ask of Senator Joyal. If we look at rule 135, with all due respect to Senator Joyal, who is a lawyer, I would point out to him that there is no mention of the Queen of Canada. It merely gives Queen Elizabeth II. When I was sworn in, I did not swear allegiance to my country of Canada, but to Queen Elizabeth II only.

I do not propose to open up the Constitution but the proposal is to add 135.1 after rule 135, which would be about swearing allegiance to our country, Canada. It is no more than an act of loyalty to say one belongs to a country. People I run into ask me why I have sworn allegiance to the Queen and not to my country. I am asked that a lot.

If there are problems about what one can be within this country, it is probably because the word "Canada" does not appear anywhere. I understand Senator Joyal's reference to Queen Elizabeth II of Canada, but when it comes to swearing allegiance to Queen Elizabeth II of Canada, I swear allegiance to Queen Elizabeth II or Queen Victoria, not to the Queen of Canada. That is what I wished to change.

Senator Joyal: The issue that Senator Lavigne is raising is interesting, but it is already the subject of an act, namely the Royal Style and Titles Act of 1953. This act states clearly that Queen Elizabeth II is the Queen of Canada. If you look at the text of the Royal Style and Titles Act of Canada, you will see that Queen Elizabeth II, or her successor, will always have the title of Queen of Canada or King of Canada.

The Constitution provides that we take a personal oath of allegiance to the Queen, as in the wording of that oath in The Fifth Schedule of the Constitution. That schedule essentially gives effect to the summons that you received from the Queen. Again, the summons by the Queen is worded as follows:

[*English*]

> ... Elizabeth II, by the Grace of God, of the United Kingdom, Canada, and Her Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

[*Translation*]

The person who summoned you here is Queen Elizabeth II who, by the grace of God, is the Queen of the United Kingdom and the Queen of Canada. It is the very wording of the summons that you received. When you take your oath of allegiance, it is to the Queen personally. That queen is, under the Royal Style and Titles, the Queen of Canada. There is no confusion as to the identity and capacity of the person when you take the oath of allegiance provided in The Fifth Schedule of the Constitution.

Senator Lavigne: Honourable senators, people on the street, ordinary citizens, do not have Senator Joyal's ability to understand that Queen Elizabeth II is the Queen of Canada. I am convinced that when you talk about Queen Elizabeth II, these people think that you are talking about the Queen of England, not the Queen of Canada. People want to see a reference to our country, Canada, in the oath of allegiance. This is the message that I want to convey to honourable senators.

Senator Joyal: I do not Senator Lavigne to get me wrong. I am not opposed to his proposed objective. I am simply saying that, when drafting the text of an oath, we have to take into consideration the country's constitutional structure and the meaning of the words we use, to ensure that, as he says, we will be understood by the average person. The purpose of my comments today was simply to direct his attention, so that if the Senate decides to refer his motion to a committee for review, the committee will already be aware of the legal and constitutional implications of adding an oath to the one that the Constitution already requires us to take.

• (1740)

[*English*]

Hon. Leonard J. Gustafson: Honourable senators, I found the honourable senator's remarks very interesting regarding the swearing of allegiance to Canada. I am thinking now as a farmer, I am thinking of the land. We have a responsibility. We recently saw a situation concerning the water that surrounds the Maritimes. I wonder if we, as members of the Senate, sometimes forget about the importance of that allegiance, not only to the Queen, but to the country and the land. That importance applies to the environment as well, especially in rural Canada, which has seen some very difficult days. I would like to hear my honourable friend's comments in that regard.

Senator Joyal: The honourable senator raises an important preoccupation that we all have, which is to defend our country and to defend the land.

The oath of office in India calls upon the integrity of the country. Which is not only the fact that it is one land, one country, but also the fact that within that country there are parts, elements, and structures that are all important and that we must fight to maintain.

As much as the objective to add an oath is important, as are the objectives expressed by Senators Gustafson and Lavigne, we must choose the right word to ensure that there is no confusion legally and that we respect the structure of the Constitution under which we are governed and which has served us so well for 138 years.

Hon. Anne C. Cools: Perhaps the senator will take another question. I found the senator's statements to be, as usual, very interesting. I think this house knows where I stand on many of these issues. I strenuously resist at all times any attempt to deprive Canada of its rightful constitutional heritage, its monarchy. I see this constant chipping away — it is not chipping away, it is slashing away — at the entire system as very undesirable.

My question to Senator Joyal has to do with the definition of the word "Canada" according to Senator Lavigne's proposal. Senator Joyal will remember that we had strenuously opposed Bill C-20 at the time. It was called the Clarity Act and said that Canada was divisible and could become two countries. Maybe there could be a greater Canada, a lesser Canada, an inferior or superior Canada, or maybe there could be many.

Has Senator Joyal given any thought to what the word "Canada" would mean in Senator Lavigne's proposal? It may be that some senator could move an amendment to his motion referring to Canada as we define it today or maybe as it will be defined at some point in time, Senator Joyal did much work on Bill C-20 at the time.

As I was saying, Bill C-20, to my mind, did the unthinkable because it put into law the fact that Canada was divisible and could be divided under particular conditions. I know that Senator Joyal had many concerns about Bill C-20, as did I.

When a proposal to swear allegiance to Canada comes forward, one that I do not like at all, what is the definition of Canada or which Canada is meant?

In addition, the fact is that the allegiance that we swear when we come into this chamber predates the BNA Act. I will raise this issue when I speak to the motion because allegiance to Her Majesty was not created by the BNA Act. It predates the BNA Act. To my mind, therefore, the proposal before us is not properly constitutional. Has my honourable friend thought about the impact of this proposal on Bill C-20's divided Canada and, second, the impact on the allegiance that is owed to Her Majesty, not by virtue of the BNA Act because what the BNA Act prescribes is the form of the oath of allegiance? The need for the oath "antecedes" or predates the BNA Act. Many confuse the form of the oath with the actual need for the oath itself. Has the honourable senator taken a look at that? The particular form

of oath as prescribed in the BNA Act is a short one. The oaths were longer pre-Confederation. Pre-Confederation oaths were so profound as to find something like this proposal to be treasonous.

Hon. Bill Rompkey (Deputy Leader of the Government): On a question of process, honourable senators, we have gone beyond the three minutes we had agreed to give to Senator Joyal.

I do not want to restrict Senator Cools because I understand that she wants to take part in the debate. However, there will be lots of time for debate and we do not want to exhaust it today. We are getting close to six o'clock and certain committees wish to sit. Can we have an answer from Senator Joyal and then continue debate at a later time? If that is agreeable, I would then like to adjourn debate.

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

Hon. Senators: Agreed.

Senator Joyal: Senator Cools has raised a point that is very true. There is no question that the oath of allegiance predates Confederation. I could quote a series of acts dealing with the oath of allegiance in Britain that had an application to Canada. There is the act of 1838, and I could go back in history. The honourable senator is totally right on this point.

On the second point, the definition of Canada, I would ask honourable senators to go back to the BNA Act and read where there are references to Canada. The references to Canada in the BNA Act always refer to the concept of the territory. Of course, I understand what Senator Lavigne seems to want to serve and I understand what Senator Gustafson has appropriately described to us. However, if we are to give way to their intentions, we have to weigh the concept and the reality enshrined under each word because an oath related to taking the seat is a very important oath. That oath must be meaningful in court. It might have to be interpreted in court one day, or someone might allege one day that a person has broken his or her oath or second oath. In other words, we must know exactly what is meant by the word "Canada."

Perhaps the text proposed by Senator Lavigne could be studied or improved. Maybe a definition paragraph could be added stating that "For the purpose of this oath, 'Canada' means..." and then we define what it means. It is not clear at all from the previous constitutional text, as the honourable senator has said, what we understand by it, but it is the job of the committee to look into the matter according to the preoccupation honourable senators have expressed.

On motion of Senator Rompkey, debate adjourned.

The Senate adjourned until Wednesday, February 9, 2005, at 1:30 p.m.

APPENDIX A

(*see page 637*)

2004 Canadian Arctic Traffic Summary			**June – November 2004**	
	Voyage Type	**Vessel Name**	**Registry**	**Number of Voyages**
1	CCG icebreaker	Louis S. St-Laurent	Canadian	1 (NWP transit west and east)
2	CCG icebreaker	Pierre Radisson	Canadian	1
3	CCG icebreaker	Des Groseilliers	Canadian	1
4	CCG icebreaker	Henry Larsen	Canadian	1
5	CCG icebreaker	Sir Wilfrid Laurier	Canadian	1
6	CCG icebreaker/scientific	Amundsen	Canadian	1 (NWP transit eastbound)
7	CCG scientific	Nahidik	Canadian	1
8	Canadian Navy frigate	HMCS Montreal	Canadian	1
9	General cargo	Umiavut	Canadian	3
10	General cargo	Aivik	Canadian	3
11	General cargo	Mathilda Desgagnes	Canadian	2
12	General cargo	Anna Desgagnes	Canadian	3
13	General cargo	Camila Desgagnes	Canadian	3
14	General cargo	Cecilia Desgagnes	Canadian	3
15	General cargo	Polar Prince	Canadian	1
16	Tanker	Maria Desgagnes	Canadian	2
17	Tanker	Petrolia Desgagnes	Canadian	3
18	Tanker	Tuvaq	Canadian	7 (includes planned)
19	Tanker	Mokami	Canadian	14 (from Churchill)
20	Tanker	Sibyl W	Canadian	2
21	Tanker/Danish fishing fleet	Emma	Danish	3
22	Ore bulk oil	Arctic	Canadian	4
23	Tug/barge (east)	Nelson River	Canadian	1 (several local)
24	Tug/barge (east)	Hudson Bay Explorer	Canadian	1 (several local)
25	Tug/barge (east)	Kaliutik	Canadian	1 (several local)
26	Tug/barge (west)	Edgar Kotokak	Canadian	2
27	Tug/barge (west)	Nunakput	Canadian	3
28	Tug/barge (west)	P. Kootook	Canadian	3
29	Tug/barge (west)	Jock NcNiven	Canadian	1
30	Grain out (Churchill)	Oriental	Greece	1
31	Grain out (Churchill)	Anodad Naree	Thailand	1
32	Grain out (Churchill)	Torm Arawa	Liberia	1
33	Bulk (Deception Bay)	Albatros	Bahamas	1
34	Grain out (Churchill)	Nassau Paradise	Bahamas	1
35	Grain out (Churchill)	Spar Eight	Norway	1
36	Grain out (Churchill)	Torm Pacific	Liberia	1
37	Grain out (Churchill)	Majestic	Panama	1
38	Grain out (Churchill)	Kapitonas Andzejaukas	Lithuania	1
39	Grain out (Churchill)	Sea Front	Malta	1
40	Grain out (Churchill)	Kapitonas A.Lucka	Lithuania	1
41	Grain out (Churchill)	LMZ Troodos	Cyprus	1

42	Grain out (Churchill)	Sea Maestro	Liberia	1
43	Grain out (Churchill)	Mount Athos	Cyprus	1
44	Grain out (Churchill)	Surya Kripa	India	1
45	Cruise ship	Kapitian Khlebnikov	Russia	1 (NWP transit eastbound)
46	Cruise ship	Akademik Ioffe	Russia	1
47	Cruise ship	Orion	Germany	1
48	Cruise ship	Clipper Adventurer	Bahamas	1
49	Cruise ship	Hanseatic	Bahamas	1
50	Cruise ship	Le Levant	France	1
51	Cruise ship	Lyubov Orlova	Malta	1
Note: Cruise ships regularly enter/depart Canadian waters at various points during Arctic voyages, often visiting Greenland ports and returning. Each vessel is listed as one voyage only.				
52	Pleasure craft	Polar Bound	British	1 (NWP transit east–2 years req'd)
53	Pleasure craft	Dagmar Aaen	German	1 (NWP transit east-2 years req'd)
54	Pleasure craft	Jotun Arctic	Norway	1 (wintering)
55	Pleasure craft	Fine Tolerance	Australian	1 (wintering)
56	Pleasure craft	Minke One	Canadian	1 (wintering)
57	Scientific research	Paamiut	Danish	3
58	Scientific research	Knorr	USA	1
59	Scientific research	Blue Heron	USA	1
60	Scientific research	Dana	Danish	1
61	Fishery scientific research	Walther Herwig III	German	1

Note; listing prepared from NORDREG reports and CCG Regional Operations Centre contacts. Vessels not reporting to voluntary NORDREG system may not be included. Fishing vessels are not listed.

Total voyages (2004)	**107**
Canadian government vessels	8
Commercial traffic summary	
Canadian vessel voyages	62
Foreign vessel voyages	18 (14 to/from Churchill)
Foreign cruise ship voyages	7
Foreign research vessel voyages	7
Foreign pleasure craft voyages	4
Canadian pleasure craft voyages	1
North West Passage transits	
Canadian Coast Guard	2 (one both east and west)
Canadian commercial vessels	0
Foreign cargo vessels	0
Foreign cruise ships	1
Foreign pleasure craft	2 (2 years each – over wintered)

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