CANADA

Debates of the Senate

1st SESSION • 38th PARLIAMENT • VOLUME 142 • NUMBER 37

OFFICIAL REPORT
(HANSARD)

Thursday, February 17, 2005

THE HONOURABLE DANIEL HAYS
SPEAKER

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Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.
Also available on the Internet: http://www.parl.gc.ca

THE SENATE

Thursday, February 17, 2005

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw to your attention the presence in our gallery of some special guests.

I would first like to welcome Her Excellency Dr. Taha, Ambassador of Sudan. She is accompanied by Marcel Gervais, the Archbishop of Ottawa, as well as members of the Sudanese community. Today, in the parliamentary precincts, they celebrated the Comprehensive Peace Agreement for the South of Sudan, the Naivasha agreement. They are the guests of Senator Jaffer.

On behalf of all honourable senators I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

The Hon. the Speaker: As well, honourable senators, I draw your attention to the presence in the gallery of Mayor Leo Abbas and three councillors from the Town of Happy Valley-Goose Bay, Newfoundland. They are the guests of Senator Rompkey.

Welcome to the Senate of Canada.

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

MEN'S JUNIOR CURLING CHAMPIONSHIP

SASKATCHEWAN—
CONGRATULATIONS TO GEORGE TEAM

Hon. Leonard J. Gustafson: Honourable senators, it is my privilege to congratulate the Saskatchewan junior men's curling team on winning the Canadian Men's Junior Curling Championship. This victory adds to a long list of curlers from Saskatchewan who are champions in this great Canadian sport.

Kyle George, the Saskatchewan skip, scored three in the ninth end to defeat the Ontario team 8-5. This win was the thirteenth time that Saskatchewan has won this title, tying Alberta's record.

The Saskatchewan team moves on to the Junior World Curling Championship in Italy from March 3 to 13, and we wish them the very best.

Hon. Senators: Hear, hear!

CANADA-AFRICA PARLIAMENTARY ASSOCIATION

SUDAN—CELEBRATION OF SIGNING
OF NAIVASHA AGREEMENT

Hon. Mobina S. B. Jaffer: Honourable senators, today we celebrated the January 9 signing of the Naivasha agreement, a comprehensive peace agreement ending the decades of civil war in southern Sudan, in a reception hosted by the Canada-Africa Parliamentary Association. In our great halls of Parliament, we celebrated this milestone with parliamentarians and leaders of the Sudanese community. We were honoured by the presence of Archbishop Gervais, Prime Minister Paul Martin, Minister of Foreign Affairs Pierre Pettigrew and Ambassador Taha of Sudan.

Canada has welcomed the signing of the comprehensive peace agreement between the Government of Sudan and the Sudan People's Liberation Movement. As Canada's Special Envoy for Peace in Sudan, I was present to witness the signing ceremony in Kenya. This is only the first of many accomplishments that we must support to ensure that the people of Sudan have sustainable peace.

We hope the parties signing the agreement will reach out to all groups to make this peace broad-based and durable. The conflict in southern Sudan has brought death and misery to 2 million people. It is important that we all work hard to ensure that this peace is lasting. While the work of healing wounds in Sudan's south begins, new wounds continue to be torn open in Darfur and the eastern regions. Peace in Sudan will not truly be complete until we are able to address the atrocities that occur every day in Darfur.

In a few weeks, I will be visiting Darfur in eastern Sudan to find ways in which we can encourage the parties to also arrive at a peace agreement so that at long last there will be peace in the whole of Sudan.

Sudan is now looking to the international community, including Canada, to assist them in maintaining their peace, regaining their security and assisting with construction.

Honourable senators, we must not shift our focus. We must continue to support the Sudanese people during this time of construction. Our work will be difficult, but Canada and Canadians know the benefit that a lasting peace will bring, and we must continue to work hard toward this goal.

Archbishop Gervais is in our gallery today to show support to the Sudanese people, and we very much appreciate his presence.

Honourable senators, I know that you would all want me to convey to the Sudanese people that together with them we will not forget the 2 million people who have died in the conflict. The best way to honour their memory is to work toward a continuing peace in Sudan.

• (1340)

ASSASSINATION OF FORMER PRIME MINISTER OF LEBANON, RAFIK HARIRI

Hon. Mac Harb: Honourable senators, Rafik Hariri, former Prime Minister of Lebanon and a catalyst for peace and freedom, has fallen. Nothing can bring him back. These terrorists want to kill the spirit of the people. They have stained the road to peace with his blood, but the road remains and, with resolve, the people continue on their journey.

To the people of Lebanon, we feel your hunger for liberty and your need to breathe the air without the smell of the after-fire. We feel your pain for the loss of your moms and dads. We feel your pain for the loss of your sons and daughters. We stand by you to end the tyranny. Lebanon lives within each of us who values peace and human dignity. Rafik Hariri will join Kamal Jumblat, Bashir Gemayel, Rene Mouawad, Dani Shamoun and others who paid the price for their love of their nation. The march for peace and freedom must continue. As your friends, we will march with you.

WOMEN'S JUNIOR CURLING CHAMPIONSHIP

NEW BRUNSWICK—
CONGRATULATIONS TO KELLY TEAM

Hon. John G. Bryden: Honourable senators, I want to congratulate the New Brunswick women's junior curling team for winning the Canadian championship, defeating the undefeated Alberta powerhouse in the final by a score of 9-6. Our New Brunswick junior women will move on to the world championships.

[*Translation*]

ROUTINE PROCEEDINGS

BILL TO CHANGE NAME OF ELECTORAL DISTRICT KITCHENER—WILMOT—WELLESLEY—WOOLWICH

REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, February 17, 2005

The Standing Senate Committee on Legal and Constitutional Affairs, has the honour to present its

THIRD REPORT

Your Committee, to which was referred Bill C-302, An Act to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich, has, in obedience to the Order of Reference of Tuesday, December 7, 2004, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

LISE BACON
Chair

(*For text of observations, see today's* Journals of the Senate, *p. 449*.)

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

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

BILL TO CHANGE NAME OF ELECTORAL DISTRICT BATTLE RIVER

REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, February 17, 2005

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

FOURTH REPORT

Your Committee, to which was referred Bill C-304, An Act to change the name of the electoral district of Battle River, has, in obedience to the Order of Reference of Tuesday, December 7, 2004, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

LISE BACON
Chair

(*For text of observations, see today's* Journals of the Senate, *p. 450*.)

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

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

[*English*]

ANTI-TERRORISM ACT

BUDGET AND AUTHORIZATION
TO ENGAGE SERVICES—
REPORT OF SPECIAL COMMITTEE PRESENTED

Hon. Joyce Fairbairn, Chair of the Special Senate Committee on the Anti-terrorism Act, presented the following report:

Thursday, February 17, 2005

The Special Senate Committee on the Anti-terrorism Act has the honour to present its

FIRST REPORT

Your Committee, which was authorized by the Senate on Monday, December 13, 2004 to undertake a comprehensive review of the provisions and operation of the *Anti-terrorism Act, (S.C. 2001, c.41),* respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its study.

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

Respectfully submitted,

JOYCE FAIRBAIRN
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix A, p. 457*.)

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

On motion of Senator Fairbairn, report placed on the Orders of the Day for consideration two days hence.

FOREIGN AFFAIRS

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY ON MATTERS RELATING TO AFRICA PRESENTED

Hon. Peter A. Stollery, Chair of the Standing Senate Committee on Foreign Affairs, presented the following report:

Thursday, February 17, 2005

The Standing Senate Committee on Foreign Affairs has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on Wednesday December 8, 2004 to examine and report on the development and security challenges facing Africa; the response of the international community to enhance that continent's development and political stability; Canadian foreign policy as it relates to Africa, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its study.

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

Respectfully submitted,

PETER A. STOLLERY
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix B, p. 463*.)

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

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

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY ON ISSUES RELATED TO FOREIGN AFFAIRS PRESENTED

Hon. Peter A. Stollery, Chair of the Standing Senate Committee on Foreign Affairs, presented the following report:

Thursday, February 17, 2005

The Standing Senate Committee on Foreign Affairs has the honour to present its

THIRD REPORT

Your Committee, which was authorized by the Senate on Thursday October 21, 2004, to examine such issues as may arise from time to time relating to foreign relations generally, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its study.

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

Respectfully submitted,

PETER A. STOLLERY
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix C, p. 468*.)

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRD REPORT OF COMMITTEE PRESENTED

Hon. George J. Furey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, February 17, 2005

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

THIRD REPORT

Your Committee recommends that the following funds be released for fiscal year 2004-2005.

Foreign Affairs (Legislation)	
Professional and Other Services	$ 3,000
Transportation and Communications	$ 750
Other Expenditures	$ 750
Total	**$ 4,500**

Respectfully submitted,

GEORGE FUREY
Chair

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

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

• (1350)

BOY SCOUTS OF CANADA

PRIVATE BILL TO AMEND ACT OF INCORPORATION—FIRST READING

Hon. Consiglio Di Nino presented Bill S-27, respecting Scouts Canada.

Bill read first time.

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

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

QUESTION PERIOD

AGRICULTURE AND AGRI-FOOD

AGRICULTURAL INCOME STABILIZATION PROGRAM—SUGGESTED CHANGES

Hon. Leonard J. Gustafson: Honourable senators, my question is for the Leader of the Government in the Senate. The Canadian Agricultural Income Stabilization Program was introduced by the government to stabilize the farm situation, which we all know is critical. In response to a question I posed last week, the leader asked me to revisit the subject this week.

The CAIS program works well for some farmers if the margins were set at the right level. If farmers have two or three years of drought and a very low margin, it does not really work. Many of the farmers who are in the most trouble are in that bracket.

Second, money has to be paid up front. If a young farmer does not have the money or cannot borrow it to put up front, he is in trouble. If he has money from the Net Income Stabilization Account, he can transfer it, but those who are in the most trouble do not have that support.

Has the government studied the problem? I have communicated with many farmers and farm groups that have appeared before the Agriculture Committee. They raise these two points on the CAIS program again and again.

Hon. Jack Austin (Leader of the Government): Honourable senators, I did want to be in a position to speak more directly to the CAIS program. The honourable senator and I exchanged comments a short time ago.

I would like to provide honourable senators with some information about the CAIS program. This is a national whole farm program that provides integrated income stabilization and disaster assistance to all producers in Canada. Interim payments for 2004 CAIS are available in all provinces where the federal government delivers the program: British Columbia, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Newfoundland and Labrador and Yukon.

Where the province delivers the program, which is in Alberta, Quebec and Prince Edward Island, there have been commitments to interim payments as well for 2004. Ontario has not elected to provide any interim payments for 2004.

I can inform the honourable senator that those interim payments have been increased from 50 per cent of the producers' estimated CAIS payment to 70 per cent, and a special advance payment is now available in all provinces except Ontario and Alberta. This advance consists of up to $100 an animal for producers of eligible cattle and ruminants based on inventories as of December 23, 2003. Each of Alberta and Ontario are offering different special advances.

With respect to the specific question, as the honourable senator well knows, the program is federal-provincial in nature, meaning that the federal government cannot act unilaterally. However, the Minister of Agriculture has advised me that he has discussed the recommendation to eliminate the deposit with his provincial counterparts. They have agreed to look at alternative mechanisms that will better support active risk management by producers.

On an interim basis, the ministers have agreed to extend the one third simplified deposit for CAIS for the 2004 program year in all provinces. The deposit deadline for 2003-04 program years has been extended to March 31, 2005 in every province except Ontario.

Under the current program rules, producers are required to make a deposit into their CAIS accounts that will secure the level of protection they have selected. However, those deposit options are currently under review for the 2005 program year.

The decision on the deposit requirement for the CAIS program rests with the federal, provincial and territorial ministers of agriculture and is on the agenda for discussion at their upcoming meeting in March.

Senator Gustafson: Do I understand correctly that the 2004 program will not be covered up front?

Senator Austin: My understanding is that the 2004 program is not being amended to remove the deposit. The ministers have agreed to extend the one third simplified deposit for 2004. Whether or not the 2004 year is on the agenda of the meeting of agriculture ministers in March, I cannot say. I was told that the question of eliminating the deposit is on the agenda for 2005.

Senator Gustafson: The problem is that March 31 comes up pretty quickly for the 2004 program. The real problem lies with having to put the money up front. If a farmer does not have the money, he will not be part of the program.

Most farmers will file for that program after they file their 2004 income tax returns. That is what allows them to come up with the numbers to stabilize their farming practices.

Senator Austin: Honourable senators, I know that premium adjustments will be considered as well at the meeting of agriculture ministers in March. I know that for 2004 the simplified deposit requirement to which I have referred has been introduced, as well as an increased payment cap, a negative margin coverage and a linkage between CAIS and production insurance. The honourable senator will know the meaning of what I have just said better than I do because I do not have the mathematics. I do, however, have the assurance of the minister that those issues are dealt with.

Senator Gustafson: First, I wish to thank the honourable senator for the work he has done on this matter and I would ask him to continue.

• (1400)

The minister who appeared before the committee did indicate that he was aware of problems in these two areas. We would just ask the minister to continue the good work on this very important sector.

Senator Austin: Honourable senators, I want to join with Senator Gustafson on this issue. Both of us, in previous question periods, have made it clear that the income of agricultural producers in Canada is a negative income, to use an economist's term. There are real losses. If this process and the market result continues, it will no longer be a cyclical problem; it will become structural, and there will be real changes pushed into the agricultural producers' communities.

The issue is taken very seriously. Senator Gustafson is right to push this issue to the forefront of public attention.

BOVINE SPONGIFORM ENCEPHALOPATHY— EFFECT ON CATTLE FARMERS

Hon. Gerry St. Germain: Honourable senators, I have a supplementary question on agriculture for the Leader of the Government in the Senate. It is on how situations impact young farmers. Last night, here in Ottawa, I was told of an incident about a particular farmer. He had shipped three cows for auction. After shipping them and putting them up for auction, he received a bill for 99 cents. Do you understand those figures, Mr. Minister? He got a bill for 99 cents after he shipped his three cows.

The CAIS program, and all these other programs, are significant. Could the leader give us an update on the March 7 opening of the border? The 99-cent cost to the farmer to sell his three cows is as a result of the border closure, and the inability of Canadian farmers to ship live animals across the U.S. border.

Hon. Jack Austin (Leader of the Government): Honourable senators, the issue that exists with respect to the cattle industry is not one that has been created by the federal government or the provinces of this country, but one that was created by action taken by the United States to restrict the movement of cattle of any age across the border.

I would like to tell honourable senators that under the 2003 CAIS program, the total payment was $578,736,998. This fund is contributed to on a federal-provincial basis. Serious efforts have been made to support the beef industry.

The Government of Canada believes that on March 7, 2005, unless the United States Department of Agriculture is restrained by a court order, the border will open to live cattle of 30 months or less. It is the position of the Government of Canada that there is no scientific reason why live Canadian cattle of any age should not be allowed into the United States. However, in our view, at least the border will open on March 7, on the assurances of the United States Department of Agriculture, and that will begin to take some pressure off that industry.

Senator St. Germain: Honourable senators, the industry has lost close to $7 billion. The $5.5 million I do not want to cast off lightly. The honourable senator says that the government had no responsibility. One of the big areas of responsibility is that we knew, and the government knew, from the experience in the United Kingdom, that there was a problem with the feed that was being provided to the animals.

If that border is not opened, one of the things I believe you will find is the lack of aggressiveness on the part of the federal government in monitoring the feed supply coming from the feed companies and being supplied to the farmers.

Another recommendation was that there be a cull of older cows, because all of this situation impacts on the young farmers. If a farmer ships three animals and ends up not even breaking even — indeed, ends up with a loss by having shipped them — obviously that sort of situation will cause great impact. As Senator Gustafson so deftly points out, the CAIS program does not react quickly enough or effectively enough for these young farmers. That is really the point.

As I say, the government cannot walk away from its responsibility. The feed should have been under closer scrutiny, given what had happened in the United Kingdom, and the government must bear some responsibility for that situation. One of the things that the Americans are concerned about is that there may still be contaminated feed in the system. Perhaps the Leader of the Government could respond to that.

Senator Austin: Honourable senators, the question of contamination in the ruminant feed system is one that has had a lot of attention recently. The situation in North America was one of an integrated cattle industry until the United States took action against Canadian live cattle transfers to the United States. The basis of the government policy was an understanding in both countries with respect to the safety of the feed system. The industries have been resistant for some time to the total removal of parts that might cause BSE infection, basing their arguments on the science and economics involved. Now there is an agreement among the industries affected and with the federal government to take these additional steps. They add cost to the industry.

With respect to what happens from here on, there is a belief that we have a very safe feed system now in place.

FOREIGN AFFAIRS

ARTS PROMOTION PROGRAM—CUTS TO FUNDING

Hon. Pat Carney: Honourable senators, my question is addressed to the Leader of the Government in the Senate. I have been advised that the Foreign Affairs Canada diplomacy fund is ending and that, as a result, in March the government will cut the Foreign Affairs Canada arts promotion program by 35 per cent, or about $2 million. This action has shocked Canada's arts community because this program has helped 400 individuals or institutions annually engaged with the world. The reduction will affect institutions such as the Royal Winnipeg Ballet, the Canadian Opera Company, the National Ballet, the National Arts Centre Orchestra and some other institutions, and prevent them from promoting Canadian culture abroad.

I am asking the Leader of the Government to carry this concern to his colleague the Minister of Foreign Affairs and to seek to have this funding restored, or alternative funding provided so that our missions, embassies and consulates abroad, can continue to promote our creative community.

Hon. Jack Austin (Leader of the Government): I am not aware of the facts that Senator Carney has stated, but I am a strong supporter of public diplomacy as a part of the Canadian foreign policy thrust. It would be regrettable if there were no programs in this area.

There have been, as honourable senators know, a series of transfers of assignments amongst various departments. I will look into the question and endeavour to respond to it as quickly as I can.

• (1410)

Senator Carney: Honourable senators, Canada's contribution in this area is modest. France, the U.S, the U.K. and Japan spend about $1 billion a year in promoting their culture abroad. The artistic community was actually seeking another $10 million over the modest amount it currently receives. Therefore, a 35 per cent drop of $2 million is substantial and will really inhibit our ability to participate in events such as the Edinburgh Festival, the Sydney Biennial, Venice Biennial, the Cannes Festival and all other major artistic events.

In addition to passing this concern on, could the government leader obtain information on the point he raised? Will alternative funding be made available for this purpose? If so, the artistic community is not aware of it.

Senator Austin: Honourable senators, we will have to await the budget and the budget papers to determine where the government's program decisions lie. That will be next week, and I will make it a point to look for funding in the area of international cultural development.

While I am speaking of that subject, I would like to mention to the chamber that Expo 2005 is in Aichi, Japan. Canada was the first country to commit to be present at Aichi, and we have made a substantial investment in our presence there. We are of the view that the Canada-Japan relationship is one of the most important of our Asian relationships, and we seek to develop it.

The Japanese government and the authorities at Aichi are extremely pleased with our presence at Expo 2005 and the program we will be presenting there on behalf of Canada.

Senator Carney: It is exciting to think that Canada will be participating in the Japan Expo, but I am not clear. Is Expo considered a cultural development? What is the linkage between Canada's participation in the trade show in Japan and our concern about the cultural development of our artistic community? Perhaps the theme is considered to be cultural, but I am seeking clarification.

Senator Austin: I appreciate the question because it allows me to develop my statement a bit further. It is an effort on the part of Canada to present itself to the Japanese and the general Asian public. There are a number of cultural events at Aichi. Canadian musicians and theatre will be present. In addition, Aboriginal culture is being presented so that a panoply of Canadian culture will be available over the five months. Of course, Expo 2005 will also be a trade presentation, putting Canada's best products and services foot forward.

As Senator Carney knows, the holistic approach is today the most fashionable of all: marketing Canada — a modern, progressive, technologically advanced and culturally competent country.

ENVIRONMENT

PLAN TO IMPLEMENT KYOTO ACCORD

Hon. A. Raynell Andreychuk: Honourable senators, one of the complaints that I hear fairly regularly now that the Kyoto accord is a reality is: What will it mean for me? Therefore, the consultations as to what will happen are extremely important.

As well as in the 2002 debate over motions about Canada's ratification of Kyoto, Liberals both in this house and the other House rejected amendments aimed at ensuring a substantial measure of federal-provincial agreement on an implementation plan. When will Canadians know what the implementation strategy is as a whole? How will the government approach this

issue with the provinces to ensure that we meet our Kyoto obligations? The real question is: When will we have the whole picture?

It is one thing to sign and ratify an agreement; it is quite another to abide by the good faith of signing Kyoto. I do not think the government can implement the accord on its own. It will need the collective will of the provinces, this chamber, the other chamber and the people of Canada.

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank the Honourable Senator Andreychuk for making the point of my answer yesterday to a question about Kyoto better than I did. Yesterday, the question was: When will we see a plan? My answer was that we are in dialogue with all the elements of Canadian society to develop a Kyoto plan, and we will take the necessary time to reach a consensus with respect to the plan.

I also take it that the question indicates a commitment to the Kyoto process. If I am correct in that assumption, I am delighted to see an indication that the position taken by the leader of the official opposition in the other House during the election, that is, to scrap Kyoto, is not a part of my honourable friend's view and perhaps not a part of the Conservative Party's view any longer.

Senator Andreychuk: That is part of the problem. I cannot have a view on whether we should continue with Kyoto. We do have the right to opt out of it, as most international agreements allow. I am concerned about the environment. I am concerned that we are putting all our eggs in this Kyoto basket. Even if we could comply with the entire Kyoto plan, we are back to 1990 levels of emissions. We have polluted and polluted the environment.

We have limited and depleting resources. We also have an economy to sustain and a certain responsibility internationally. If I cannot weigh all of those factors to decide whether the plan the government will choose is good, how can I say whether I am in favour of or opposed to the accord? It is rather shocking that in 2005 we are still talking about producing a plan, when in fact we were given assurances in 2002 that there would be a plan ready for implementation. We are condensing the time that we have at our disposal to complete Kyoto. When we signed on to the Kyoto accord, we knew that it was a small measure.

Are we willing to commit horrendous amounts of money simply to comply with Kyoto when we could save the planet in other ways? When will the government show some leadership?

Senator Austin: Honourable senators, to take the last point first, I believe it is real leadership to build a consensus on a Kyoto plan and on our obligations under the Kyoto Protocol and the original Rio commitment that was made by Prime Minister Mulroney. We did not have a plan at that stage. What we had in 1992 was a common goal with a number of countries, the membership of which was defined on February 16. Under that common goal Canada has been proceeding to ascertain what its commitment under the Kyoto Protocol should be and how we implement it. That is what the provinces, the municipalities and industry are now working toward. Every Canadian is part of the effort to achieve the goals that will make Canada's air, soil and water more environmentally sound.

I want to honour the Standing Senate Committee on Energy, the Environment and Natural Resources for its report entitled *The One-Tonne Challenge: Let's Get On With It!*, which indicates goals and objectives for individual citizens.

Honourable senators, there is a misunderstanding in the country about the complexity of the actions that need to be taken. They are more complex, and we are asking some industries to consider a voluntary restraint process. If we cannot receive voluntary commitments, we may have to consider regulatory constraint. We have to consider provincial jurisdictions that are not uniform in approach.

• (1420)

I understand that it is simple to complain about not having a plan. It is much more complicated to put a plan in place that Canadians will buy into, and that is our objective.

Senator Andreychuk: Honourable senators, that speech was worthy in 1988 when we were talking about and working towards the Rio conference. We talked about the complexity and the difficulties, and who would get credits and who would be subjected to involuntary or mandatory sanction. It is now almost two decades later. Surely, in the meantime, there has been some thinking done on the part of the government about some kind of plan. I hear the leader say that the government is now starting to weigh all of those things and change some things. It is not reassuring, and the question is whether we will meet any of our targets or have plans in place.

I do not think we can use the One-Tonne Challenge, with respect to the work in the Senate or elsewhere, and have the average Canadian know what it means. We have had many environmental conservation programs. I want to know what Kyoto will mean — whether my taxes will be increased, whether I have to change my lifestyle, and what effect that will actually have on the environment.

I do not want to take anything away from other questions. However, the Alberta Energy Minister, Greg Melchin, recently stated that they have not had the kind of partnership that he had wished and that he does not know anything about the revised, upcoming plan.

When will the government give Canadians and the provinces a time frame and a proposal that we can all work towards? Otherwise, as I have heard other people say, we are spinning our wheels about the good and the bad of Kyoto, rather than the cost and effect of Kyoto.

Senator Austin: Honourable senators, I listened to Senator Andreychuk, and I want to believe that she is concerned to reach a consensus in this country about how to handle Kyoto because those environmental issues are of maximum importance to the safety and security of Canadians and their health. On the basis of that premise, I will say again that consensus-building takes time.

When Canada signed at Rio, there was no plan, there were no targets, there were no objectives. There was just aspiration. That aspiration must be turned into reality, and reality takes time in a federation like Canada, with regional, economic and social interests. Canada is not an easy country to govern, but it is worth governing well.

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present a response to an oral question raised in the Senate on December 9, 2004, by Senator Stratton, concerning the criteria for temporary resident permits.

CITIZENSHIP AND IMMIGRATION

ALLEGATIONS OF POLITICAL INTERFERENCE BY MINISTER—MINISTERIAL PERMIT PROCESS

(Response to question raised by Hon. Terry Stratton on December 9, 2004)

The basis for issuing a temporary resident permit (ministerial permit in the previous Act) is set out in section A24 (see annex "A") of the *Immigration and Refugee Protection Act* (IRPA) which came into force in June of 2002 which authorizes Citizenship and Immigration Canada (CIC) to issue Temporary Resident Permits (TRP) to foreign nationals who wish to enter or remain in Canada for a variety of reasons, despite being inadmissible. Inadmissibility may be on medical or technical grounds, or for reasons of criminality, security, human or international rights violations, or organized crime. Issued for a limited period of time and subject to cancellation at any time, Temporary Resident Permits give CIC the flexibility to address exceptional circumstances.

In 2004, approximately 13,575 TRPs were issued, with the vast majority being issued by CIC staff abroad and in Canada, without ministerial intervention. The Minister of Citizenship and Immigration may intervene directly and instruct officials to issue TRPs. In 2004, approximately 6 per cent (875) of all TRPs were issued as a result of ministerial intervention, many of which were for requests initiated by Members of Parliament.

Due to privacy concerns, CIC cannot comment on specific cases. In general:

- A TRP is a facilitative document that allows CIC to admit exceptional cases that fall outside the rules.
- A TRP allows a foreign national who is otherwise inadmissible to stay in Canada for a temporary and limited period of time.
- TRPs are a discretionary tool, issued where there are compelling reasons and when there is little or no risk to Canada.
- The purpose for wanting to come or remain in Canada is always balanced against considerations of public safety and security.
- TRPs are subject to cancellation at any time, provided this is done in a procedurally fair manner.
- A TRP is not a separate immigration program or category.
- Because TRPs are discretionary, there is no formal application process.
- Nearly half of the TRPs issued are to overcome technical problems, such as persons who appear at a port of entry without acceptable documents and students, temporary foreign workers, and other temporary residents in Canada who allowed their status to expire and/or failed to apply for an extension in time.
- TRPs are issued on a case-by-case basis primarily for reasons of family, employment or business, transit through Canada, and tourism.
- Officers in the field have the designated authority to issue permits, except in cases involving serious inadmissibility, for which the cases are dealt with at headquarters.
- TRPs are occasionally issued to foreign nationals with more serious inadmissibility to permit the attendance at peace talks or international conferences held in Canada where their admissibility to Canada is judged to be in the public interest.
- Since the 1976 *Immigration Act,* the number of TRPs issued is reported to Parliament each year.
- The annual report on immigration, tabled in Parliament on October 28, 2004, provides the number of temporary resident permits issued in 2003.
- TRP holders become automatically eligible to apply for permanent residence from within Canada after 3 or 5 years on a TRP depending on the grounds for inadmissibility.

ANNEX "A"

Section A24 — *Immigration and Refugee Protection Act*

Temporary resident permit	**24.** (1) A foreign national who, in the opinion of an officer, is inadmissible or does not meet the requirements of this Act becomes a temporary resident if an officer is of the opinion that it is justified in the circumstances and issues a temporary resident permit, which may be cancelled at any time.

Exception (2) A foreign national referred to in subsection (1) to whom an officer issues a temporary resident permit outside Canada does not become a temporary resident until they have been examined upon arrival in Canada.

Instructions of Minister (3) In applying subsection (1), the officer shall act in accordance with any instructions that the Minister may make.

ORDERS OF THE DAY

INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT (AIRCRAFT EQUIPMENT) BILL

THIRD READING—DEBATE ADJOURNED

Hon. Gerard A. Phalen moved third reading of Bill C-4, to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment.

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

Senator Rompkey: Question!

The Hon. the Speaker: I am looking to see if a senator is rising to speak.

Hon. Terry Stratton (Deputy Leader of the Opposition): We need to await the return of our critic. We do not have to rush through these things like we did the other day. Surely to goodness we can have due process in this chamber. I am moving the adjournment in Senator Tkachuk's name.

On motion of Senator Stratton, for Senator Tkachuk, debate adjourned.

[*Translation*]

PATENT ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Joseph A. Day moved second reading of Bill C-29, to amend the Patent Act.

He said: Honourable senators, I am happy to speak today in support of Bill C-29, which contains technical amendments relating to the Patent Act.

One part of this bill concerns a commitment made by Jean Chrétien to Africa and the other part deals with an amendment resulting from a decision of the Federal Court. In Canada, as elsewhere, the patent regime establishes the foundation for a system that supports innovation and risk-taking by inventors. A patent grants to its owner the right to prevent anyone else from making, using or selling an invention for a period of 20 years from the date on which the application was filed.

Through the office of the Commissioner of Patents, the government collects a number of fees for the maintenance of the patent regime: application fees, examination fees and fees related to issuing a patent, for example.

In addition, annual fees are required to maintain an application or patent. One purpose of these maintenance fees is to encourage applicants and owners of patents to review each year the monetary value of their application or patent. The owners of a valuable patent who profit from the patent system are very willing to pay these fees. On the other hand, the owners of an inactive patent may conclude that the expense is not justified and decide not to pay the fee. If the fees are not paid, the patent expires and the invention may be used freely by anyone.

Honourable senators, in order to encourage small businesses, individuals and universities, the amount of the fee varies according to the size of the entity. What are known as "small entities" are charged fees that are about half the fees charged to large entities.

The provision establishing the different fees for small entities is at the heart of the technical amendments under discussion today. Over the years, a practice has evolved under which an entity pays a fee corresponding to its size on the date the fee is paid.

If the owner of a patent realized that an incorrect fee was paid inadvertently, the Commissioner of Patents would accept a corrective payment to maintain the validity of a patent. This practice continued for many years until the courts put an end to it as a result of the decision in *Dutch Industries*.

• (1430)

The trial court handed down its decision in August 2001. The court ruled that the law did not give the commissioner the power to accept corrective payments and that, unless the required fee was paid within the prescribed time limit, the patent or application was considered lapsed or abandoned.

The decision was appealed. In March 2003, the Federal Court of Appeal confirmed that the commissioner was not authorized to accept corrective payments. The court also ruled that the status of an entity must be determined when the patent regime is first engaged and that the entity maintains that status throughout the term of the patent. In other words, if an application for a patent is filed as a small entity, the owner of the patent will continue to pay the fees payable by a small entity as long as the patent remains in effect.

Honourable senators, it is estimated that about 7,000 patents and applications for patents are threatened by this decision. These patents could be declared invalid on the grounds that the amount of some fees paid do not correspond to the appropriate status of the entity.

Without the technical amendments in this bill, honourable senators, there is no possibility for applicants or owners of patents to correct this situation. Without this bill, they cannot maintain their patent rights by means of a corrective payment.

Bill C-29 provides for a period of 12 months during which applicants and owners of patents affected by the *Dutch Industries* decision could legally make any corrective payments and thus maintain their rights.

This bill was quickly approved in the other place and received the support of all parties.

Honourable senators, it is important to keep in mind that in the course of events that gave rise to these technical amendments everyone acted in good faith. The government acted in good faith in establishing the regime, the owners of patents acted in good faith in the amounts they paid, and so did the Commissioner of Patents. The decision rendered in *Dutch Industries* was totally unexpected and caught everyone by surprise. Now, we are being asked to deal fairly with those applicants and patent owners. Let us move quickly to adopt these technical amendments so that those inventors, innovators and entrepreneurs who worked hard to transform their ideas into products and procedures can enjoy the full protection of the Canadian patent system.

Honourable senators, thousands of patent owners are waiting impatiently for the adoption of these technical amendments. These technical amendments may seem secondary to us, but for the owners of patents affected by the *Dutch Industries* decision they can make the difference between the success or failure of their business.

Finally, honourable senators, the bill contains another technical amendment that I am sure should not prompt any objection from us. With Bill C-29, the government is correcting an oversight in the provisions of the Jean Chrétien Pledge to Africa Act adopted in the previous Parliament.

You will recall, no doubt, that Bill C-9, as it was known, provided for the creation of an advisory committee of experts to advise the government on the choice of pharmaceutical products that should be authorized for export under the new compulsory licence regime. While this act was being studied in the other place, an amendment was adopted to permit a committee of that chamber to assess and recommend candidates for appointment to the advisory committee of experts. However, because of a technical error, the bill did not include a provision for a similar role for a committee of the Senate. With the aim of ensuring the prompt adoption of the bill by Parliament, we agreed to ignore this oversight on condition that it be corrected at the first opportunity.

Honourable senators, the government has kept its promise. With these technical amendments to the Patent Act it has included the amendment dealing with the provisions of the Jean Chrétien Pledge to Africa Act in order to give the Senate a role similar to that of the other place in assessing and recommending candidates for appointment to the advisory committee of experts.

Honourable senators, I hope you will agree with me that this chamber should deal quickly with these technical amendments.

[*English*]

Honourable senators, I spent some time explaining the rather complicated process in the Patent Act, but the issue in the end is quite simple. Everybody was operating under the assumption that the rules were being followed with respect to small entities and large entities. Small entities include universities. It turns out that the Federal Court, in interpreting the law, has found that the rules were not being properly followed.

At least 7,000 patents are in jeopardy. Honourable senators can imagine the kind of havoc and indecision in the marketplace that that kind of uncertainty creates. The result is that a business founded on a patent that may or may not be valid will not progress, hire people, borrow money or enter into licensing agreements. It is an extremely unsettling situation which this particular law attempts to rectify. It provides for one year within which all patent holders can look at their patents and rectify the situation. That was promised to the industry, and the industry is very satisfied.

• (1440)

The act was given support by all parties in the other place, and its passage was accelerated, and I am hoping that, under the circumstances, honourable senators will likewise support this particular initiative.

With respect to the other initiative, I would like to thank honourable senators for their understanding. When then-Bill C-9, the Jean Chrétien Pledge to Africa Act, came forward, we did not insist upon giving the Senate a similar role to that of the House of Commons on the undertaking that that would be forthcoming. It is now here, and with the passage of this bill the Senate will have the same role as the House of Commons with respect to the group of experts.

Honourable senators, I respectfully request your support for this proposed legislation.

On motion of Senator Stratton, for Senator Kelleher, debate adjourned.

CANADA TRANSPORTATION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Corbin, for second reading of Bill S-6, to amend the Canada Transportation Act (running rights for carriage of grain).—(*Honourable Senator Banks*)

Hon. Tommy Banks: Honourable senators, I commend your attention to Bill S-6, which is a bill about railways and the people who run them, and about grain and the people who grow it — matters that are part of our history and heritage. They have been important since day one in our country. They have been important throughout our past. They are important now, and they are cogently important to our future.

I should explain that, in devising this bill, I paid great respect to the Canadian tradition, which has served us well, of offering incentives and inducements to those people of great vision who undertook things that most of us thought were impossible; who went to great lengths to plan and finance them and who placed themselves and their investors at great risk in order to roll out those huge infrastructures that have been seen by the rest of us to have possible potential benefits, should they succeed, not only to the immediate time in which they were done but which would acrue to the benefit of Canada and Canadians. We have done that honourably in the case of many huge infrastructure undertakings. When many well-intentioned people in this place would say of them, "That is too big to handle; it is too dangerous, it is too risky," in order to give them a fair shot of survival, we have offered those inducements and incentives which have included, sometimes, flat-out grants of money and land, financing assistance, and very often monopolies. They were well considered before they were offered, and they were well offered and well accepted at the time, and they have served their purposes very well.

In each and every case of those monopolies having been granted to visionaries who were prepared to take those risks and to embark on those ambitious undertakings, Canada and the respective orders of government have gone to the holders of those monopolies and said to them, "It is time now to introduce the element of competition into the provision of that service or goods to Canadians. The time for the justification of the monopoly has passed. You have recouped many times over your investment. You have profited handsomely from your investment, and properly so, on the basis of that monopoly, but it is time to introduce competition." Each and every one of the owners of those infrastructures has asked initially, "You mean you want to allow competition to deliver its services or products over our infrastructure?" and the answer has been, "Yes." It does not make any sense to build a separate set of telephone poles, or a separate electrical distribution system, or a separate gas pipeline, or to restrict bus or truck lines to one owner.

We have introduced competition to the provision of every one of those services to Canadians because we believe in competition in this country, with one exception. That one exception is the monopoly that still survives in respect of the two Class 1 railways in this country that deal with the movement of grain. That is what this bill is about.

It is time to introduce competition to our railways, as we have to all of those other huge infrastructures. The shippers think so. The producers think so. The consumers think so. The provincial governments think so. The Competition Bureau thinks so. The Canadian Wheat Board thinks so. Most Canadians think so.

Competition is provided for in the Canada Transportation Act of 1987, in section 138 among other places. The determination of whether that section will be brought into play when application is made to drive the trains and rolling stock of — shall I call it a guest railway? — along the rails and rights of way of — shall I call it the host railway? — has never been made by the tribunal of the CTA to which those applications are made because they have interpreted that aspect of the act in a way with which many Canadians, including that list that I spoke of a moment ago, disagree.

What is motivating this bill? It is motivated by the need to bring transportation by rail of grain into the 21st century, and in fact, in regard to competition, into the 20th century. Simply put, there is no real competition in this market in respect of Class 1 railways and their rights-of-way on the tracks that they own. It is the only service or utility, once having been granted monopoly status as an inducement to enter into risky undertakings requiring large amounts of patient capital, in which there is still a monopoly.

Competition has occurred in air travel, in trucking, in bus lines, in telephone, in telegraph, in telecommunications in general, in gas pipelines, in electrical distribution, and even in access to transponders linking to satellites in space. In every other area of commerce in which monopolies were once properly, and to our benefit, granted, competition has been introduced.

The inducement of monopoly was proper and justified in each specific case as it was in the case of railways. Those railways have done a great service to this nation. They have been referred to poetically as the ribbons of silver that bind our country together, and that is correct. The justification for monopolies for railroads in this country has long since been obviated. It was correct when it was granted to the railway owners' great-grandfathers, if there are still any descendants of them who own shares in those railways, but they have long since benefited, as they properly should, royally from those monopolies.

Even though section 138 of the current Canada Transportation Act clearly exists for the specific purpose of bringing about competition in that market, there has never been any such competition. The relevant tribunal has determined — wrongly, in the view of many — that competition should only be brought about in the case of what I would characterize as an emergency and not for the purpose of normal daily commerce, which is the general purpose contemplated in the memorandum of understanding between the Canadian Wheat Board and the Government of Canada.

• (1450)

This is bad for our economy. It is bad for shippers. It is bad for the Canadian Wheat Board. It is bad for the other 48 or so railways in the country. I think I have that number correct. It is bad for the provinces. It is bad for Canadians. It is bad, most of all, for grain farmers.

It is interesting to note that the two Class 1 Canadian railways argue otherwise than they argue here when they are applying for forced access to U.S.-owned trackage and rights of way. In those arguments, they say that competition along those U.S. lines,

competition that they argue should be provided by Canadian railways, is good for U.S. business; that competition in rail is the natural state of things; that everyone, including the owners of the trackage, will benefit greatly; that those owners will properly and profitably be paid for the access granted; and that the U.S. consumers and the U.S. economy will all be much better off. They are right when they make those arguments. Canadian railways make those arguments most compellingly when they are arguing that view in the United States. In Canada, however, they have a different view. Perhaps that has something to do with substantial U.S. shareholdings in Canadian railways.

Whatever the cause or reason, the fact is that there has never been any real competition in the carriage of grain by rail on the main lines of the railways in this country, and there should be, for all the reasons that the Canadian railways have argued before the U.S. authorities and for the simple fact that we believe in a market economy in this country and that competition brings efficiency, lower cost and better service.

Mr. Justice Estey, in his report to Parliament, said so. The Canadian Wheat Board said so. The Competition Bureau said so. The provinces say so. The shippers and the farmers who pay the freight, the rates which have increased exponentially, say so.

The railways argue that there is already a constraint on them by the application of a cap on the rates that they can change for grain, and that is correct. However, there is no cap on what I refer to euphemistically as ancillary charges that they add on top of the capped rate. They are unchecked and have escalated unchecked. Would competition be good for all of the above? Yes, but apparently, if history is to be judged, it will not happen under the present application of the Canadian Transportation Act.

There are many instances in which I have argued before and will argue again that arm's-length determination of adjudication of matters is best and, in fact, better than action by the government. Arm's-length bodies are a better way to do it in order that those decisions be removed from politics. This is not one of them. The deciding authority in this matter must, in my view, be the government — the minister, the ministry and, in this case, the Minister of Transportation.

The tribunal should certainly fix the rates paid for access and the like and ensure that safety is in place, but the decision on competitive access must be brought back where it belongs, to the Government of Canada, per se, so that it can be held to account.

Why does the carriage of grain require a separate provision as envisaged in this bill? The transportation of grain is separately regulated under the present act, and grain has always and rightly been treated as a separate commodity from general freight. It has always been subject, in Canadian law, to separate consideration. Honourable senators will remember, for example, the Crow Rate.

Any railway that runs over the lines of another railway is, for all intents and purposes, a guest railway and has to pay for the privilege, if that is what it comes down to, or the right of being there. The proposed amendment contained in this bill provides for the rights of both host railways and guest railways on a carefully circumscribed, carefully regulated and carefully compensated basis.

Why does the bill propose, why am I arguing and why do I urge senators that the application should be made to the minister and the decision should be made by the minister and not by the Canadian Transport Agency? It is because the present act provides no exercise of discretion by the minister. By the exercise of a discretionary function the minister can deal properly, objectively and efficiently with circumstances as they rise and with due regard to Canada's national interest. The agency will then exercise its proper function as a regulator of railways operations.

I would like to refer the attention of honourable senators to some observations made by others about this question. This is an excerpt from the presentation of Mr. Michael Sabia, then the Senior Vice-President and Chief Financial Officer of Canadian National Railways appearing before the New York Department of Transportation on March 13, 1997:

> Today we are publicly traded on the New York Stock Exchange, and U.S. investors own two-thirds of our company. During the last 12 months, our shares have outperformed all other rail stocks....
>
> This lack of competitive access for railroads operating on New York's western and northern borders will not merely mirror the extraordinary market dominance which Conrail currently enjoys, it will bring with it a threat to the future viability of a number of key New York rail lines....
>
> We have tried to outline the basic architecture of the proposed system in the map accompanying this brief. The system would be founded on three core components; a network of routes, the substantial broadening of access for competing railroads at the all-important Buffalo gateway....
>
> We urge the State of New York to support the Conrail merger transaction —

— which is the matter at hand —

> — only if the rail networks so created ensure competitive rail access to New York from the north and from the west. You have a one-time opportunity to establish competitive rail service for markets both upstate and downstate, delivered by operationally and financially strong railroads with connections to markets that matter to New York.

I would like to quote, too, excerpts from notes of remarks by Paul M. Tellier, then the President and Chief Executive Officer of Canadian National Railways, to the Downtown Jackson Rotary Club in Jackson, Mississippi, on November 16, 1998. He said:

> This is a railroad town — a major crossroads in the South. The economic well-being of this city — and Mississippi as a whole — has been closely tied to railroads.
>
> Today I want to talk about how Jackson is becoming a key interchange in a rail network that spans the continent — north to south, and east to west, connecting three coasts....

> This map shows how Jackson, Mississippi, becomes a critical interchange point for the marketing alliance. This is where we will pick up Kansas City Southern Railway traffic from Gulfport and Dallas. It is the key interchange in our route between Canada and Mexico.... The bottom line is that we will increase this city's importance as a rail hub....
>
> You can see that the merger, the marketing alliance, and the potential access agreement are good news for Jackson and Mississippi. But they are also good news for shippers who rely upon rail transportation. They provide more competition, better asset utilization, more efficient service through Chicago, and longer hauls, making rail more competitive with trucks.

The CN-IC merger —

— which would be more properly described as a takeover of Illinois Central by CN —

> — makes sense...It is the perfect fit at the perfect time. The perfect fit because two railroads join end to end. We meet in Chicago. In fact, we already share intermodal facilities there.

• (1500)

Section 5 of the Canada Transportation Act states, in part:

> It is hereby declared that a safe, economic, efficient and adequate network of viable and effective transportation services...that makes the best use of all available modes of transportation at the lowest total cost is essential to serve the transportation needs of shippers...and that those objectives are most likely to be achieved when all carriers are able to compete, both within and among the various modes of transportation, under conditions ensuring that...
>
> > (*b*) competition and market forces are, whenever possible, the prime agents in providing viable and effective transportation services...and that such regulation will not unfairly limit the ability of any carrier or mode of transportation to compete freely with any other carrier or mode of transportation,

The deputy commissioner of competition has observed:

> Shippers...require cost-effective transportation systems to maintain current markets and have the potential to expand... Competitive pressure is the best method to ensure that Canadian railroads will maintain, and in fact increase the cost-effectiveness of their systems....
>
> ...there does not exist any rail competition for CN for the movement of grain to Prince Rupert. Furthermore there are no cost-effective intermodal alternatives. Trucking is not an available alternative.... There is no alternative mode.... In light of this there are no competitive alternatives available....
>
> CN has a rail monopoly between Camrose and Prince Rupert. Under monopoly, it is generally recognized that output is lower and price higher than would prevail under competition. In this particular application...

— the proposal to which he was referring —

> ...could lead to lower rates for transportation of grain to Prince Rupert. This could also result in more competitive rates offered by CN than currently exist.

The Canadian Wheat Board observed:

> As concluded in the Estey and Kroeger processes and the subsequent Canada Transportation Act Review, the competitive pressure between Canada's Class 1 railways in Western Canada is lacking, thus leaving many western Canadian shippers captive to a single railway for their service needs....
>
> The CWB believes that the best solution to effectively address the lack of competition...is to implement case-by-case reverse-onus running rights.

I could go on.

Justice Willard Estey said:

> The general object of this recommendation —

— to which he was referring in his report —

> — is the opening up of the Canadian rail system to competition by and between all competent railway operators, including short- lines.

In the policy statement of the Government of Canada, it said:

> The government agrees with Justice Willard Estey's vision that the western grain handling —

They went on to describe the introduction of competition and said that all stakeholders must work together in that regard.

Even though the CTA has not ever granted running rights for the carriage of grain by rail, its members have not been unanimous in the decisions not to do so. One member of the CTA, writing a dissenting opinion in one such case said:

> Fundamentally, the overall placement of section 138 of the CTA in the statute fits with the view that it was intended to enhance competition...
>
> ...while the national transportation policy does not advocate the pursuit of competition at all costs, the essence or purpose of section 138 of the CTA is the enhancement of competition.

That member went on to observe that:

> There can be no doubt that the Canadian Wheat Board is a body that acts in the public interest. Its mission is to market quality products and to provide producers with the best possible return on their grain....

> As freight rates and service issues greatly impact the returns to farmers, it is obvious then, in my opinion, that the introduction of competition in the market...would ultimately lead to reduced freight costs and improved services...

In a decision of the Federal Court, I found this:

> The appellant is confusing the purpose of the new National Transportation Act, 1987 with that of the previous legislative regime. The new Act is not concerned only with the rights of the railways, but rather with creating a new balance between the rights of shippers and those of the railways. Its goal is an efficient, competitive, reasonably-priced transportation system, not the preservation of the railway's historic sway of doing business.

I could go on and quote, honourable senators, but I will not.

It is clear that the intent of everyone concerned is to bring about competition. It just has not happened. The courts have said so, the Government of Canada has said so, the Canadian Wheat Board has said so, the Competition Bureau has said so, and the act itself says so. They all agree that we should have competition, but it has not happened.

One of the arguments against it is that running rates are terribly complicated things and there should be impediments to them. There are dozens of examples of running rates that already exist in this country. The best known of them, and the most obvious of them, is VIA. VIA Rail runs its rolling stock and locomotives along track owned by other railways. There is no problem with that. It is a right in their case and they pay for it. It is profitable because that payment includes not only the trackage rights of the cost of what is being carried at the moment, but also the necessary reinvestment in an infrastructure that has to be made. Therefore, it assists the host railway in accumulating money from traffic that would otherwise not be on that line by getting money to reinvest in its infrastructure. There are many other examples as well, dozens and dozens, that I will not bore senators with.

In March 2001, three years after the application that was made by CPR for access to rail in New York, a press release was issued from the New York Economic Development Corporation, which I wish to read to honourable senators.

> "The agreement between CSX —

— which is an American railway —

> — and Canadian Pacific has already increased rail freight service to the Bronx, Brooklyn and Queens," said Mr. Carey. "With Canadian Pacific operating the 65th Street Rail Yard, we will build on the success of the City and State's demands for competitive rail access in New York City."

These are trackage rights obtained by CPR into New York State. The 65th Street Rail Yard is the biggest rail yard in the New York area. It is in Brooklyn. It is operated on a daily basis by CPR. One can see CPR trains going across the Devil's Gate Bridge every day. Therefore, not only do they have forced rights to the right of way and trackage, they also operate what is arguably the most important rail yard in New York City.

It is in Canada's interests, in the Wheat Board's interests, in consumers' interests, and it is certainly in farmers' interests, and I believe in the railway's interests, that competition should exist in the transportation of grain by rail. It does not.

In the United States, rail competition like that has been found to be to everyone's advantage, including the advantage of both the host and guest railways. The decision making belongs, in my view, properly in the Government of Canada, per se, in the ministry. There is no cogent argument — and I have looked hard — that I have been able to find against the principle of competition in the granting of running rights for the carriage of grain by rail. Arguments that such rights would result in safety problems simply do not hold. Shared running rights already exist, both voluntary and forced, and none have ever resulted in a safety issue attributable to those rights.

CN and CPR operate over each other's tracks. VIA operates over the tracks of other railways, and there has never been a safety issue attributable to that fact, at least that I have been able to find, and I looked hard. Arguments that those rights would harm the fabric and health of our rail transportation system do not hold, and I think they are demonstrably without merit.

Before I conclude, I want to list the seven most important requests that are made by the Railway Association of Canada.

Number 7: Governments should promote and support commuter intercity and tourist passenger rail services in major urban centres, corridors and regions across Canada.

Number 6: Governments should invest in private-public partnerships with the railway industry to ensure that short-line infrastructure investment needs are met.

• (1510)

Number 5: The government should adopt a system of full-cost accounting and user pay, (tolls, congestion charges, et cetera) for highways.

Number 4: To encourage inter-modal and freight rail services, a 25 per cent investment tax credit should be granted for investments in qualifying inter-modal or freight rail infrastructure and equipment.

Number 3: The CCA rates for rail rolling stock and track should be increased to at least 30 per cent.

Number 2: The federal fuel excise tax on rail should be reduced from the current four cents per litre.

Number 1: Canadian policy makers must ensure that no regulatory changes are introduced that would permit forced rail access.

Honourable senators, that is where the Railway Association stands. I suggest that they are wrong and that they would be better off, as every other one of the preceding industries that has had competition introduced into it has been. I earnestly hope that we will seriously consider this bill and send to it the appropriate committee for study, and I hope that you will pay a lot of attention to it, senators.

Hon. Noël A. Kinsella (Leader of the Opposition): I would like to ask the honourable senator a question. Has he consulted with the Honourable Jean Lapierre, the Minister of Transport?

Senator Banks: By letter, I have. The government is not in favour of this bill. The minister is not in favour of this bill. The department is not in favour of this bill.

Senator Stratton: The Senate is not in favour of this bill.

Senator Banks: Senator Day is in favour of this bill. I do not know if you want me to give you details. I have not had conversations, but I have had written correspondence with the present minister and his two predecessors. In each case, I have explained essentially the purpose and the point of the bill.

The most cogent part of the most recent reply, because I want to answer the question fully without reading the whole letter, senator, is that the minister has said, and you should know this, "I hope to be able to table amendments to the CTA in the House of Commons sometime in early 2005. I believe that this is the proper forum for considering potential legislative changes related to railway competition."

I must tell you that I do not agree with that. His main concern is that the concept of making the adjudicative judgment call as to whether an application for access for the transportation of grain should be granted ought to be moved to the minister. He believes that it is more appropriate that those decisions should be made by an arm's-length tribunal, as is presently provided for in the act.

That is the essence of my bill, Bill S-6. It is moving the onus for making that decision to the government and away from the tribunal. That is at the basis of the department's and the minister's reservations about my bill.

Senator Kinsella: We need to have more questions, because this is a very interesting and important proposition. Many honourable senators appreciate what Senator Banks has done and the work he has put into this matter. The honourable senator quoted from a letter. I assume that if this bill goes to committee, the letter would be tabled there, but perhaps it could be tabled now. That would help us at this stage. Would the honourable senator consider that?

Senator Banks: Happily. In fact, if it is agreeable, I would ask that all of the correspondence that I have had with the present and previous ministers be tabled in order that senators can see the entire progress from day one. I ask for that permission.

The Hon. the Speaker: That is a reasonable request. However, I need a more precise description of what is to be tabled. If you could provide that now, Senator Banks, that would be helpful.

Senator Banks: I will try to make it inclusive, Your Honour. I am asking for the permission of the house to table, in respect of Bill S-6, correspondence between myself and the ministers of the government, present and past, relative to this bill and its predecessor in the last Parliament, which was numbered Bill S-12, I believe. I stand to be corrected if I have the wrong number. This is the second go-round for this bill. I am asking that correspondence having to do with this bill's predecessor also be tabled so that we can see the line.

The Hon. the Speaker: We are leaving a certain discretion with Senator Banks, but I believe his intent is clear. I will ask the house: It is agreed, honourable senators, that these materials be tabled as requested?

Hon. Senators: Agreed.

Senator Kinsella: In the bill, I believe, Senator Banks, and please correct me if I am mistaken, that clause 2 is amending section 138.1, and it is paragraph 3 on which I wish to have some clarification. It is paragraph 3 where the railway company shall pay compensation to the other railway company for the right granted, and under your regime, if there is no agreement, then the minister becomes the arbitrator. I understand the model, and you spoke to that in your speech. I think I have that clear. However, I am not clear on the compensation. Am I correct that the smaller lines, when they go on the main lines now, do pay compensation?

Senator Stratton: As they should.

Senator Kinsella: Is there a problem right now with smaller lines paying the main lines compensation for the use of their tracks?

Senator Banks: Unless I am utterly misinformed, senator, no short line railway now runs its locomotives and its rolling stock on the main line of a Class 1 railway. I stand to be corrected on that, but I do not know of any instance in which that is true.

Not only that, but my information is to the following effect: If you are a short line railway wishing to obtain either lease type access or to purchase the trackage and rights of way previously owned by a Class 1 railway in order to operate on it as a short line railway, it is normally a pre-condition of beginning negotiations on that access to the short line, to the spur line, that you must undertake that you will not ever ask for access to the main line. In the railway business, it is called haulage rights as opposed to trackage rights. When the little engine that could comes to the point of juncture between the short line railway on the one hand and the host main line railway on the other, trackage rights cease, and the traffic, the cargo, is turned over to the main line railway for transport on the main line.

For example, if you were a grain shipper and you called a short line railway in Manitoba, Saskatchewan or Alberta to ask for a quote to move grain to Prince Rupert, you could not get one from a short line railway. They simply say that you must call CN or CP to find out about that. When you make that call, you will find that the cost of moving a carload of grain from, for example,

Kindersley, Saskatchewan, to Prince Rupert from both of the main line railways is either exactly the same or, if there is a difference, it is in fractions of cents.

• (1520)

I do not know of any instance but I hope to try to find instances in which there is a short line railway, in other words, any railway in Canada other than the two Class 1 railways, that runs its locomotives and its rolling stock with its laden cargo for any length of time along a Class 1 railway's main line in the sense that that is normally talked about.

There are some examples where short line railways, in very short distance transit situations and by paying access rates, use the trackage and rights of way of the main lines of the Class 1 railways. However, when it comes to any kind of distance, such as the distance between Camrose, Alberta, and Prince Rupert, no short line railway has any right to run grain for that distance. They have haulage rates. As soon as that juncture occurs, the load is turned over to the crews and locomotives of the Class 1 railway. I think I have answered your question.

As to the question of any problem in the payment by short line railways for the access rights that they presently pay when they have not purchased the lines over which they run, I know of no such problem. I have not specifically inquired into that, but I have never heard of such a problem.

As to the determination of the rates that would be paid to a host railway by a guest railway for the movement of grain, the means by which that can be calculated has been agreed to. It has all been worked out. It is done on the basis of how many wheels are travelling over the track and the weight of what is being carried. It is a formula which contemplates, as I said earlier, not only the immediate costs and the safety considerations that will be added to it but also a proportion upon which all sides have agreed previously to internalize the long-term costs of infrastructure, redevelopment and the like.

I do not think that the matter referred to in subparagraph 3 would ever be a matter of any substantive contention because they have already been worked out. In cases where applications have been made, the railways have got together and agreed on a regime and the means by which those access rates would be charged.

Senator Kinsella: In your province of Alberta, are there many short line companies? If so, what are their names?

Senator Banks: I will tell you, sir. First, there is the Alberta RailNet Inc. It happens that Alberta RailNet Inc. is wholly owned by an American rail company. There is Alberta Prairie Railway Excursions. By their name you can tell that they do not carry grain. They carry people on excursions. I believe there are excursion-type railways that run over the main lines of Class 1 railways elsewhere, but I do not know about them. I have paid no attention to them because I am only talking about the carriage of grain, not passengers.

The Athabasca Northern Railway Limited is in Alberta. I think the Central Western Railway has trackage in Alberta. There is the Great Canadian Railtour Company Limited. Again, it is mainly passengers. The Great Western Railway Limited may have trackage in Alberta. The Lakeland and Waterways Railway may have trackage in Alberta.

I believe I have completed the list.

Senator Kinsella: The point that the honourable senator has made for us is that in just one province there are a number of short-haul tracks. Therefore, that raises an important question in terms of capacity for the main lines. This whole issue of running could be a serious impediment to the principal business of our main lines. If all of these short lines somehow had the right to claim running rights on the main lines, it could clog up the main lines, so that not only is it a compensation issue but also a capacity issue.

Therefore, perhaps the Minister of Transport is looking at this dimension as well, and that is why he is opposed to the honourable senator's bill. At any rate, I know my colleague Senator St. Germain has a question.

Senator Banks: I would like to answer the honourable senator's last question. That is why the bill does not start off by saying that every railroad can have access to the main lines of these railways. What the honourable senator said is exactly true. I am referring now to Bill S-6. In the first section of the bill, clause 2(*a*) refers to a certificate of fitness. There is a regime of determining the kinds of railways that are capable of running over what kind of track.

Not all railways in Canada possess the certification that would permit them to do what is contemplated in this bill. The bill, in any case, does not discuss a situation whereby, if you push this button and pull this ring, sort of thing, then access is automatically granted. It will always be discretionary, and the minister must take the matters the honourable senator has talked about very much into account when answering those questions.

I suspect, and I am guessing at this, that the number of railways that would be qualified to apply by virtue of their certification to run grain along Class 1 railways' main lines in Canada would be in the order of four or five. I say that bearing in mind that there are, if my numbers are right, 48 or 50 short line railways in Canada, in addition to the two Class 1 railways.

The Hon. the Speaker: Honourable senators, the 45 minutes for Senator Banks to speak have expired.

Senator Banks: I ask for leave in order that Senator St. Germain can ask a question.

Hon. Bill Rompkey (Deputy Leader of the Government): Our normal practice is that we would allocate five more minutes, because this discussion is very interesting and not frivolous.

Senator Forrestall: He has been kind enough to mention Minister Mazankowski.

Senator Rompkey: In your five minutes, would you mention Minister Mazankowski?

Hon. Gerry St. Germain: If the government side insists, remember that the Right Honourable Don Mazankowski was the best and greatest transport minister that this country ever had.

Senator Robichaud would have been a close second.

• (1530)

I have a succinct question. When the honourable senator was talking about utilization of rail, he referred to VIA Rail and said it was profitable, unless I misheard him. I am pretty sure I heard the honourable senator say that. We could check the record. If he says he did not say it, well, that is one thing, but if he did say it I think he is in error because I do not think VIA Rail is profitable or ever has been. I will not say that it never will be, particularly if someone like Don Mazankowski comes back to run it.

Senator Banks: In the first place, the Right Honourable Mr. Mazankowski was the best minister of everything, because he was minister of everything.

The honourable senator is quite correct. If I said that VIA Rail was profitable, I was in error. It is not. What I tried and wanted to say was that the arrangement by which VIA Rail pays for access rights to the main lines of Class 1 railways works out well for both companies, and I gave it as an example of forced access, because I believe that the right of VIA Rail to run its locomotives and rolling stock along Class 1 railway lines is a question of forced access, not in the sense contemplated by this bill but in the sense that it is an access that is mandated and has been from the beginning of VIA Rail by the Government of Canada.

The honourable senator is quite correct; VIA Rail is not, to my knowledge, a profitable railway.

The Hon. the Speaker: Earlier in the debate there was a request by Senator Banks to table certain documents. He does not have the documents with him. Thus, it is not possible. We will have to leave the matter with the understanding that he will bring those documents to the chamber and request leave that they be tabled in reference to this particular item.

On motion of Senator Kinsella, debate adjourned.

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, providing for the Crown's recognition of self-governing First Nations of Canada.—(*Honourable Senator Watt*)

Hon. Charlie Watt: Honourable senators, the coming of the qallunaat and recivilization has not been a good story for us. Long before the Europeans came to discover us through the Hudson Strait, which is a water channel that separates my region of Nunavik in Northern Quebec and the Baffin Islands, we were already expert hunters. We even assisted the whale hunters.

Today, some of those whale bones that are hundreds of years old can still be seen all over the Arctic. We are not newcomers to this land. The inuksuk is not just a pile of rocks, but a testament to our way of life. It is unfair to our ancestors only to recognize the qallunaat as explorers. They came to us and asked us to guide them into our homelands. We Inuit have lived the Arctic way of life for thousands of years, and the inuksuk tell you this.

We already had our system in place, our own laws and our own way of governing ourselves. Trade and other influences have come to us — fur companies and explorers were some of the first. Nevertheless, we Inuit need to explore new ways and innovative methods to coexist and prosper in today's community of nations.

Our lifestyle in the Arctic has gone through many changes through trade and religious and social interaction. However, times do change and we have to look at those changes and ask ourselves: How do we make those changes to benefit the Aboriginal people of Canada and Canadians as a whole? How do we address the decision-making process that seems to not understand the Inuit way of life in the northern environment?

The Inuit traditional way of life and the modern lifestyles are the anchor of our communities. If you change that without our full participation in the decision-making process, you will change our life and our culture until we are no longer Inuit. We do not need someone to do things for us. We need to build local decision-making processes and develop a creative, innovative mechanism and a political instrument that can deal with the questions of our rights as evolving rights. For example, there is a movement in my region of Nunavik to unify political and economic concerns. By bringing two levels of government together, the federal and provincial government, we anticipate this level of negotiation will lead to a special public government and an assembly.

Parliament has long neglected addressing the Aboriginal democratic deficit. Therefore, honourable senators, my office recommends that this enabling legislation be referred to the committee as soon as possible so we can begin examining what it means to the people and to the country as a whole.

It would be helpful if we could find a way to keep the subject matter put forward by Senator St. Germain as an enabling legislation mechanism before the committee, or if we could find an innovative way of keeping it as a topic of continuous discussion, because we cannot come up with one answer for all.

The structure the Government of Canada and the provinces use today to deal with Aboriginal people, at least the Inuit, is to go region by region. That seems to be the process for dealing with the question of improvements.

If we hope to come up with one set of laws — one law fits all — once again, I am afraid, honourable senators, we are going in the wrong direction. The reason I say that, honourable senators, is that this instrument of sober second thought is an important instrument, one that can probably advance this issue. It is important. We cannot go on forever with the way we have been dealing and interacting with our government.

Every time the government passes a law, we are impacted economically, socially and culturally. When the government does not acknowledge this impact, it costs our community a great deal and affects the movements and the lifestyles of our people. How do we, as an instrument, as a senator, get this message across to the general public of Canada? Hopefully the general public of Canada will assist by educating our politicians and realizing that an imported system, an imported solution, an imported law is not working and is pushing us backwards. This has to stop, honourable senators.

• (1540)

Although I do not agree with the entire bill put forward by Senator St. Germain, I value it because it is enabling legislation. It is much like an empty shell, and we can start to find ways to improve it in committee. I hope that the committee will report the bill back to the chamber with recommendations that will enable us to begin dealing with those issues.

Honourable senators, I recommend that this bill be referred to committee as soon as possible.

Hon. Gerry St. Germain: Would the honourable senator accept a question?

Senator Watt: I would.

Senator St. Germain: Honourable senators, as the proponent of this bill, I want you to know that the concept for the bill came from Aboriginal peoples and not from me personally. I do not want to take credit for it. I am not its engineer or architect. This process has taken place over many years. It started in the Slave Lake region of Alberta and now covers the areas of Treaty 6, Treaty 8 and Treaty 11 where chiefs see this legislation as something they could possibly use in their nations that would mitigate costs and expedite the process of gaining self-governance.

Yesterday, I spoke on Bill C-20. I spoke about a professor from Harvard who specializes in Aboriginal studies in North America, but mainly in the U.S. He has pointed out that jurisdiction, governance and the cultural factor in this type of legislation is critical. This could be a tool.

If it would cause the Liberal side to view this bill in a more favourable light, I would be prepared to step down as the proponent of this bill and have a Liberal senator take that role. I am not doing this for myself. I have been asked to do this. I have been approached by chiefs and have attended meetings with Treaty 6 and Treaty 8.

The government wants to take the adjournment of the debate. Possibly other senators would like to speak.

I would like to ask Senator Watt whether he finds this bill threatening to Aboriginal peoples in any way or whether it could encumber them negatively in any way.

Senator Watt: Honourable senators, first, I do not think that sensitive issues such as this should be dealt with on a partisan basis.

Senator St. Germain asked me a direct question. There are two areas in the bill with which I wholeheartedly disagree. However, I do not disagree with the notion of this bill as enabling legislation. Those are matters that can be addressed in committee and, if need be, perhaps some modification could be made.

I would rather that the honourable senator, as sponsor of this bill, and his party as a whole, consider whether we could use this as an instrument for ongoing discussions on the matter. When the bill goes to committee, I would like to have an exhaustive study of it in order to deal with the regional issue.

Senator St. Germain: Honourable senators, I certainly do not want to put a partisan face on this issue. However, I have been a cabinet minister in government, as have Senators Rompkey and Robichaud, who sit right across from me, and we know how the system works. Sometimes things happen in the process of governance due to party politics and what have you. I am just looking for a solution for Aboriginal peoples.

I have been a member of the Senate Aboriginal Peoples Committee for a number of years, and I worked on the Aboriginal Committee in the other place as well. Unless we do something different, we will continue to get what we always get.

I do not want to sell the system short. We can look back to the Mulroney era with the Sahtu, the Gwich'in and the Inuvialuit. The Liberals are now making progress with the Tlicho. Progress is being made, but it is so slow and there is so much to do. I would do anything to get a tool that is non-threatening, enabling and helpful. It is not a question of what we will be remembered for, because the day after we retire from here they will say, "Gerry who?" or "Charlie who?" This is about getting something done.

Hon. Serge Joyal: Honourable senators, I want to ask a question of Senator Watt. Senator St. Germain referred to Bill C-20 that was sent to committee yesterday. There is a clause in that bill that is of great importance to us in this chamber, and especially to Senator Bacon, who is Chair of the Standing Senate Committee on Legal and Constitutional Affairs.

Clause 3 of Bill C-20 is entitled "Aboriginal Rights" and reads:

> For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.

Honourable senators will recognize the non-derogation clause in this bill. I listened carefully to the exchange yesterday. I did not rise to take part in the debate and draw the attention of my colleagues to the non-derogation clause because the subject is already being studied at the Legal and Constitutional Affairs Committee.

Is one of the key elements to the solution that Senator Watt described not in his speech? He said that the Parliament of Canada often adopts legislation that impacts upon Aboriginal people without due care or due recognition of how it affects the Aboriginal people.

I am very happy to see a non-derogation clause. Is that not one of the elements that should be taken into consideration when Senator St. Germain's bill is studied by the Standing Senate Committee on Aboriginal Peoples?

Senator Watt: Certainly, honourable senators, I put emphasis on non-derogation. I have not yet studied closely enough whether the regional wording with regard to non-derogation in section 25 of the Constitution Act corresponds with the regional wording in the bill. I need to look closely at that before I can say that we have something in there that is meaningful.

• (1550)

Dealing with Senator St. Germain's question respecting the enabling legislation concept, when we are examining that we must also examine the way in which the authorities from the outside have a tendency to pass laws that have an impact upon our people in the North. For whatever reason, in 1982, as the honourable senator will remember since he was one of the authors of the Constitution Act, section 25 was created, the non-derogation clause. Thus, when the government was passing laws, that non-derogation clause was built in, because of the lack of knowledge of the ways of the people who live in the North who will be impacted by those law, the lack of knowledge of their homeland on the part of the authorities in the South. We provided a mechanism in the Constitution whereby if they cannot agree with a specific amendment, the non-derogation clause kicks in. That was one of the original reasons that section 25 came about.

Hon. Bill Rompkey (Deputy Leader of the Government): First, I wish to associate myself with the sentiments of Senator St. Germain and to tell him that two weeks ago Senator Adams and I were in Nain for the signing of the Labrador Inuit land claims agreement. This is the last Inuit agreement in Canada. It involves a self-government provision. It involves many other provisions underlining rights and enshrining rights that they already have. The Labrador Inuit felt that they already had those rights, and now the government admits that they have them. These are rights to resources, to hunting and fishing, and so on. That has been my preoccupation for 20 years.

As a matter of fact, the president was in my office this morning to ask how the proposed legislation is proceeding both in the House of Commons and here. I will have the honour of sponsoring that proposed legislation when it comes to the Senate. As well, they visited with Senator Watt this morning to discuss that issue.

I just put that on the record to indicate where my support lies. I fully realize that we are moving too slowly. I realize there are things that we must do. I recognize the scourge of dependency that has grown in this country and the fact that we have to give back to Aboriginal people control over their lives, land and future. I understand that, and am supportive of it. I want to move that issue forward in principle as best I can.

I also want to say today that the more debate we have on this issue, the better. I encourage people to take part in the debate, not to prevent this bill from going to committee but to engage people in the debate because it is a very important debate and one in which I wish to continue to participate.

Having said that, I wish to move adjournment of the debate.

The Hon. the Speaker: I have not been seeing the clock for a few minutes. Do you wish to ask for additional time for this matter? I have a motion, but I think Senator Watt wanted to respond to the comments of Senator Rompkey.

Is that correct, Senator Watt?

Senator Watt: Honourable senators, if I could be allowed to make one more point —

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

Senator Stratton: No. We need to put a fence around this. No more than five minutes.

Senator Robichaud: That is mean!

Senator Watt: I can definitely respond in no more than five minutes.

Honourable senators, the modern treaty agreement today is being praised, and has been highlighted in such a way that it is a positive solution. It is not. What I am talking about here, honourable senators, is the ability to go beyond the municipal government level so that we can start dealing with our lives, and the impact that the government is having on our lives. If we end up with only a municipal level of power, we cannot do that. That is why we need to spend time exploring various ways of arriving at a good mechanism to interact with the system.

On motion of Senator Rompkey, debate adjourned.

[*Translation*]

DECENTRALIZATION OF FEDERAL DEPARTMENTS, AGENCIES AND CROWN CORPORATIONS

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Downe calling the attention of the Senate to the benefits to the decentralization of federal departments, agencies and Crown corporations from the National Capital to the regions of Canada.—(*Honourable Senator Robichaud, P.C.*)

Hon. Fernand Robichaud: Honourable senators, I am pleased to add my voice to those of Senators Downe and Mercer in encouraging the government to again make an effort to decentralize the federal public service.

We are all aware that the heaviest concentration of federal public servants is in this very region, the National Capital Region. Honourable senators are also well aware that, during the era of budgetary cutbacks and downsizing in the 1990s, the federal public service dropped to 79,000 in the Ottawa-Gatineau region. According to Statistics Canada, and as a result of a deliberate decision to hire new public servants in recent years, the number has increased considerably.

There are, no doubt, some valid reasons for this important increase. Certainly the large number of baby-boomer generation public servants fast approaching retirement age has something to do with it, but that is not what this inquiry is about. Its purpose is to call attention to the benefits to the regions of Canada of relocating federal public servants.

The establishment of federal administrative units in the regions, the moving of major components of federal departments, as has already been done to Charlottetown, or the decentralization of federal agencies or Crown corporations, would help revive regions where the economy is in a precarious situation or unemployment is constantly high, endemic even.

I need hardly tell you that the regions which depend on seasonal employment see the coming of federal government jobs rather like manna from heaven. Federal jobs are rightly considered to be permanent, stable and well-paid, compared to the jobs normally available in these regions. As you know, Canada's regions are overflowing with qualified, available people who can be trained to meet job requirements.

It is obvious that there are important advantages to the Government of Canada in decentralizing government services to various regions of the country. One of the immediate benefits is to bring the administration of federal programs closer to the clients they serve, in the case of government units providing services to a certain clientele.

When the people responsible for a department's operations are located near the clients, they are not only able to respond more quickly to client demand, but they are also more able to understand the concerns of the public. Having public servants present in the field makes their work more real. They are closer to the daily realities of the public. I hasten to add that in order to make decentralization effective, headquarters must also decentralize its decision-making power.

• (1600)

Honourable senators, the arrival of a substantial number of new jobs in any region means a significant boost for the local economy. These new jobs are important to regions hard hit by unemployment and by the slow pace of economic development. The transfer of 200 jobs to a town of 5,000 inhabitants has much more economic impact than a decentralization of these jobs in a big city.

There is also a long-term benefit for the government in terms of operating costs. The costs of renting office space, building new facilities, and purchasing the land and maintenance services needed are lower in the Maritimes than in the National Capital Region. The employees affected can find housing more cheaply there than in the National Capital Region.

Decentralization does not necessarily result in the loss of jobs. Employees who are unable to move are typically offered equivalent positions in other departments or agencies. Over the next few years, the number of public servants taking retirement will increase to the extent that affected employees will more easily be reassigned within the Ottawa-Gatineau region.

It must be said that the regional presence of public servants has a considerable economic impact on construction and related industries. Honourable senators, I want to be clear. The primary aim of decentralization is to increase the efficiency of the federal public administration for the benefit of the public and, by so doing, the regional presence of government and its administration becomes an important agent of economic development.

Another not inconsequential aspect is that this generates a greater sense of belonging among the public. The government must maintain its presence and its accessibility if it wants Canadians to continue to believe in Canada and want to remain a part of it.

The Government of Canada already achieved some measure of decentralization in the 1970s, and this was a success, overall. The Public Works and Government Services Superannuation Directorate is located in Shediac. The announcement was made on June 14, 1976. At the time, the directorate employed 400 people, with a payroll of $4 million. Today, this directorate employs over 500 people and has a payroll of $23 million.

During that decentralization, a national program was announced from which every region benefited. Today, regional offices are well established and operate efficiently. Modernizing regional facilities also boosts local economies.

Honourable senators, advanced technology now makes it easier to decentralize. Documents can be sent by email in record time. A document prepared in Summerside, Bouctouche or Moose Jaw can be sent anywhere in the country almost instantaneously, with the added advantage to public servants of being in proximity to the clientele and being able to gauge the impact of their decisions.

Far too often, policies are drafted in ivory towers without regard for the negative impact on a given clientele. The goal should always be to strike a balance and to take into account the consequences of implementing policies on the public.

It is not just departments or service delivery corporations that can be decentralized. Entire agencies or departments can be relocated, as was the Department of Veterans Affairs. In southeast New Brunswick, the relocation of the Superannuation Division to Shediac had a tremendous economic impact.

Last week, the Minister of Public Works and Government Services announced the creation of 50 jobs in Shediac to modernize the Superannuation Division systems. It is precisely because the division is already there that these new jobs were added. In southeast New Brunswick this type of announcement makes the front page, while here in Ottawa it would go unnoticed.

Honourable senators, such measures stimulate the development of businesses that provide related services, thereby creating new jobs. The same thing happened when the regional Fisheries and Oceans office to manage the gulf was set up in Moncton, when human resources and employment insurance went to Bathurst, and when the passport office was set up in Sydney.

Often when we ask for funding for government priorities, the administration responds with proposals for centralizing employees, claiming that the closure of regional facilities will result in savings. I hope not to encounter this type of reaction.

As Senator Downe was saying, the public service in Great Britain and some other countries have decentralized, or are in the process of decentralizing their services. I think it is time to move forward in a new attempt to decentralize the Canadian federal public service. I hope that every region in Canada will be treated fairly.

I very much hope that the government will carry out a program of decentralization of the public service, for this would be a true long-term investment. Another attempt at decentralization would not only provide the regions with new federal jobs but would also, and above all, help them develop a modern and sustainable infrastructure with promise for the future.

Honourable senators, the government has a duty to take action to halt the brain drain emptying our regions and, thereby, to encourage the emergence of related businesses that will generate employment and, more important, provide young people in the regions with the hope they need in order to envisage a future in their own community with optimism and confidence.

Hon. Eymard G. Corbin: I would like Senator Robichaud to know that I support initiatives of this type and always have. He began with reference to the cuts in the public service in the 1980s, down to 78,000. He then indicated that there had been a considerable increase since then. Does Senator Robichaud have an idea of the growth rate since the previous downsizing?

Senator Robichaud: Honourable senators, I am referring to a chart from Statistics Canada for the Ottawa-Gatineau area, which says there were 98,242 public servants in 2000 and 111,715 in 2004. That is why I said there had been a considerable increase in the region.

Senator Corbin: While he considers the merits of decentralizing the administrative operations of the federal government, would Senator Robichaud also be in favour of the decentralization of certain parts of the private sector?

• (1610)

In general, private enterprise tends to concentrate in certain regions of the country. For example, let us take the auto industry. Could we not, at the same time, debate this kind of possibility in order to provide more realistic opportunities for growth and development to the regions of Canada such as our own, for example?

Senator Robichaud: Honourable senators, it goes without saying, of course, that those of us from the regions would be completely in agreement with such decentralization of private industry.

Honourable senators are aware, of course, that many regional associations are trying by all possible means to invite manufacturing industries to locate in the regions and offering them all kinds of programs.

They are successful in some cases. In others, these same programs encourage people from the area to get going and start up a business in the private sector.

Very close to home, in Richibouctou, an industry has grown up. In the beginning it had 50 employees; now it has over 500 and it distributes its products across the country and even around the world.

Efforts have been made, and there is no doubt that if more efforts were made, things would be even better.

On motion of Senator Ringuette, debate adjourned.

• (1610)

[*English*]

ASSASSINATION OF FORMER PRIME MINISTER OF LEBANON, RAFIK HARIRI

MOTION IN CONDEMNATION AND SUPPORT OF JUSTICE ADOPTED

Hon. A. Raynell Andreychuk, pursuant to notice of February 16, 2005, moved:

> That the Senate of Canada joins with the Government of Canada in condemning the terrorist attack that killed former Lebanese Prime Minister Rafik Hariri and extends condolences to the families of those killed or injured and indeed to all the people of Lebanon;
>
> That the Senate of Canada urges the Government of Canada to call upon the Lebanese government and the international community to ensure that those responsible for the planning and perpetration of this attack are brought to justice;

That the Senate of Canada strongly urges the Canadian government to join with the United Nation's Security Council in its call for the strict respect of the sovereignty, territorial integrity and political independence of Lebanon;

That a message be sent to the House of Commons upon passage of this motion.

She said: Honourable senators, I am indebted that the motion was read, as I think it is self-explanatory, and its intent is embodied in the various paragraphs.

I also want to thank Senator Harb for his initiative and for continuing to be at the forefront of issues that confront the Middle East, and particularly Lebanon. His collaborative approach on this motion should be commended. I believe all senators in this chamber will be in support of this motion.

Terrorist attacks, wherever they occur, for whatever reason, cannot be condoned or tolerated. When they take the life of prominent people in the community, as happened in Lebanon, it is worth noting. It is also worth noting that other lives were lost and that those lives are equally valuable to the people of Lebanon and to the world community. Therefore, it is the act of terrorism that we condemn today.

We are also urging the Canadian government to continue to put pressure on all involved. This matter should not be put aside as the next issue arises. We should continue to pursue justice for those who died or were injured, in fact for all the people of Lebanon. If we do not pursue these issues, we will never be able to bring the peace and stability to the region and to the world that we so earnestly hope for.

We are also asking that the Senate of Canada urge the Canadian government to join the United Nations Security Council in its call for the strict respect of the sovereignty, territorial integrity and political independence of Lebanon. Lebanon has suffered through many years of turmoil with intervention from outside, which has not been helpful to the stability, independence and integrity of Lebanon.

We had hopeful signs that Lebanon was in a state of peace and continual improvement so that it could rightfully take its place with other nations in the world. We hope that this will not be a setback. We hope that this will be a renewed commitment to peace, security, stability and independence for Lebanon, and we owe them as much as we owe peace to all people, particularly those in Lebanon because of their very difficult recent past.

I believe that it is fitting that we in this chamber do take this moment to stand in solidarity with the people of Lebanon. We believe it should be a parliamentary process, and therefore, in keeping with our past practices, we would simply send the message to the House of Commons and hope that they will pass a similar motion in order that there be a positive signal from all of Canada that we stand against terrorism and we stand for the independence of Lebanon.

[Senator Andreychuk]

Hon. Mac Harb: Honourable senators, I want to thank the honourable senator for co-sponsoring the resolution before the Senate. Senator Andreychuk is a leading advocate for human rights, and this issue goes to the heart of the matter.

There is no doubt in my mind that colleagues will agree that we are unanimous in condemning the terrorist acts that have taken place and that have taken the life of a very important catalyst for peace, not only in Lebanon but throughout the region as a whole.

The United Nations, as honourable senators know, has unanimously passed a resolution calling for the full cooperation of all parties and the full implementation of all previous relevant resolutions by the UN Security Council. The resolution called for the restoration of the territorial integrity as well as the full sovereignty and political independence of Lebanon. I would say that that message was sent clearly, not only to the international community but also to the people of the region so that there will be no misunderstanding about where the international community stands on this issue.

• (1620)

This terrorist attack has provided the international community with an opportunity to go to Lebanon and investigate, along with the Lebanese authorities and regional government, to bring to justice those who have committed this act. There is a need for international involvement in the investigation of this crime where this terrorist attack has taken place. It is my hope that the Government of Canada will see fit to encourage the Government of Lebanon to seek the expertise of international experts from Europe, the United States and elsewhere around the world to bring these terrorists to justice and move to the next step of ensuring that peace, justice and stability prevail in that part of the world.

I do not want to repeat what the honourable senator has said. I agree fully with her. It is my hope that this resolution will pass from the Senate on to the House of Commons and return to the Government of Canada for immediate and appropriate action.

Hon. Terry M. Mercer: Honourable senators, I would like to associate myself with this resolution, as it is extremely important. In the world of international affairs, only once in a while does an opportunity come along to solve a long-standing dispute. Lebanon was so close to having put some of its troubled past behind it.

Recently, I represented the Government of Canada at the Diman Centre in Halifax for a celebration of Lebanon's Independence Day. There is a very large Lebanese community in Halifax, which is an integral part of that city. They have contributed greatly to the economy and to the cultural infrastructure and cultural heritage of the region.

I met some of the leaders in the Lebanese community in Halifax. I was impressed by the enthusiasm, the expectation, and the anticipation that the troubles of recent years were behind them and that they were on the way to resolving things. New buildings were being constructed in Beirut. Tourism was

becoming an industry again. Canadians of Lebanese extraction were going back to their homeland in greater numbers to visit with their relatives.

This tragedy will set that progress back. However, I would like to encourage people in Lebanon and Canadians of Lebanese extraction to rise above this very cowardly act of terrorism and keep that momentum going. Only if we can keep that momentum going will terrorism in that part of the world be defeated. This tragedy comes at a time when there are opportunities for peace in Israel and Palestine. Indeed, if there are foreign powers at play here, I certainly hope that they will come under the wrath of the international community and future sanctions from the United Nations.

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

Hon. Senators: Question!

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

Motion agreed to.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday, February 22, 2005, at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, February 22, 2005, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION

(*indicates the status of a bill by showing the date on which each stage has been* ***completed***)

(1st Session, 38th Parliament)

Thursday, February 17, 2005

*(*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)*

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-10	A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	04/10/19	04/10/26	Legal and Constitutional Affairs	04/11/25	0 observations	04/12/02	04/12/15	25/04
S-17	An Act to implement an agreement, conventions and protocols concluded between Canada and Gabon, Ireland, Armenia, Oman and Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion	04/10/28	04/11/17	Banking, Trade and Commerce	04/11/25	0	04/12/08		
S-18	An Act to amend the Statistics Act	04/11/02	05/02/02	Social Affairs, Science and Technology					

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-4	An Act to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment	04/11/16	04/12/09	Transport and Communications	05/02/15	0			
C-5	An Act to provide financial assistance for post-secondary education savings	04/12/07	04/12/08	Banking, Trade and Commerce	04/12/09	0 observations	04/12/13	04/12/15	26/04
C-6	An Act to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts	04/11/18	04/12/07	National Security and Defence					
C-7	An Act to amend the Department of Canadian Heritage Act and the Parks Canada Agency Act and to make related amendments to other Acts	04/11/30	04/12/09	Energy, the Environment and Natural Resources	05/02/10	0	05/02/16		
C-10	An Act to amend the Criminal Code (mental disorder) and to make consequential amendments to other Acts	05/02/08							

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-12	An Act to prevent the introduction and spread of communicable diseases	05/02/10							
C-14	An Act to give effect to a land claims and self-government agreement among the Tlicho, the Government of the Northwest Territories and the Government of Canada, to make related amendments to the Mackenzie Valley Resource Management Act and to make consequential amendments to other Acts	04/12/07	04/12/13	Aboriginal Peoples	05/02/10	0	05/02/10	05/02/15*	1/05
C-15	An Act to amend the Migratory Birds Convention Act, 1994 and the Canadian Environment Protection Act, 1999	04/12/14	05/02/02	Energy, the Environment and Natural Resources					
C-18	An Act to amend the Telefilm Canada Act and another Act	04/12/13							
C-20	An Act to provide for real property taxation powers of first nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute and to make consequential amendments to other Acts	04/12/13	05/02/16	Aboriginal Peoples					
C-24	Bill C-24, An Act to amend the Federal-Provincial Fiscal Arrangements Act and to make consequential amendments to other Acts (fiscal equalization payments to the provinces and funding to the territories)	05/02/16							
C-29	An Act to amend the Patent Act	05/02/15							
C-34	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 *(Appropriation Act No. 2, 2004-2005)*	04/12/13	04/12/14	–	–	–	04/12/15	04/12/15	27/04
C-35	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 *(Appropriation Act No. 3, 2004-2005)*	04/12/13	04/12/14	–	–	–	04/12/15	04/12/15	28/04
C-36	An Act to change the boundaries of the Acadie—Bathurst and Miramichi electoral districts	04/12/13	05/02/01	Legal and Constitutional Affairs					

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-302	An act to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich	04/12/02	04/12/07	Legal and Constitutional Affairs	05/02/17	0 observations			
C-304	An act to change the name of the electoral district of Battle River	04/12/02	04/12/07	Legal and Constitutional Affairs	05/02/17	0 observations			

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to amend the Citizenship Act (Sen. Kinsella)	04/10/06	04/10/20	Social Affairs, Science and Technology	04/10/28	0	04/11/02		
S-3	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/10/06	04/10/07	Official Languages	04/10/21	0	04/10/26		
S-4	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/10/06							
S-5	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	04/10/07	04/10/26	Transport and Communications (withdrawn) 04/10/28 Legal and Constitutional Affairs					
S-6	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	04/10/07							
S-7	An Act to amend the Supreme Court Act (references by Governor in Council) (Sen. Cools)	04/10/07							
S-8	An Act to amend the Judges Act (Sen. Cools)	04/10/07							
S-9	An Act to amend the Copyright Act (Sen. Day)	04/10/07	04/10/20	Social Affairs, Science and Technology					
S-11	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/10/19	04/10/26	Legal and Constitutional Affairs					
S-12	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/10/19							
S-13	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/10/19	04/11/17	Legal and Constitutional Affairs					
S-14	An Act to protect heritage lighthouses (Sen. Forrestall)	04/10/20	04/11/02	Social Affairs, Science and Technology					
S-15	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/10/20		Subject-matter 05/02/10 Transport and Communications					
S-16	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	04/10/27							
S-19	An Act to amend the Criminal Code (criminal interest rate) (Sen. Plamondon)	04/11/04	04/12/07	Banking, Trade and Commerce					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/11/30		Subject-matter 05/02/02 Legal and Constitutional Affairs					
S-21	An act to amend the criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	04/12/02							
S-22	An Act to amend the Canada Elections Act (mandatory voting) (Sen. Harb)	04/12/09							
S-23	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	05/02/01							
S-24	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	05/02/03							
S-26	Bill S-26, An Act to provide for a national cancer strategy (Sen. Forrestall)	05/02/16							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of The General Synod of the Anglican Church of Canada (Sen. Rompkey, P.C.)	05/02/10							
S-27	An Act respecting Scouts Canada (Sen. Di Nino)	05/02/17							

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