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**Monday, July 18, 2005**



THE HONOURABLE DANIEL HAYS  
SPEAKER

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## THE SENATE

Monday, July 18, 2005

The Senate met at 6 p.m., the Speaker in the Chair.

Prayers.

[Translation]

### LONDON BOMBINGS

#### SILENT TRIBUTE TO VICTIMS

**The Hon. the Speaker:** Honourable senators, before beginning our deliberations this evening, I would ask you to rise and observe one minute of silence with me in tribute to the victims of the London bombings.

*Honourable senators then stood in silent tribute.*

[English]

## SENATORS' STATEMENTS

### LONDON BOMBINGS

**Hon. Jack Austin (Leader of the Government):** Honourable senators, July 7, 2005, will be remembered in the same way that September 11, 2001, is remembered. While the manner in which the terrorist destruction was conducted was different, the purpose was identical, and provides a stark reminder to Canadians that we are not a safe village in the global community.

What is the purpose behind a terrorist act? Vladimir Lenin once said that the purpose of terrorism is to terrorize, to malign the moral authority of government to govern, and to destroy the will of the people to resist. Joseph Conrad, the great Victorian novelist, wrote that to be effective in its purpose, a terrorist act "must be purely destructive ... beyond the faintest suspicion of any other object... Madness alone is truly terrifying, inasmuch as you cannot placate it either by threats, persuasions or bribes."

The explosions that took place in the underground transportation system and on a London bus are meant to threaten our civilized way of life. They are meant to destroy our tolerant and accommodative society and to return us to the ethnic, religious and national conflicts of the past. That way we will not go. The basis of Western democracy and of a society that believes in the rule of law, in a Charter of Rights and Freedoms and in behavioural norms of tolerance and compassion towards one another is not a fragile society, certainly not in Great Britain nor in Canada, in the United States or anywhere in Western democracies. We will endure whatever comes.

In 1941, in an address to the Canadian Parliament, the Right Honourable Winston Churchill, then Prime Minister of Great

Britain, responded to another peddler of fear and hatred who said that he would ring England's neck like a chicken. Churchill's reply was, "Some chicken; some neck."

Canadians have been warned. We may well be tested in the months ahead because we have chosen to be a part of the world community active against Islamic terrorism. We have chosen to defend our freedoms and our way of life against those who hate us for our values and who believe it is their way or no way. We know what we have to do, and we will do it.

In memory of 7/7, our deepest sympathies go to those whose lives have been saddened by this tragedy. We know we are all on the front line.

**Hon. Noël A. Kinsella (Leader of the Opposition):** Honourable senators, as indicated by the Leader of the Government in the Senate, last week in London the world witnessed senseless tragedy and loss of life. Once again, Londoners were faced with an invisible and elusive enemy that struck from the shadows but, once again, Londoners reminded us that free men and women cannot, and will not, be deterred from democracy and freedom by the acts of anarchists and terrorists.

What have we learned from the attacks in London and those in New York on September 11, 2001? What has the Senate of Canada done to ensure that, should Canada face this foe, our nation is prepared to deal with any emergency? As honourable senators are aware, the Standing Senate Committee on National Security and Defence has been very active, hearing from many witnesses across the country. The committee has been diligent in pointing out security weaknesses at our airports, along our borders and in our ports. This ongoing study is helping to ensure that Canadians and the government are fully aware of the problems so that corrective action can be taken.

• (1810)

We must also be concerned when testimony by witnesses such as those who appeared before the Special Senate Committee on the Anti-terrorism Act informed us that RCMP detachments are being shut down in border towns; that Canadian border service agents do not report illegal border crossings; that Canada plans to deport suspected terrorists back to countries where they may use their in-depth knowledge of Canada to plan attacks against our country and others; that our private sector utilities are under-protected; and that our responsible federal and provincial ministers have met only once in 11 years.

Representatives from law enforcement agencies appearing before the special Senate committee were unable to clarify the chain of command among them in the event of a terrorist strike on Canada. It is not clear if the federal Minister of Public Safety and Emergency Preparedness organizes the responses, whether the RCMP fulfils a management function, or whether there exists a coordinating body, such as was the case two weeks ago when the London Resilience Forum executed their well-planned and well-practiced, coordinated, multi-tiered response to the bombings in London.

The London Resilience Forum presents a stark contrast as it represents a strategic partnership formed in the wake of 9/11, which consists of both public and private stakeholders and includes senior civil servants, experts from the emergency services, transport operators, utilities and all levels of government. There is no clear evidence that Canada has any such coordinated reaction plan or partnership among first responders and stakeholders.

That said, honourable senators, Canadians and the ministers responsible may rest assured that this house will take whatever action is possible within our constitutional authority to see that Canada has in place the capacity to deal with any acts of violence or terrorism, and that Canada too will respond with the same fortitude and resilience that Londoners have displayed throughout modern times and most recently on July 7, 2005.

[Translation]

### THE LATE GUY MAUFFETTE

**Hon. Lucie Pépin:** Honourable senators, I wish to draw the attention of the Senate to the loss of one of our poets, Mr. Guy Mauffette. This bright light of Quebec culture quietly took his leave on June 30. Born and raised in Montreal, Guy Mauffette's unparalleled skills as a communicator were soon apparent. A teenage actor, he became a pioneer of French-language radio at the age of 21. He invented radio broadcasting in Quebec. During the 1960s, at a time when listeners were used to hearing prepared texts read on air, he broke with tradition to change the sound of radio, leaving his mark on the medium through his improvisational skills and magical presence.

He hosted a number of shows on Radio-Canada that shaped a generation of Quebecers, a generation to which I belong. There was nothing I would have rather done than listened to the extremely popular show *Le cabaret du soir qui penche*, which he hosted on Sunday evenings from 1960 to 1973. He had an unforgettable gift for using humour to engage and captivate his audience. His sincerity was such that, as you listened, you felt a personal connection.

The serial drama was another area in which he excelled and to whose development he contributed, giving a number of francophone authors the opportunity to be heard. We still remember the famous novel *Un homme et son péché*, which he adapted for radio.

Guy Mauffette took part in various television and film productions, playing a number of roles. He was one of the young leading lights of Quebec cinema in *Les lumières de ma ville*. In addition, he lent his voice to numerous documentaries and frequently appeared on stage in Quebec City and Chicago, as a result of his excellent English.

We owe him for helping to give French singing its identity, by popularizing singers such as Michel Legrand and Léo Ferré, and by giving numerous Quebec artists the opportunity to be heard — including Félix Leclerc.

In addition to being a man of words, which he could wield like no other, Guy Mauffette turned his creativity and improvisational skills to writing. Not only does he leave us with collective works that fall somewhere between conversation and poetry, he also leaves us with children's books in which his intelligence and lucidity shine from the very first page.

[ Senator Kinsella ]

I want to pay tribute to this great poet, this Canadian of many talents, this Grand Officier of the Ordre national du Québec, who motivated us to strive to be distinct.

[English]

### NOVA SCOTIA

#### LIEUTENANT-GOVERNOR'S MASTERWORKS AWARD

**Hon. Donald H. Oliver:** Honourable senators, I have had a long-standing interest in promoting both the visual and performing arts in Nova Scotia. Naturally, I was delighted to learn recently that our Lieutenant-Governor, the Honourable Myra Freeman, has announced a new \$25,000 award to recognize significant creations by artists in Nova Scotia.

I spoke with her yesterday and she explained that the Masterworks Award will recognize the excellence of Nova Scotia artists or group of artists in any medium from dance to film. The first Masterworks Award will be presented in 2006. The Lieutenant-Governor told me that the award is unique in Canada because it presents an opportunity for emerging artists, as well as lifetime achieving artists, to create works of art that will have a lifetime impact on Nova Scotians. The award can be given to individuals or groups working in music, dance, theatre, architecture, film or any branch of the arts.

Works by the five shortlisted finalists will be showcased for four months leading up to the announcement of the winner. The Lieutenant-Governor hopes that this showcasing will generate dialogue and discussion throughout the province, raising awareness and concern for Nova Scotia's arts community.

The award will be managed by an advisory council chaired by the former Chief Justice of Nova Scotia, the Honourable Constance Glube. Other members of the advisory council, who collaborated over the last six months to develop the basic structure for the award, include philanthropists Joan and Jack Craig, Peter Greenhalgh, President of the Nova Scotia College of Art and Design, Sarah Dennis, the Vice-President and Director of *The Halifax Chronicle-Herald*, and Adrian Hoffman, host of *Musically Yours* on CBC Radio.

Honourable senators, I wish to conclude with a few words about the Honourable Myra Freeman, who will soon be leaving her position as Nova Scotia's Lieutenant-Governor after completing a highly successful five-year term. Myra Freeman has been an outstanding Lieutenant-Governor since 2000. She has hosted or attended, on average, approximately 800 events per year. She is a patron of over 95 organizations in Nova Scotia. She has also raised attendance at Government House, the official residence of the Lieutenant-Governor, in each of her five years in office.

Now, as her term expires as the Queen's representative in Nova Scotia, she has created an award to recognize the talented artists from Nova Scotia, and to help create a dialogue about the contemporary arts. I salute her.

## AGRICULTURE AND AGRI-FOOD

### UNITED STATES— OPENING OF BORDER TO LIVE CATTLE

**Hon. Terry M. Mercer:** Honourable senators, the day when the Canada-U.S. border will be open to live cattle has been a long time coming but, indeed, is welcome news to our agriculture industry and all Canadians. Since the first case of bovine spongiform encephalopathy was discovered in May 2003, our agriculture industry has suffered great losses because of the closed border.

While the federal government responded to this closure with increased vigilance to protect our farmers, some said it was not enough. Some said that the extra funding was misdirected. However, honourable senators, during the past two years, farmers have remained positive in the eyes of this disaster. The government continued its efforts to have the border reopened by stressing the safety of our cattle industry: safety based on science, not on conjecture and irrational fear.

The cattle industry is of mutual benefit for Canadians and for our United States friends. Advocates on both sides of the border have worked hard, from government to farmers, to reach this day when the border would open to trade between both partners of live cattle.

Honourable senators, I applaud Minister Andy Mitchell, the federal Department of Agriculture and Agri-Food, the Standing Senate Committee on Agriculture and Forestry, farmers on both sides of the border and all those connected with the effort to reach today's monumental result of an open and fair trade of cattle across our borders.

**Senator St. Germain:** What about the Tories?

[Translation]

## ROUTINE PROCEEDINGS

### CRIMINAL CODE CANADA EVIDENCE ACT

#### BILL TO AMEND—REPORT OF COMMITTEE

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

Monday, July 18, 2005

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

#### ELEVENTH REPORT

Your Committee, to which was referred Bill C-2, An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act,

has, in obedience to the order of reference of Monday, June 20, 2005, 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 Appendix A, p. 1775.)

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

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

• (1820)

## CIVIL MARRIAGE BILL

### REPORT OF COMMITTEE

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

Monday, July 18, 2005

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

#### TWELFTH REPORT

Your Committee, to which was referred Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes, has, in obedience to the order of reference of Wednesday, July 6, 2005, examined the said bill and now reports the same without amendment.

Respectfully submitted,

LISE BACON  
*Chair*

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

[English]

**Hon. Serge Joyal:** I move that Bill C-38 be read the third time now.

**The Hon. the Speaker:** Is leave granted?

**Some Hon. Senators:** No.

[Translation]

**The Hon. the Speaker:** Honourable senators, the motion was negated. When shall this bill be read the third time?

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

[English]

## DEPARTMENT OF HUMAN RESOURCES AND SKILLS DEVELOPMENT BILL

### REPORT OF COMMITTEE

**Hon. Wilbert J. Keon**, Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Monday, July 18, 2005

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

### TWELFTH REPORT

Your Committee, to which was referred Bill C-23, An Act to establish the Department of Human Resources and Skills Development and to amend and repeal certain related Acts has, in obedience to the order of reference of Tuesday, June 14, 2005, examined the said bill and now reports the same without amendment.

Respectfully submitted,

**WILBERT J. KEON**  
*Deputy Chair*

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

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

## DEPARTMENT OF SOCIAL DEVELOPMENT BILL

### REPORT OF COMMITTEE

**Hon. Wilbert J. Keon**, Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Monday, July 18, 2005

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

### THIRTEENTH REPORT

Your Committee, to which was referred Bill C-22, An Act to establish the Department of Social Development and to amend and repeal certain related Acts has, in obedience to the order of reference of Tuesday, June 21, 2005, examined the said bill and now reports the same without amendment.

Respectfully submitted,

**WILBERT J. KEON**  
*Deputy Chair*

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

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

## BILL TO AUTHORIZE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS

### REPORT OF COMMITTEE

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

Monday, July 18, 2005

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

### SIXTEENTH REPORT

Your Committee, to which was referred Bill C-48, An Act to authorize the Minister of Finance to make certain payments, has in obedience to the order of reference of Wednesday, July 6, 2005, examined the said bill and now reports the same without amendment, but with observations, which are appended to this report.

Respectfully submitted,

**DONALD H. OLIVER**  
*Chair*

*(For text of observations, see Appendix B, p. 1776.)*

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

**Hon. Art Eggleton:** Honourable senators, I wish to suggest multiple options. I could say "now;" I could say "later this day;" or I could, as is traditional, move that the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

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

## HUMAN RIGHTS

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

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

That, pursuant to rule 95(3)(a), the Standing Senate Committee on Human Rights be authorized to meet on Monday, September 19, 2005; Monday September 26, 2005; and Monday October 3, 2005, even though the Senate may then be adjourned for a period exceeding one week.

## SAME-SEX MARRIAGE

### PRESENTATION OF PETITION

**Hon. Gerry St. Germain:** Honourable senators, I have a petition signed by 324 citizens that was presented to me by Stand Together Canada for tabling this evening. This is a petition to protect children's entitlements, and it reads as follows:

Whereas children are most advantaged when they grow up in a stable family environment with both biological parents, and

Whereas marriage between a man and a woman is the unique institution that fosters such families and secures to children a parent of each sex, and

Whereas redefining marriage to be the union of two persons

- a) Disenfranchises children of their right to a parent of each sex, and
- b) Recasts marriage as a relationship between adults rather than an institution that meets the stability needs of the rising generation, and
- c) Prevents government from acknowledging and promoting the stable, biological family arising out of the marriage of a man and a woman that is in children's best interests,

Therefore, we, the undersigned Canadians, earnestly petition Parliament to do all in its power to restore in Canada the definition of marriage that serves the needs and protects the entitlements of children.

## QUESTION PERIOD

### FINANCE

#### CHANGES TO BUDGET 2005— TIMELINE FOR TAKING EFFECT

**Hon. Donald H. Oliver:** Honourable senators, my question is directed to the Leader of the Government in the Senate and relates to testimony of the Parliamentary Secretary to the Minister of Finance, John McKay, before our Standing Senate Committee on National Finance.

• (1830)

In his testimony, the parliamentary secretary told committee members that the government will not know its 2005-06 surplus until August or September 2006. Not a penny from the NDP-negotiated budget can be spent until then as it is conditional on the government generating a \$2-billion surplus.

Mr. MacKay said:

We are in the fiscal year 2005-06 and we will not know what the surplus is until September of 2006. I do not want to be too crass about it, but if I was in a department anticipating receiving money, I would not be booking this money until I knew that surplus was in place. Then presumably there would be an allocation, and by then, presumably, the department will have worked up plans as to how to deal with that particular money.

Apparently, honourable senators, the NDP was not informed during negotiations that the money contained in Bill C-48 would not flow until September 2006, at the absolute earliest, if at all. In a letter sent to my office dated July 13, Judy Wasylycia-Leis, the NDP finance critic stated, among other things:

It is my understanding... that it is indeed within the government's authority to dispense funds designated in Bill C-48 before the final 2005-06 public accounts have been issued. That was the position put forward by the government during negotiations with the New Democratic Party, and the government's own briefing materials provided to members of the House of Commons Standing Committee on Finance.

Honourable senators, a headline in Saturday's *Ottawa Citizen* read as follows:

We were "double-crossed" by Liberals, NDP alleges: PM accused of delaying budget spending to look good during election.

My question for the Leader of the Government in the Senate is this: Was the government double-crossing the leader of the NDP — to use the language of the Ottawa newspapers — and deceiving Canadians when it negotiated \$4.5 billion in spending measures in exchange for New Democratic Party support of Bill C-43, and was the timing of payments of those funds discussed at any time during the negotiations?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I could not help but listen to the question with a rising assumption that it is based on a temptation for Senator Oliver to support Bill C-48; otherwise, the question for him would be moot.

**Senator Stratton:** And the point is?

**Senator Austin:** The point is that I am encouraging him to nod in my direction.

The answer to the specific question is no, the NDP were not deceived. The government was very clear in what it was undertaking to do. The primary undertaking that was on the table at all times was that the government would not incur a deficit in fiscal 2006-07 or fiscal 2007-08. How could that be misunderstood?

**Senator Oliver:** Honourable senators, Mr. Charles-Antoine St-Jean, the Comptroller General of Canada, told our committee:

... the prudent nature of financial management...

— involves —

... as much as possible to disburse the funds only when the need comes in.

With respect to Bill C-48:

... the approach would be to commit the funds to make the liability on the books of the Government of Canada, but the actual disbursement could be over a year, two years, three years, depending on the need of the organization.

Honourable senators, add three years to the end of fiscal 2006-07 and you are at 2010. Can the Leader of the Government in the Senate confirm that some of the funds will not be disbursed until the end of the decade and beyond?

**Senator Austin:** Honourable senators, it is my understanding that these funds, if authorized by Parliament, will be disbursed only at such time as the surplus for the fiscal years 2006-07 and 2007-08, respectively, is known.

Bill C-48 is clear; it authorizes the Minister of Finance to make payments in four agreed-upon areas, totalling no more than \$4.5 billion, from any surplus above \$2 billion in 2005-06 and 2006-07. The committee of which the Honourable Senator Oliver is chair heard this evidence. The honourable senator knows the objectives for which spending is designed in Bill C-48.

As the National Finance Committee heard in evidence, the final fiscal outcome for these two years will not be known until the fall of 2006 and the fall of 2007, respectively. This not only implies, but also clearly states that no payments with respect to Bill C-48 can be made until those knowledge points have been achieved.

The government has been steadfast in its commitment not to incur a deficit in those two years. As the committee heard, the government also intends to reduce the debt. That is why it is patently clear that the payments are conditional on there being a surplus of \$2 billion in each of the two years mentioned.

As honourable senators will know, the government may choose to advance some of the payments if it feels confident that the final surplus in these two years will be in excess of the \$2 billion earmarked for debt reduction. That will be known when the Minister of Finance presents his regular updates to Parliament, either through a full update or through a budget.

Honourable senators, the system for making payments is quite clear. If there is a different agenda, which is believed by others to be the case, I believe that they cannot have understood how committed this government is to ensuring that we maintain budgets in surplus and never go into deficit again.

## AGRICULTURE AND AGRI-FOOD

### UNITED STATES—BOVINE SPONGIFORM ENCEPHALOPATHY—OPENING OF BORDER TO LIVE CATTLE—MONTANA COURT CASE

**Hon. Gerry St. Germain:** Honourable senators, my question is for the Leader of the Government in the Senate and it relates to trade between our country and our neighbours to the south.

Senator Mercer just spoke of the great job that the Minister of Agriculture is alleged to have performed. My understanding is

that the Government of the United States sought to appeal the injunction of the Montana judge; am I correct in that assumption or observation?

There is a July 27 date that sits on the horizon, as far as what will transpire in Montana. Can the Leader of the Government in the Senate indicate to us, the ranch communities and the cattle industry in general, what the government expects will happen on July 27 in that regard? I realize that the minister cannot predict what a judge will do, but is there a backup plan in place? Theoretically, the border could be shut down again, if I am correct.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I think the Government of Canada, particularly the Minister of Agriculture, the Honourable Andy Mitchell, does deserve due credit for the work that has been done.

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

**Senator Austin:** The result has been a decision of the Ninth Circuit Court of Appeals, which overturned the temporary injunction issued on March 2, 2005, by the U.S. District Court in Montana.

In negotiation between the Minister of Agriculture and officials in the United States who represent the United States Department of Agriculture, it was agreed that the United States Department of Agriculture had the responsibility to implement a system of science-based analysis of risk to the United States. This government supported the United States Department of Agriculture with facts, science and the position of the Canadian cattle industry.

• (1840)

It is the U.S. Department of Agriculture that succeeded in overturning the Montana U.S. District Court decision by Judge Cebull, which issued the temporary injunction. The Ninth Circuit Court of Appeals was quite aggressive in finding no basis in fact for the issue of the temporary injunction, and certainly it is the view of government officials here in Canada that the Ninth Circuit Court of Appeals laid down significant tests for application in any further proceedings.

Senator St. Germain correctly stated that the argument on the merits will now proceed on July 27 before the District Court of Montana. Justice Cebull is presiding, and he is the person who issued the temporary injunction that was set aside. Again, as Senator St. Germain said, predicting a judicial decision is folly, but I know that Agriculture Canada and the United States Department of Agriculture are confident that they have tested the facts in the Court of Appeals and that there are no facts that would justify any further order that would close the border to Canadian cattle 30 months and younger, or dressed boneless cuts which now have access to the United States market.

The District Court of Montana, however, will be holding a trial of fact, as Senator St. Germain knows well. The application for a temporary injunction essentially requires only that a prima facie case be made. On July 27, there will be a trial of fact in which,



again, the United States Department of Agriculture and its Department of Justice will be present to argue the interests of the United States and the law of the United States. They will argue against any further finding that would bar Canadian cattle from the United States market.

I hope that answer is of assistance.

**Senator St. Germain:** I thank the leader for his response. My concern is that he mentions the Government of Canada. They are not in a position to take an intervenor position, I gather. What would the Government of Canada's contribution be to this process, if any? Certain members of Parliament and senators have taken an intervenor position on the case. Could the Leader of the Government clarify for the record exactly what the Canadian government is doing besides speaking to the U.S. Department of Agriculture and the Secretary of Agriculture?

**Senator Austin:** Honourable senators, I have responded to these questions before, and I am happy to do so again.

There being an agreement on the facts and on the policy of the United States Department of Agriculture with respect to access to U.S. markets by Canadian cattle, it was the position of the Minister of Agriculture of Canada that the best position Canada could take would be to facilitate and support the U.S. Department of Agriculture in these legal processes. We are discussing, after all, a judicial process in the United States and an interpretation of the law of the United States based on the facts that exist in this particular litigation.

The Canadian government has taken every possible step to provide facts to show the safety of the Canadian herd, to show that testing in Canada for BSE is the equivalent of or better than that in the United States, and to show that there is no risk to the health of the United States population in receiving Canadian beef.

I believe that we, the Government of Canada, have been of important assistance to the United States Department of Agriculture. However, it is the position of the United States Department of Agriculture that is being presented to the courts. We are speaking about litigation amongst interests in the United States. There are, as Senator St. Germain knows, many other U.S. intervenors in this case, particularly those in the U.S. meat-packing industry and distribution industries in the United States who have been harmed by Judge Cebull's decision to issue a temporary injunction.

**Senator St. Germain:** That is correct. To be fair, the leader has previously outlined the description of the process, but it is important that we have it on the record so that Canadian farmers, who do pick up what is happening in this place, are aware.

## INTERNATIONAL TRADE

### UNITED STATES—SOFTWOOD LUMBER AGREEMENT—INITIATION OF TALKS

**Hon. Gerry St. Germain:** On another trade issue, that of softwood lumber, I have been inundated with letters from the remanufacturing sector in British Columbia, which feels that it should be exempt from any future tariffs in regard to softwood

lumber. I do not know if the Office of the Leader of the Government has received similar letters, but perhaps he could comment. It is my understanding that softwood lumber negotiations are being reinstituted with the United States and that the new Minister of Forests in British Columbia is quite skeptical as to whether there will be any positive results. This remanufacturing issue is first and foremost in the minds of the remanufacturing industry in British Columbia.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, again I thank Senator St. Germain for this important question. Talks underway this week between Canadian industry and U.S. industry representatives are also being attended by officials of the two governments. I call them talks because the processes this week have not been designated as negotiations. They are essentially a return to an attempt to define terms on which an actual negotiation might proceed.

With respect to the remanufacturing industry, I want to go a little further than Senator St. Germain has gone and say that there has never been a case made by the United States with respect to that industry. This value-added industry is part of our manufacturing trade and should not have been acted against. The Government of Canada and the industry take that position with respect to remanufacturing and hope that the justice of their position will be recognized.

[Translation]

## NATIONAL DEFENCE

### COMMENTS BY CHIEF OF DEFENCE STAFF ON POSSIBLE TERRORIST ATTACKS

**Hon. Marcel Prud'homme:** According to *La Presse*, under the headline "Terrorism lies in wait for us," the Senate apparently sent our colleague and friend Senator Kenny to London to draw lessons from the July 7 attacks.

*The Toronto Star* reported that Chief of Defence Staff Hillier:

... had blunt words on terror.

*The National Post* reported:

Prepare for casualties, the Colonel says.

Am I to understand that our armed forces and other leaders are basically prepared to point out, in advance, the locations in Canada where there may be weaknesses?

I have confidence in our armed forces — unlike many of my colleagues, I served as a military police cadet officer at CFB Shilo when I was a student in the Canadian Forces — but since when must we listen to what high ranking officers have to say to the public? I thought this was a political responsibility.

• (1850)

It is up to the political leaders to decide where and when to send troops. Military personnel possess the necessary discipline to fulfill their duties or to inform their political leaders that what they are being asked to do is impossible because of insufficient personnel or equipment.

I find the tone of these statements very alarming and the statements themselves dangerous, because in actual fact they ought to come from either the Prime Minister or the Minister of National Defence, who has preferred not to comment, which I find very prudent of him. Are these dangerous statements, which are alarming the public needlessly, absolutely necessary?

[English]

**Hon. Jack Austin (Leader of the Government):** Honourable senators, the question of the honourable senator comes in two parts. The first was a reference to statements made by Senator Kenny, Chair of the Standing Senate Committee on National Security and Defence, who is free to make whatever public statements he wishes. He does not represent the government in what he says. I am sure his statements will be taken on their merits.

With respect to the statement of the Chief of Defence Staff, Gen. Rick Hillier, I could come at his role in quite a different way from that of Senator Prud'homme. He is the head of Canada's Armed Forces, that is, the operating head. Of course, the commander-in-chief is the Governor General, while the political head is the Minister of National Defence.

Gen. Hillier has an enormous responsibility in the organizational and operational role of our military forces. The political decision has been made by the government to put Canadian troops in harm's way in Afghanistan, in particular in the rather difficult area of Kandahar. Gen. Hillier is not making policy; he is following it. The policy has been made by the Government of Canada in our role with our allies to deal with terrorism and to deal, in particular, with our commitments to the North Atlantic Treaty Organization to be in Afghanistan and to support the NATO operation against terrorism in Afghanistan. Those were political commitments made by the Government of Canada. Carrying out those political commitments is the responsibility of the Canadian Forces.

As Gen. Hillier accurately said, in my opinion, Canadian Forces are not just another department of the Government of Canada. They provide a special role in the defence of Canada. It is special, in part, because these men and women put themselves in harm's way as a major criteria of their profession, which is the defence of Canadian security. In most other departments, that is not the case.

Honourable senators, I believe it is perfectly appropriate for Gen. Hillier to tell Canadians about the potential sacrifice of lives that may take place as a result of the staffing of Kandahar under our NATO responsibilities and obligations.

The failure to advise Canadians in advance of the onerous duties that Canadian Forces are undertaking would be an omission amounting to a deception of the risk that is being assumed. I do not think any of us in this chamber, however, fail to appreciate what our Canadian Forces risk in terms of personnel by these highly significant responsibilities in Afghanistan.

[ Senator Prud'homme ]

We are a member of an alliance against terrorism. We have undertaken this role. I believe Gen. Hillier is correctly stating to his forces, to his people, and to Canadians generally, the seriousness, the risk and the importance of the role.

[Translation]

**Senator Prud'homme:** This is the best debate we could possibly have. I think it would be more appropriate for Senator Kenny, the Chair of the Standing Committee on Defence and National Security, to make such statements, since you and I will never be capable of doing so.

I find it totally inappropriate for these public statements to come from the Chief of Defence Staff. I admire our armed forces. The government has disbanded one of the best military outfits in Edmonton because of the misdeeds of a few.

You will certainly recall what happened at that time. Just ask military personnel if they have much respect for politics. I repeat, statements of a political nature are the responsibility of the minister. I find it bizarre, moreover, that neither the minister nor representatives of his department are making any political comments and that they are letting these be made by someone who has to follow the government's orders.

When the government decides to get involved politically, that is when our troops have to follow the political orders they receive, not the other way around. This is certainly a substantive debate, and one we will, thank goodness, likely have an opportunity to revisit this week.

Mr. Minister, there is a wide divergence in opinions on this matter, between military discipline and political responsibility. You and I differ greatly on this, which is all right and good, and what democracy is all about, but I could never follow you along this path.

[English]

**Senator Austin:** Honourable senators, I am obliged to make a further comment to the statement that Senator Prud'homme has just made. I agree with him: we have a fundamental difference in approach. I have tried carefully to make clear that the politics of the issue, that is, the political decision to be a part of NATO and the political decision to accept responsibilities to fight terrorism in Afghanistan, are political decisions that have been made by the Government of Canada.

The Canadian Forces under Gen. Hillier are carrying out the assigned mission. It is fair comment on his part to tell Canadians what the costs may be. He does so, I am sure, with the agreement of the Minister of National Defence.

## VETERANS AFFAIRS

### DENIAL OF BENEFITS TO FORMER JTF2 SOLDIER

**Hon. J. Michael Forrestall:** Honourable senators, I wish to express my support for the minister's previous comments. I have always believed that gentlemen who have been awarded three and four stars should be allowed, indeed encouraged, to speak out publicly under certain circumstances.

My question has to do with a question I raised even before Senator Eggleton's days as Minister of National Defence. It has to do with insurance benefits and the protection of members of the Canadian Forces who, one way or another, are crippled or badly banged up overseas while on duty.

We have read in the newspaper that at least one member of the Joint Task Force Two has had called into question his entitlement to benefits as a result of injuries. He is disqualified, presumably because he does not meet the criteria of the insurance claim in that he is not allowed to disclose the nature of his injury, how it occurred, where it occurred, when it occurred, or under what circumstances.

• (1900)

I have asked repeatedly for assurances and mistakenly have been given those assurances. Even worse, I have believed those assurances. Now I no longer do.

I am asking the minister if he will find out from the Department of National Defence whoever else may or may not be involved and what other pitfalls lie in front of our troops as we prepare to send them to Kandahar. It will not be any picnic for them. Will they be able to come home and receive every benefit to which they are entitled?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, in answer to Senator Forrestall, I want to say that I certainly hope so and expect so. I have heard a report of the difficulties of at least one member of the JTF2 obtaining benefits for injuries alleged to have occurred during military operations and while on active service.

I intend to ask for a report on this subject and not to let it pass by without understanding on my part, at least, the nature of the issue and the reason for the alleged lack of support on the part of the government.

#### DELAYED ANSWERS TO ORAL QUESTIONS

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

The first is a response to an oral question raised in the Senate on July 5 by Senator Forrestall regarding the replacement of search and rescue aircraft and the refurbishment of Libyan Air Force G222 planes.

The next delayed answer is in response to a question raised on June 30 by Senator Tkachuk regarding user fees in national parks and national historic sites.

The next delayed answer is in response to a question raised on June 14 by Senator Johnson regarding Devils Lake water diversion.

The next is to an oral question raised on June 30 by Senator Oliver regarding bank mergers and release of guidelines.

The next response is to an oral question raised by Senator Oliver on June 29 regarding reverse mortgages for seniors.

The next response is to an oral question raised by Senator Keon June 29 regarding the decline in medical students from low-income families.

The last response is to an oral question raised in the Senate by Senator Kinsella on June 28 regarding Point Lepreau and comments by Minister Efford.

#### NATIONAL DEFENCE

##### SEARCH AND RESCUE— REPLACEMENT OF FIXED-WING AIRCRAFT— REFURBISHING OF LIBYAN AIR FORCE G222 PLANES

*(Response to question raised by Hon. J. Michael Forrestall on July 5, 2005)*

The acquisition of new search and rescue aircraft is a key priority for the Government.

The Government will spend about \$1.3 billion and the Canadian Forces will use these planes for decades. That is why we must make the right decision and select the right aircraft to meet Canada's needs.

National Defence has taken the time necessary to study the new search and rescue aircraft's operational requirements and the procurement strategy in order to ensure that they are in line with the Defence Policy Statement.

National Defence expects to release a request for proposal in the near future.

The aircraft that will replace 6 Buffalo Search and Rescue aircraft and 10 of the older Hercules currently engaged in search and rescue operations will be new, modern and off the shelf Search and Rescue aircraft.

We expect that 15 new aircrafts will be purchased.

#### THE ENVIRONMENT

##### PARKS CANADA—USER FEES

*(Response to question raised by Hon. David Tkachuk on June 30, 2005)*

Many facilities in national parks and national historic sites are between 30-50 years old and have reached the end of their serviceable lives. Presently, one-third of all facilities require rebuilding urgently and another one-third will require this type of investment within the next five years. The associated budget shortfall is \$100 million annually.

Between September 2003 and February 2004, consultations on a comprehensive, four-year user fees proposal were carried out. The proposed fees were based on comparability with fees charged by other parks and tourism organizations in Canada and internationally. There

was wide spread acceptance of the fees provided that the revenues are invested in rebuilding visitor facilities. The alternative would have been to close facilities when they could no longer meet code requirements and withdraw the associated services.

In Budget 2005, additional funding, ramping up to a permanent adjustment of \$75 million per year, was provided to address this shortfall on the understanding that remaining \$25 million per year would be obtained from increases to user fees. Together, the Budget Plan allocation and user fee strategy will help to ensure that high quality facilities and services are available to visitors over the long-term.

The Parliamentary review of the user fee proposal, pursuant to the new User Fee Act, was recently concluded and there were no recommendations to change the proposal. Consequently, it has been approved and implemented.

## CANADA-UNITED STATES RELATIONS

### NORTH DAKOTA—DEVILS LAKE DIVERSION

*(Response to question raised by Hon. Janis G. Johnson on June 14, 2005)*

In 2002, the United States offered to support a joint reference on a potential federal outlet proposal at Devils Lake, North Dakota. Canada did not refuse a reference on this matter, but rather indicated that the proposal was premature. It was not appropriate to ask the International Joint Commission (IJC) to determine whether the federal project was compliant with the provisions of the 1909 *Boundary Waters Treaty* (BWT) when the plan was still at a preliminary stage.

The long-standing practice developed by Canada and the United States has been that domestic processes must be completed before a matter is referred to the IJC. In 2002, the US Army Corps of Engineers had not completed its environmental impact assessment on various options for addressing flooding at Devils Lake.

Moreover, the US Army Corps of Engineers had not even recommended an outlet as the preferred alternative. As our Ambassador at the time correctly pointed out, there was “simply no basis for serious comparison of alternatives to address the reported problems of flooding and their respective degree of compliance with the BWT provisions.” In essence, we said to the United States “Not at this time. Finish your environmental assessment, and then it will be appropriate to talk.”

The plan originally developed by the US Army Corps of Engineers was substantially different in contrast to the state outlet project currently nearing completion. The North Dakota state project is proceeding without an environmental assessment. While the US Army Corps of Engineers did complete an environmental impact statement (EIS) for the federal proposal, this analysis is no substitute for a rigorous environmental review of the state project given important differences between the two. The state outlet includes only the most minimal — and insufficient — safeguards against biota transfer.

Devils Lake has no natural inlet or outlet meaning that it is isolated from the broader Red River basin, and has been so for approximately the last 1000 years. Critically, in the 1940s, the lake was essentially dry, meaning that all of the larger orders of life in the lake have been introduced by people since that time. Therefore, Canada is deeply concerned about the possible transfer of species foreign to the Red River and Lake Winnipeg.

The science concerning Devils Lake biota is insufficient, a view shared by the US Army Corps of Engineers. The gaps in the science need to be filled in order to: understand what lives in Devils Lake, the full extent of the risk posed, and how best to address that risk. Canada has always been committed to a resolving this matter in a manner that is based on sound science and consistent with the Boundary Waters Treaty.

We do not know at present whether the United States will ultimately agree to a solution that upholds the Treaty. However, we are very encouraged by the engagement of the White House Council on Environmental Quality which is seeking a resolution for the Devils Lake outlet. The Government of Canada, in close cooperation with the Government of Manitoba, continues to pursue this matter vigorously with the goal of finding a solution that protects the environment and is consistent with the Boundary Waters Treaty.

## FINANCE

### BANK MERGERS—DELAY IN GUIDELINES

*(Response to question raised by Hon. Donald H. Oliver on June 30, 2005)*

The Minister of Finance has indicated that the government's policy paper on large bank mergers would be released in due course. The process for releasing a policy paper on mergers is independent of the broader Bank Act review.

Given the importance of this issue, the Minister has also indicated that he would like to consult with opposition parties to assess positions and to ensure that a discussion of policy in this area would occur in a constructive environment.

## LABOUR AND HOUSING

### CANADA MORTGAGE AND HOUSING CORPORATION—REQUEST BY MINISTER FOR STUDY ON REVERSE MORTGAGES

*(Response to question raised by Hon. Donald H. Oliver on June 29, 2005)*

The Government of Canada, through Canada Mortgage and Housing Corporation (CMHC), is currently exploring the issue of reverse equity mortgages (REM) for seniors.

Income after retirement typically drops. As a result, older homeowners who are unable to afford the same pre-retirement level of housing consumption may need to sell their home and buy or rent more affordable shelter. The conversion of home equity into cash through REM can be used to hold off that need. REMs can allow seniors to continue living independently in their own homes; they can also reduce the pressure on the market and government to provide alternative accommodation.

Because REM requires the value of the mortgaged home to keep pace with the increase in the mortgage amount, it can carry significant risk. Thus, traditional lenders will not provide REM without some form of insurance against the risk of the outstanding amount of the deferred mortgage exceeding the sale proceeds. There is only one supplier of REM in Canada — Canadian Home Income Plan, a nontraditional lender. In the absence of insurance, this supplier protects itself by limiting the equity conversion ratio to about 40 per cent of market value and by focusing on homes with higher value in centers with a history of rising property prices.

Housing has an important impact on the quality of life of seniors, and adequate, suitable and affordable housing for seniors can play an important role in reducing costs in other areas, in particular health and support services. The Government is committed to providing all Canadians, including seniors, with safe and affordable housing options.

In May 2004, the Task Force on Active Living and Dignity for Seniors tabled a report, *Creating A National Seniors Agenda*, which put forward a number of recommendations including consideration by CMHC of a REM product.

It should be noted that REM is complex. In addition, refinancing by seniors on a fixed pension (or small or no pension) is a controversial concept, and the special risks involved with REM are an added concern. Hence, counseling is key and inheritance is a consideration.

As indicated by the Minister of Labour and Housing, the government is currently looking at options that would help seniors to continue living independently in their own homes. Preliminary work is underway and CMHC will consult with its partners on this important issue.

## HEALTH

### DECLINE IN MEDICAL STUDENTS FROM LOW-INCOME FAMILIES

(Response to question raised by Hon. Wilbert J. Keon on June 29, 2005)

The Government of Canada is aware of the impact of rising tuition fees and subsequent debt load on a number of professional programs, including medicine.

Through the Pan-Canadian Health Human Resource Strategy, Health Canada, in partnership with provinces, territories, and health care stakeholders, is working to ensure the right number, mix, and distribution of health care providers across the country. In particular, support has been provided to national professional associations, such as the College of Family Physicians of Canada, to promote interest in and support for family medicine among students.

In addition, the Government of Canada is working with provincial and territorial governments on the September 2004 First Ministers' Meeting commitment to introduce measures to reduce the financial burden on students in specific health education programs in order to promote accessible and affordable post-secondary education for all qualified students.

Budget 2004 announced significant improvements to the Canada Student Loans Program, including:

- Introduction of two new grants: one for first year low-income students and another for disabled students;
- Increased loan limits for the first time in ten years; and
- Extension of eligibility for student loans by reducing expected parental contributions.

These initiatives will commence August 1, 2005.

Medical students, like other Canadian students, will benefit from these measures.

Budget 2004 also included a review of debt management measures to ensure that they accurately reflect the capacity of borrowers to repay their student debt. The Government of Canada is currently working on this review with its provincial and territorial student financial assistance partners. The particular needs of medical students will be given consideration in the context of this review.

## NATURAL RESOURCES

### NEW BRUNSWICK—FINANCIAL TERMS FOR REFURBISHING POINT LEPREAU NUCLEAR POWER PLANT

(Response to question raised by Hon. Noël A. Kinsella on June 28, 2005)

Minister Efford was speaking strictly for his Department when he commented on his knowledge of the file in the New Brunswick Telegraph.

Natural Resources Canada (NRCan) is only responsible for providing the technical expertise on the nuclear file. In terms of potential federal funding for the refurbishment of provincial nuclear facilities (i.e. Pt. Lepreau) this decision is not the responsibility of the department.

The Government of Canada does not have nor has it ever had a policy for the refurbishment of provincially-run nuclear power plants.

[Translation]

#### ANSWERS TO ORDER PAPER QUESTIONS TABLED

##### FOREIGN AFFAIRS—STATUS OF IRAQI NATIONALS OF SADDAM HUSSEIN GOVERNMENT WORKING IN CANADA

**Hon. Bill Rompkey (Deputy Leader of the Government)** tabled the answer to Question No. 12 on the Order Paper—by Senator Downe.

##### TREASURY BOARD—SERVICE CANADA INITIATIVE

**Hon. Bill Rompkey (Deputy Leader of the Government)** tabled the answer to Question No. 14 on the Order Paper—by Senator Downe.

[English]

#### SAME-SEX MARRIAGE

##### PRESENTATION OF PETITION— CONTRAVENTION OF *RULES OF THE SENATE*

**The Hon. the Speaker:** Honourable senators, before going to Orders of the Day, I advise that the table has brought to my attention that the petition tabled earlier by Senator St. Germain does not strictly comply with our rules, which provide in rule 69 that a petition shall be clearly written and signed by the petitioner.

In the case of this petition, it is one that the senator has received by email and contains the email addresses of the petitioners. Therefore, for us to receive such a petition would require leave. I now recognize Senator St. Germain to request that leave if he wishes.

**Hon. Gerry St. Germain:** I do request leave, honourable senators. I was unaware of the circumstances around that rule. My office staff advised me that they had checked with someone, but I do not know who they checked with.

**Hon. Bill Rompkey (Deputy Leader of the Government):** This causes a difficulty, honourable senators, because the rules, as His Honour has said, are clear. There appears to be a departure from the rules. I wonder if Senator St. Germain would agree not to proceed today, but to let us give this matter further consideration.

**Senator St. Germain:** Agreed.

**The Hon. the Speaker:** Leave is not granted at the present time, and I will leave it to the parties to discuss further action.

[ Senator Rompkey ]

## ORDERS OF THE DAY

### CRIMINAL CODE CULTURAL PROPERTY EXPORT AND IMPORT ACT

#### BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Baker, P.C., seconded by the Honourable Senator Eggleton, P.C., for the third reading of Bill S-37, to amend the Criminal Code and the Cultural Property Export and Import Act.

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** I hear honourable senators asking for the question, and I see no senator rising to participate in the debate. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

### SPIRIT DRINKS TRADE BILL

#### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Cowan, for the third reading of Bill S-38, respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries, as amended.

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** I hear a request that the question be put. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill, as amended, read third time and passed.

### LEGAL AND CONSTITUTIONAL AFFAIRS NATIONAL FINANCE

#### MOTION TO AUTHORIZE COMMITTEES TO MEET DURING ADJOURNMENT OF THE SENATE WITHDRAWN

That the Standing Senate Committees on Legal and Constitutional Affairs, and National Finance, be empowered, in accordance with rule 95(3), to sit during the period of July 8 to July 15, 2005 inclusive, even though the Senate may then be adjourned for a period exceeding one week; and

That these committees be authorized to meet at any time during this period.

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, this motion has now been overtaken by events, so it is null and void. I ask leave to withdraw it.

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

**Hon. Senators:** Agreed.

Motion withdrawn.

[Translation]

## PERSONAL WATERCRAFT BILL

### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Andreychuk, for the third reading of Bill S-12, concerning personal watercraft in navigable waters.—(*Honourable Senator Lavigne*)

**Hon. Madeleine Plamondon:** Honourable senators, I would like to take the adjournment of the debate.

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

**Hon. Senators:** Agreed.

On motion of Senator Plamondon, debate adjourned.

• (1910)

[English]

## 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 the second reading of Bill S-6, to amend the Canada Transportation Act (running rights for carriage of grain).—(*Honourable Senator Kinsella*)

**Hon. Noël A. Kinsella (Leader of the Opposition):** Honourable senators, I rise to continue my intervention on Bill S-6 and say to the sponsor of the bill that I appreciate his patience. We had a number of other items that we were researching.

To remind honourable senators, Senator Banks sponsored this bill. The bill amends subsection 93(2) and section 138 of the Canada Transportation Act to give the Minister of Transport, in consultation with the Minister of the Canadian Wheat Board, the power to grant expanded running rights to non-class 1, or short-line rail carriers, for the carriage or transportation of grain. It also imposes certain conditions respecting these rights and allows for the payment of compensation to class 1 railway companies when

their properties and facilities are used by non-class 1, or short-line carriers. If the railway companies cannot agree on the amount of compensation, then the Minister of Transport, with the assistance of the Canadian Transportation Agency, will determine the amount.

By way of background, as this bill relates more to the movement of grain and affects the grain industry and the rail transportation system that helps move its products to market, one might find it at least of passing curiosity that a senator from Atlantic Canada would have an interest. Of course, if that grain does not move, we do not get grain in Atlantic Canada. Canadians in all parts of the country have a direct interest in an effective and efficient rail transportation system that moves grain.

Both in historic and current times, Canada's grain handling and transportation system has had to evolve with changing economic realities on an ongoing basis. In this regard, Parliament and government have played a major role on a number of different fronts, including the regulation of railway freight rates; investing in rail cars and branch line rehabilitation; single-desk marketing of oats, wheat and barley; overseeing the processes by which investments are made in port terminals and seaways; working on the allocation of rail cars; dealing with issues related to branch lines; and so many other matters.

The world of grain handling and transportation is very much a business that has to adapt to changing market realities in a very competitive global economy. Many of us from Atlantic Canada recall the days of seeing grain elevators in the ports of Halifax and Saint John where Canadian grain, which had been brought in by the railway system, was stored to be loaded on to ships. Times have changed, however. If one goes to these ports, one no longer sees those elevators there. We understand that there are changing realities and that this industry has had to face these realities. In so doing, the role of government must be a very proactive one. It must help maximize the efficient, effective and low-cost transportation and handling of this product, as other products. Canada's entire grain industry, from exporters, grain companies, farmers, processors and consumers expect this. Indeed, the efficiency of this industry, which annually exports 30 million tonnes of grain valued at \$6 billion, has implications for the entire Canadian economy.

Particularly in the last 20 years, successive federal governments have brought in regulatory changes of the grain transportation system that have been far-reaching in scope. The current policy framework, introduced in 1987 under Prime Minister Mulroney and modified in 1996, appears to have been quite successful. Railway productivity has improved dramatically, with much of the savings being shared with shippers. As well, major railways have made significant investments in their respective systems.

To quote some conclusions reached by the Canadian Transportation Act Review Panel, which were cited in a Transport Canada policy document entitled *Straight Ahead*, the panel stated that:

...the rail system works well for most users, most of the time. The Panel found that the system is fundamentally competitive and efficient. Canada and the United States rank at the top off international comparisons on overall rail system performance. The railways have achieved significant

improvements in financial performance in recent years, attributable in part to the strong performance of the North America economy, but also to impressive gains in productivity.

Nonetheless, we would be remiss as legislators if we were not to consider new ideas and changes to further improve our systems for the movement and handling of grain as for the movement and handling of other commodities. It is in this vein that Senator Banks has introduced Bill S-6, which was Bill S-18 in the Third Session of the Thirty-seventh Parliament. It is also in this vein that shipper groups have pressed for regulatory changes to increase railway competition.

The federal government and a plethora of stakeholders and interested parties have, to their credit, given this matter a thorough airing over the last six years. Whether it was the Estey and Kroeger processes, the CTA review, or other policy statements in and discussions emanating from Transport Canada, all aspects of this issue have been explored.

For example, the Canada Transportation Act, which, in part, is the legislation that governs the movement of grain and other commodities, attempts to achieve a balance between the interest of shippers, carriers and others. It needs to be stated that any changes to the running rights provisions, whether viewed in isolation or as part of a larger body of reforms, could have significant implications that could upset this balance.

As a general priority, government legislative and regulatory initiatives have to help ensure a viable rail network to provide all shippers with efficient and reliable access to domestic, continental and international markets; support the orderly management of capacity issues; help Canadian ports to compete internationally; and to achieve certain environmental objectives.

Paying heed to these general considerations, Bill S-6 raises a number of important issues. For starters, the current regime is one where decisions on running rights applications are made by the Canadian Transportation Agency, which has the expertise and experience to deal with such applications in an independent, quasi-judicial manner. The proposed Bill S-6 seems to change the situation by giving the Minister of Transport the authority to approve a running rights application.

The question that some senators may ask is: Following this model, would we be running the risk of politicizing this process? The question that might be asked as well is: Does this set a precedent for other quasi-judicial bodies by giving selective powers to a minister? Supporters of the bill will no doubt explain why they want to replace an arm's-length process with one that is not.

Another concern that might be raised as we examine Bill S-6 is that because it is limited to the carriage of grain, it may be perceived as unfair to shippers of other commodities — like potatoes in my region of the country — which comprise the vast majority of commodities shipped by rail in Canada. To illustrate that point, a breakdown of railcar loadings in Western Canada in 2002 was as follows: coal, 24 per cent; fertilizer, 17 per cent; forest products, 19 per cent; grain, 15 per cent; and other,

25 per cent. A breakdown of railcar loadings in Eastern Canada in 2002 was as follows: iron ore/concentrate, 31 per cent; ore and mining products, 16 per cent; forest products, 16 per cent; intermodal, 13 per cent; and other, 24 per cent. In terms of rail, one can clearly see the complexities involved in developing policy with respect to the carriage of one commodity in isolation from other commodities. Bill S-6 needs to be examined in this light as well.

• (1920)

Aside from these specific questions that honourable senators want explored, there may be others. For example, with respect to politicization and exclusion of commodities besides grain, matters surrounding the precise issue of expanded running rights provisions have to be considered in terms of whether they will result in an improvement to the rather unique situation that is Canada. We all know that this issue is complicated and, for some, even divisive.

In simplest terms, on one side of this issue is the position that competition between class 1 railways, such as Canadian Pacific Railway and Canadian National Railway, is already strong and would increase still further as system rationalization proceeds. Therefore, no other measure with respect to expanding running rights provisions, some might argue, is needed. Others hold a contrary view, saying that the interests of shippers and the goal of reducing shipping costs would be best achieved under a regime where short-line operators are given greater competitive access rights to the properties and facilities of class 1 railways. Still a further view is that not enough is known to permit a competent assessment of what effects an expanded running rights regime might have. The fact is that there is little or no Canadian experience to take a definite view in the matter. As well, there is also room to question how applicable experiences with open access in other countries and industries might be to Canada's rather unique rail system.

In considering some of these views, it would be instructive to also recall a number of points made by the Canada Transportation Act Review Panel and by the government's response to that review. First, we should recall that the panel concluded that Canada's rail system is not inherently anticompetitive. It found no evidence that railways are earning excessive profits; market abuse is not systemic or widespread and there is no need at this time for sweeping regulatory measures to raise the level of competition; and most shippers in most markets within Canada are reasonably well served.

Second, we might want to recall what the panel and the government have said about how an expanded running rights regime could affect railway investment, rail efficiencies and services to shippers. Although the panel supported running rights, it did so under the conditions that track owners are given sufficient encouragement to make investments to sustain the infrastructure and that access charges be set high enough that new entrants cannot exploit the network in which they have no proprietary interest. The panel was also careful to point out that experience with open access in other network industries is not directly applicable to the rail sector because of operational, technical, financial and economic differences.



As an illustration of how difficult this decision is, shippers felt that the panel's proposed access fees were too high and, for this reason, the panel's specific proposal on running rights would be unworkable. On the other hand, railways cited the practical difficulties of establishing a fair level of compensation with a host railway and a range of other concerns, including the loss of efficiency from the reduction of traffic densities.

Honourable senators, in committee, we would want to delve into whether Bill S-6 really resolves any of these competing issues and demands and, if it does, how it does.

For its part, the government, in response to the panel, would not itself identify an approach that would adequately balance concerns about network viability and the need to encourage reinvestment in the system, and the shippers' concerns about the level of excess fees. Simply put, honourable senators, there is a serious concern that expanded running rights could result in introducing inefficiencies into a system that already works reasonably well, by fragmenting traffic among the multiple operators. There could also be a reduction of the economies of scale and density that are essential to efficient railway operations and the financial viability of our main class 1 railways in Canada. This reduction could hurt railway infrastructure at a time when it needs new investments and top quality maintenance.

In the past, Canada's two main railways have stated that the uncertainty created by imposing open access or expanded running rights would make it difficult for them to raise funds on capital markets. Opposition has been expressed by the Railway Association of Canada on behalf of some regional and short-line railways, who felt that an expanded running rights regime could have adverse impacts on short-line rail development. This opposition must be taken seriously, honourable senators.

Another point raised by the CTA Review Panel, and cited by the government, is the extensive amount of regulatory oversight that would be required to administer an expanded running rights regime. Resolving disputes between host and guest railways would be onerous enough for a quasi-judicial process.

As I mentioned earlier, Bill S-6 raises questions in one's mind as to whether this would compound the situation through a politicization of the process. From this perspective, it is curious that expanded running rights provisions would not necessarily lead to greater productivity in our rail system but would lead to something more interventionist and, in the case of this bill, perhaps even a politicized crisis.

Finally, honourable senators, the issue of running rights must be considered within the context of other kinds of recourse to which shippers have access, including the provisions of the Canada Transportation Act with respect to level of service, confidential contracts, interswitching rates, connection rates to an interchange point and final-offer arbitration. All indications are that these mechanisms of shipper recourse work reasonably well, but there is always room for improvement.

I salute Senator Banks for his initiative, and further debate and examination no doubt will ensue.

**Hon. Jack Austin (Leader of the Government):** I thank Senator Kinsella for a thoughtful debate. I hope to do the same, so I would like to adjourn the debate.

On motion of Senator Austin, debate adjourned.

## STATE IMMUNITY ACT CRIMINAL CODE

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator LeBreton, for the second reading of Bill S-35, to amend the State Immunity Act and the Criminal Code (terrorist activity).—(*Honourable Senator Meighen*)

**Hon. Michael A. Meighen:** Honourable senators, I rise this evening briefly to lend my support to Bill S-35, to amend the State Immunity Act and the Criminal Code. Two weeks ago, the world was reminded once again of the threat that the Western world faces in this new era of global terrorism. More than 50 people were killed in London on July 7, and a number are still unaccounted for. Yet there persists in Canada the feeling that we are immune to such acts. I need only mention two words to remind Canadians of a terrorist attack that took the lives of 331 people, including 154 Canadians: Air India. Let us not forget, as well, 25 Canadians who were killed during the September 11 terrorist attacks in New York.

Canadians have been victims of terrorist attacks for many years, and the families and friends of those victims have suffered their loss with much grief. Now that Canada has been named as a target by terrorist organizations such as al Qaeda, the threat of terrorism directed towards Canadians has obviously increased. It is for this reason that we require in this day and age the legal tools necessary to hold to account those responsible for terrorist activities.

The State Immunity Act has evolved in the past to keep up with the times and provide Canadians with the tools that they require to defend themselves. Prior to its amendment, Canadian citizens were not able to file civil suits against foreign governments for commercial activities. As we entered an era of global commercial activity, the State Immunity Act evolved alongside our global society so that Canadians could hold accountable those foreign states that had breached commercial contracts.

• (1930)

Honourable senators, it is time for the State Immunity Act to evolve yet again. We have entered an era of global terrorism, and Canadians should have the right to hold accountable foreign states that sponsor terrorist activity. Whether a foreign state is directly involved in an act of terrorism, or whether a particular state harbours or permits terrorists to operate and train on their soil, such a country should no longer have a "get-out-of-jail-free" card. Such an amendment also serves to tell the world that Canada does not tolerate states that continue to support terrorism.

[Translation]

The last part of Bill S-35 amends the Criminal Code with regard to individuals involved in terrorist activities. The proposed amendment provides a civil remedy against any person who engaged in a terrorist activity contrary to the Criminal Code. This is another necessary tool for attributing responsibility to individuals involved in terrorist activities.

Honourable senators, we are living in a new era and Canadians need new means for fighting terrorism. It is the government's primary role to protect the well-being of Canadians and to ensure their safety. Unfortunately, the current laws in our country are obstructing justice.

I encourage all senators to support Bill S-35 so that Canada may send a clear message that no form of terrorism will be tolerated.

On motion of Senator Rompkey, debate adjourned.

[English]

## ROYAL CANADIAN MOUNTED POLICE ACT

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator Andreychuk, for the second reading of Bill S-23, to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations).—(*Honourable Senator Lapointe*)

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I wish to speak this evening in opposition to Bill S-23. The bill, introduced in the chamber by Senator Nolin, proposes to change the Royal Canadian Mounted Police Act to allow for the unionization of its members. In my view, if Bill S-23 were to become law, it would harm the RCMP and its members, and could place in jeopardy the security of Canada and Canadians.

Honourable senators, in no other country is a police force recognized as a national and positive, even touristic, symbol of the nation. When one says "police," the image of the RCMP officer is conjured up in the minds of Canadians. The RCMP, as Canada's national police force, is on the front line of tackling serious issues such as terrorism, organized crime, drug trafficking and financial crime, not only in Canada but also internationally. For many Canadians, the RCMP is also their community and provincial police service. In towns and cities across the country, RCMP employees are the first line of defence in ensuring safe homes and safe communities.

The force has members in 750 detachments that are spread across eight provinces, three territories and 200 municipalities. It also provides service to close to 600 Aboriginal communities, including 180 First Nations communities through 74 Community

Tripartite Agreements. Honourable senators, this institution has grown and developed as this country has grown from its humble beginnings over 130 years ago.

[Translation]

The direction and image of the RCMP have changed. The RCMP is now a modern and integrated police force that uses methods for ensuring our safety and protection in a modern world.

[English]

Throughout the 132-year history of the force, RCMP employees have been active members of the community that they serve. They work with youth, schools and community partners to develop strategies that will strengthen society and create better options than a life of crime. Today, as always, the face of the RCMP is in communities across Canada.

Allow me to reiterate, honourable senators, that the RCMP is Canada's national police force. As such, the RCMP is the only police force in this country that has the authority to enforce federal law, including the Criminal Code, anywhere in Canada. The RCMP can apply these laws across all Canadian jurisdictions. This is essential when today's criminal groups operate across countries and, indeed, across the world. The RCMP provides essential services to other police forces across the country, such as providing emergency assistance when and where it is needed and backing up its partner provincial and municipal police organizations.

[Translation]

The national police forces, under the direction of the RCMP on behalf of all Canadian law enforcement agencies, provide invaluable resources to the members of some 500 other law enforcement agencies in the country.

[English]

These resources include databases — fingerprints, criminal records, the DNA databank, forensic images, missing children, firearms — and other specialized services such as those offered by forensic laboratories at the Canadian Bomb Data Centre and the Canadian Police Information Centre. Honourable senators, the RCMP provides primary protective services to our Prime Minister, our Governor General, diplomats serving in Canada and visiting dignitaries.

Honourable senators, the bill proposed by Senator Nolin, while understandable, would encourage the threat of labour disruptions to this unique and treasured national law enforcement institution. By fashioning a change in attitude, both within and without the force, it could open the door to disruptive job action by those who enforce local, provincial and federal laws across the country. We do not want to risk a compromise of the ability of the RCMP to provide essential services to other police forces and correctional institutions. We do not want to put at risk the safety of our leaders and dignitaries from around the world and, indeed, Canada's reputation around the world.

Honourable senators, beyond the risk to Canada and Canadians, if RCMP members were given the option to disrupt their important duties, one would have to consider the effects of such a drastic change on the members. Every single RCMP

[ Senator Meighen ]

member in Canada today joined the organization knowing that it was not unionized and would not be unionized. RCMP members do not pay union dues but instead have the privilege of staff relations representatives, known as SRRs, working for them across the country. The salaries of these full-time employees are paid by the RCMP. Essentially, honourable senators, this means that the members are receiving the same benefits as unionized employees.

The SRRs are uniformed as well as civilian members of the RCMP. As such, RCMP regular and civilian members are represented by one of their own who knows the realities of their environment and their needs. The SRRs meet regularly with the Commissioner of the RCMP and senior management and are brought into the decision-making fold of the RCMP. They are truly a part of what shapes the direction of the organization. Thus, the SRRs create a collaborative, rather than an adversarial relationship.

I am certain that honourable senators are wondering how Senator Nolin's proposed bill, which would introduce collective bargaining, would help RCMP members negotiate better compensation packages. Treasury Board sets RCMP salaries based on negotiated settlements of other large police services in Canada to ensure that their pay scale is fair and comparable. RCMP members benefit from the collective bargaining regimes of other police services, while at the same time benefiting from a more collaborative relationship with management and never having to face the possibility of labour disruption.

Currently, RCMP members rank near the top of large police services in Canada in respect of compensation. Beyond dollars and cents, I would venture to say that RCMP members have a pension and benefits plan that is one of the best in the country. The men and women of the RCMP have benefited from a system that is collaborative and productive for both employees and management. This has ensured the smooth functioning of our national police force.

• (1940)

Finally, honourable senators, Senator Nolin's bill proposes to eliminate the RCMP External Review Committee, or ERC, and place the responsibility in the hands of the Public Service Staff Relations Board for matters relating to internal dispute resolution and discipline. In my view, this would be a step backwards for labour relations within the RCMP.

The ERC, an independent civilian agency, has almost two decades of expertise in interpreting labour laws and policies relating to RCMP grievances and appeals. In carrying out its work, the ERC ensures that RCMP members are treated in a fair and equitable manner, in keeping with the public interest.

Furthermore, honourable senators, this bill would raise issues regarding the power of the Commissioner of the RCMP to lead his own forces. This would compromise the ability of the organization to conduct its internal business in a way that lends dignity and respect to our national police service. We cannot

dilute the authority of the Commissioner to do the job he was given, which is to manage the proud men and women of the RCMP in their service to Canada and Canadians.

Let me summarize the key points. The Supreme Court ruled in the 1999 *Delisle v. Canada* case that the prohibition against collective bargaining for RCMP members does not contravene freedom of association, freedom of expression and equality rights enshrined in the Charter of Rights and Freedoms. Indeed, the system that is currently in place has served members and the organization well. To fix a system that is not broken would be a disservice to the men and women of the RCMP and would cripple their Commissioner in his ability to lead the organization.

Honourable senators, we cannot allow the possibility of labour disruption to compromise the RCMP's fundamental responsibility to policing, whether that be in the smallest town in Canada, or in cooperation with international partners in the global fight against terrorism. Although the proposed bill would not allow strikes, it would create an adversarial bargaining environment that could lead to RCMP members deciding to work to rule, to refuse to work overtime or to refuse to respond to call-backs, with consequent negative impacts on the RCMP's unique national functions.

Let me be clear that there is no demand from the members of the RCMP for collective bargaining. RCMP members were not widely consulted in connection with this bill and their elected representatives do not support this bill.

Honourable senators, when the question is put, Bill S-23 should be dropped. It is not good public policy.

**Hon. Lowell Murray:** Honourable senators, this is a private member's bill essentially, as my friend is aware. Nevertheless, he has engaged the authority of the government as one of its ministers in speaking against it and, if I understood his last comment, urging the rest of us to defeat it at second reading.

In substance, I do not disagree with the arguments he has put forward. Nevertheless, it is rather unusual, with a private member's bill, for us not to let it pass through second reading and go to committee.

I would like to see this bill go to committee because I would like to see senators have the opportunity to canvass at least three of the matters that the Leader of the Government mentioned in his speech. I refer first to the process by which wages and working conditions are negotiated or established with the RCMP. Second, regarding the role of the External Review Committee, the ombudsman who deals with complaints from within the force, I think it will be good to canvass that. Third, there is the role of the Commissioner, to which the minister has referred.

I would not like to commit myself to supporting the bill after it gets back from committee. I am sympathetic to the arguments put forward by the minister but I do believe it would be in the public interest for senators to canvass at least these three issues in committee.

When I speak of the role of the Commissioner, I am recalling a time, many years ago, when he and I were a lot younger around here, when I engaged a Commissioner of the RCMP on a personnel matter. I recall very well his reply to me: "I am the Court of Appeal." I think things may have changed and improved since those days but I would like to see the evidence for all this.

I think people on the Standing Senate Committee on Legal and Constitutional Affairs, or the appropriate committee of this place, would do well, on behalf of the Senate and public policy, to canvass a lot of these matters in committee. For that reason, I would urge the honourable senator to relent a bit and let the bill through second reading and send it to committee.

**Senator Austin:** Honourable senators, the key point I want to make is that I would not like to see this bill adopted in principle. I would not object at all to the reference of the subject matter of the bill, which we have done in other cases, to committee to answer the questions of Senator Murray or questions from other senators.

**Hon. Terry Stratton (Deputy Leader of the Opposition):** I have no objection to the Leader of the Government in the Senate wanting to move the subject matter of the bill to committee. I have no problem with that at all.

The only problem I have is that there are several other bills languishing in committee that have not been heard or been dealt with, and they have been there for months. I would agree with him, should he agree with our side that the bill be dealt with at committee.

**Senator Austin:** I thank the Deputy Leader of the Opposition. The subject matter of the bill should probably go to the Standing Senate Committee on Legal and Constitutional Affairs, and the chair and members will have heard our interest in having the bill dealt with. If it is agreed to send the subject matter of this bill to the committee, perhaps we could do that now.

**The Hon. the Speaker:** The mover of the bill is not here. Someone would need to move that motion.

#### SUBJECT MATTER REFERRED TO COMMITTEE

**Hon. Terry Stratton (Deputy Leader of the Opposition):** Honourable senators, I so move. I move that the subject matter of Bill S-23 be referred to the Standing Senate Committee on Legal and Constitutional Affairs for study — in a reasonable length of time, please.

**The Hon. the Speaker:** I can only put the motion. No senator rising, I will put the question. It is moved —

**Hon. Marcel Prud'homme:** I cannot speak for my friend Senator Nolin, who is unfortunately absent for good reason. However, I will take the risk of saying that if he were here, he would be happy at least that some progress is being made on this very important bill for him and for many other senators.

**The Hon. the Speaker:** I will put the motion. It is moved by the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton, that the subject matter of Bill S-23 be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

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

**Hon. Senators:** Agreed.

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

#### STUDY ON OPERATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

##### INTERIM REPORT OF OFFICIAL LANGUAGES COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Corbin, seconded by the Honourable Senator Poulin, that the sixth report of the Standing Senate Committee on Official Languages, entitled *French-Language Education in a Minority Setting: A Continuum from Early Childhood to the Postsecondary Level*, tabled in the Senate on June 14, 2005, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Canadian Heritage, the Minister of Social Development, the Minister of Justice and the Minister responsible for Official Languages being identified as Ministers responsible for responding to the report.—(Honourable Senator Murray, P.C.)

**Hon. Lowell Murray:** Honourable senators, having just delivered myself of an unscheduled and spontaneous intervention, I do not want to add to the oratorical marathon that I think will take place this week. I do have a speech to make on this subject but, unlike the other speeches that will be made during the week, my speech can wait, and I think I will let it wait.

Let me just say that this is, in my opinion, a very good report on a subject that I believe we all agree is extremely important, that is to say, French language education in a minority setting.

• (1950)

I need not remind honourable senators that this subject has been central to some of the most tumultuous political controversies and debates in our history, beginning shortly after Confederation and lasting until recent times, nor need I remind honourable senators that on this subject Canadians, and in particular our political leadership, have made some of the most egregiously bad decisions in our history and, at times, some of the most courageous and even noble decisions in our history.

I can say this is a good report with due objectivity and modesty because I did not join this committee until about midway through this study. I draw your attention to the report because it is an up-to-date analysis of the state of French language education in a minority setting today. I cheerfully acknowledge that most of the witnesses who appeared before the committee were supporters of minority language education. Their submissions were important because they had availed themselves of the most modern

analytical tools, be they legal, demographical or sociological, to examine the state of French language education in a minority setting. If you do not have time to read their presentations, a reading of the report, which is not too long and would not be too laborious, will give you an excellent account of the state of play today. The report includes recommendations with avenues of solution, not all of which are necessarily solutions for any government to pursue, but belong at the community level.

This is a good report. The speech that I would like to make some time on the subject can wait until another time. What is important for tonight is that the chairman, Senator Corbin, I and other members of the committee would like the report to be adopted, because we have availed ourselves of rule 131(2) of the *Rules of the Senate*, which requests a formal response from the government. If honourable senators, in their wisdom, see fit to adopt this report tonight, the clock will start ticking on the time limit for the government's response, and the sense of anticipation for this that Senator Corbin, I and others feel will be heightened, as will our gratitude to colleagues for having adopted the report.

**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 and report adopted.

[Translation]

## STUDY ON NATIONAL SECURITY POLICY

### REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE ENTITLED *BORDERLINE INSECURE*— DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the twelfth report of the Standing Senate Committee on National Security and Defence, entitled: *Borderline Insecure*, tabled in the Senate on June 14, 2005.—(Honourable Senator Stratton)

**Hon. Shirley Maheu:** Honourable senators, I rise today to speak in response to a report entitled *Borderline Insecure*, by the Standing Senate Committee on National Security and Defence.

[English]

I do so with considerably mixed feelings. This is a comprehensive report and is the result of endless study. I compliment the members of the Standing Senate Committee on National Security and Defence for a provocative set of proposals on a multitude of issues related to border security and cross-border activity.

I wish to preface my comments with a brief story about recent events that have implications for the recommendations of this report. Across the St. Lawrence River, on our border with the United States and opposite the city of Cornwall, is a sleepy American community called Roosevelttown in upper New York State. During daylight hours, there is a steady flow of traffic coming and going at this border crossing. There is not usually much to report about at this international link. Activities there are generally quiet, normal, regular and dull. However, there was recently something noteworthy about the situation at the Cornwall-Roosevelttown crossing. It seems that a majority of the U.S. customs and immigration personnel on duty are American veterans of the Vietnam War, a conflict that ended more than three decades ago.

I am told that there are 26 permanent customs and immigration positions at Roosevelttown. I understand that all 26 staff members holding these positions were recently absent on stress leave. I believe that when we talk about providing guns for our border control personnel, it would be useful to reflect on all aspects of border control activities and, in particular, the changes that the presence of guns might make in the entire effectiveness of border monitoring and control.

A border crossing at 3 a.m. can be a very lonely posting. I am sure that we can all imagine a Vietnam veteran, perhaps with a wandering mind, gun in hand, in such a situation in the middle of the night. The loneliness affords much time for daydreaming. What is he dreaming about? What crisis does he expect, and what is his reaction likely to be? Canada does not have Vietnam veterans to patrol our borders, and, frankly, I am glad that we do not.

It could be that Vietnam veterans are prone to stress because they do not want to ever have to use the gun at their side. There is no evidence in the committee report that suggests that the committee either sought or digested any analysis available concerning stress and guns. The real question is: Do guns plus a lonely posting plus border personnel equal more or less stress on the job? What about the factor of women's employment and the issue of guns in our customs service? The report is silent on these important issues.

[Translation]

The committee has recommended that our border guards carry guns. I am unequivocally opposed to this recommendation and, if it is implemented, we will have gone much too far.

[English]

Honourable senators, we should all worry about guns. I worry about guns. I worry about the hijacking of our lives, the challenges to normalcy by terrorists. We must find ways not to have our national psyche hijacked in such a manner.

I am not naive, nor am I an anti-gun hand-wringer. Such a characterization would be totally unfair. Our long-term program to maintain the registration of guns has been both costly and controversial, but I believe it is working, and now it will work. Never will we be able to calculate the positive results and the preventive scope of the message that gun control has achieved,

not only in Canada but also across the border. We have created an atmosphere of caution on the part of those who might otherwise use guns. In so doing, our citizens are safer; our public policy is the right one.

• (2000)

Since no one has convinced me otherwise, my sense of what our border personnel are doing is an excellent job to identify criminals at border crossings. Our customs officials are governed by multi-level response regulations when dealing with potentially explosive incidents. They have well-documented, superior skills in diplomacy, patience, tact and crisis management. Let us help them to do their work by increasing the ceiling, possibly on shopping regulations for Canadians returning from the United States, in order that our personnel may focus more important time on border crossing issues.

During the more than 130 years since Confederation, Canadians have been proud to remind each other that we occupy peacefully the north side of the longest undefended border on this planet. This self-congratulatory attitude is much more than long-term rhetoric on our part. This fact boldly and proudly speaks to the heart of who we are as Canadians.

The Canada-U.S. border is hardly just a geographical division; it is very much more than that. The border is our psychological and philosophical line in the sand, so to speak. It helps to define what we and who we are. To tinker with this by having armed men and women at our border crossing is much more than tinkering with border security; it is, honourable senators, a major assault on that which makes us different. I do not believe that Canadians are prepared to capriciously give some toys to the boys that would serve to challenge and reject so much of what we stand for. What about women already employed in customs operations?

[Translation]

What will happen to women who refuse to accept this outrageous belief that guns are the great saviours of our civilization? And what about the recruitment of more women under the condition that they carry a gun?

[English]

Many honourable senators will remember the great controversy about the proposed arming of police officials in London, England. There had been some attacks there by the Irish Republican Army. Police officers in London — one of the most diverse and cosmopolitan cities — are still not armed. This remains so in spite of race riots, underground train bombings and other terrorist events. While being surrounded every day by tensions, London police officers maintain their dignity, professionalism and effectiveness.

In Canada, there are always those people who have the same knee-jerk reactions to problem solving — “Give us guns!” It seems that they are saying that in their ignorance of the very high level of professionalism manifested by our Canadian customs officers in their day to day conduct, and in face of the frequent, American-inspired solutions, the demand continues to be —

[ Senator Maheu ]

“Give us guns!” Only guns will ensure the certain road to dignity and effectiveness by our customs agents, so they preach and fervently believe.

I am probably not permitted to use a word stronger than “balderdash” in response to this perverse line of reasoning.

**Senator Mercer:** Stretch the limits!

**Senator Maheu:** London police officers, or bobbies as policemen are called there, continue to carry their traditional stick, called a truncheon, and they also continue to enjoy their centuries-old status of being the most respected police force anywhere. I hope, honourable senators, that we will revisit this issue with some perspective so that we will not be seduced by thoughts of guns.

On another matter, honourable senators, why was this report of the National Security and Defence Committee first unveiled outside Parliament? Is it not the long-standing custom in this house and in the other place to issue such documents in either house, whichever forum is appropriate, in this case the Senate of Canada, prior to any non-parliamentary issue or discussion? This is our established and time-honoured process. Why was it violated? How can we complain about cabinet ministers making announcements outside of Parliament if our committees are doing the very same thing?

I realize the report was tabled on Tuesday, June 19 and only delivered to my office the next day, not looked at and certainly not debated. However, honourable senators know that the results of committee work in either chamber are first tabled and often followed by a comprehensive statement of the contents of a report, and only then does such a report become the subject of a news release or a news conference, followed by the frenzied pace of the committee chair and committee members while they engage in editorial boards, talk shows, service club regurgitations and town hall meetings, but that is another story.

To alter the course of this presumed sequence of events is to be in contempt of Parliament and of the Canadian people. This is clear and beyond debate. Why was the usual and expected procedure not followed? Why was there this haste? Why was there the patent disregard of those of us not on the committee?

To table a committee report suggests future debate. On the contrary, to unveil a committee report outside of the parliamentary context and in an *ex cathedra* fashion might imply that such a report is now beyond the Senate, or already approved by the Senate, perhaps never needing or requiring at all any Senate approval. Such procedure is the very absence of procedure. Clearly, it is a contemptuous act.

The least that senators should expect from this matter is an unqualified and heartfelt *mea culpa*. A more meaningful response would be a commitment never to act again outside of this established procedure.

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

**Hon. Tommy Banks:** Honourable senators, I thank Senator Maheu for her compliments to the committee for its assiduous work, with which she began her remarks, as the record will show. However, there is a misimpression, which I would not want to leave with honourable senators, and that is that the committee

recommended in its report that border officers or agents should be armed, period. That is not what happened. If honourable senators examine the history of the reports of this committee, committee members are on record as being specifically opposed to such arming when it was requested that we support that move by the members of the border services.

The report says that because of matters of security at Canada's ports, there needs to be a police presence at those ports of entry. As Senator Maheu has said, the border is undefended, in more ways than one.

In light of the security measures that we have seen and heard of from members of the border agency, the committee recommended that there be an RCMP presence at the border crossings, in the absence of which — and only in the absence of which — border officers should be armed.

**Senator St. Germain:** Hear, hear!

**Senator Banks:** Further, we made no distinction in the committee's report as between men and women because we make no such distinction.

The one point we did make clear was that border agents who are already employed and who wish not to carry arms, in the event that that were to happen, regardless of whether they are male or female, should not be required to do so.

**Senator St. Germain:** Hear, hear!

On motion of Senator Rompkey, debate adjourned.

• (2010)

## STUDY ON ISSUES RELATED TO MANDATE

### SECOND INTERIM REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report (second interim) of the Standing Senate Committee on Energy, the Environment and Natural Resources, entitled: *Sustainable Development: It's Time to Walk the Talk*, tabled in the Senate on June 14, 2005.—(Honourable Senator Banks)

**Hon. Tommy Banks** moved the adoption of the report.

He said: Honourable senators, I know that every one of you has read the deathless prose contained in this report. However, in case one or two of you were on holidays, I want to make clear that what it says is that this government, and the one before it and the one before that, has done noble work in terms of identifying the increasing difficulties having to do with sustainable development, and the principles that those successive governments have adopted have been excellent ones. The report then goes on to point out that the identification of those issues has not been matched with the commitment of resources or determination by any of those governments and that we need to do that. Hence, the title of the report: *It's Time to Walk the Talk*. I urge honourable senators to vote for its adoption.

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

Motion agreed to and report adopted.

## INFORMATION COMMISSIONER

### MOTION IN SUPPORT OF HOUSE OF COMMONS MOTION TO EXTEND TERM BY ONE YEAR— DEBATE ADJOURNED

**Hon. A. Raynell Andreychuk,** pursuant to notice of July 6, 2005, moved:

That the Senate of Canada join with the House of Commons, in recommending that the term of John Reid, the Information Commissioner of Canada, be extended by an additional year effective from July 1, 2005.

She said: Honourable senators, this motion has a time limit which should be dealt with, and I hope that there will be some consensus in this chamber.

The Prime Minister, and obviously the cabinet, extended Mr. Reid's term by three months. There was no consultation with Parliament, as I believe we have repeatedly requested in the past. I believe that this chamber should have equal weight with the House of Commons when it comes to parliamentary officers.

When Mr. Radwanski was appointed as Privacy Commissioner, this chamber called Mr. Radwanski to appear before us. It was clear at that time that there was no process by which Parliament assessed how officers of Parliament were appointed. It was also clear that the candidates were generally chosen in the usual manner that Orders-in-Council appointments were made. Therefore, no real arm's-length process involving Parliament occurred. In the spirit of democratic reform, there was much discussion that Parliament needed to get itself involved in this process because ultimately these officers are responsible to Parliament.

Ms. Stoddart appeared before us as the replacement for Mr. Radwanski, with the interim Privacy Commissioner, Mr. Robert Marleau, having worked out a reasonable procedure. It was noted that she did go through a process that was akin to the Public Service Commission processes. In other words, there was an attempt made to involve others and to give fair opportunity for all to apply for the job — all those who have some interest and some competence.

I and other senators remember that we called for a process that would be truly owned by parliamentarians for their officers. In fact, I recall Senator Moore had already compiled a valid series of questions to which he asked Ms. Stoddart to reply. We had no assurance that the process as put forward by Mr. Marleau for Ms. Stoddart's appointment would, in fact, be used for other officers. Therefore, it is important to extend Mr. Reid's appointment so that an open and transparent process involving the Senate and the House of Commons can be utilized.

The government is also preparing a change to the access to the information law and there is discussion that there will be some blending of the access to information process with the privacy process. The “how,” “when” and “if” are still to be worked out. In fact, these are rights that pertain to citizens, and these should be fully discussed within Parliament.

Both present office holders can give valuable information and intricate procedural knowledge to Parliament and to the government. Mr. Reid should continue for this reason also. If we are changing the act or the process, we cannot know what capabilities the new access to information officer might need. In other words, the job description is changing.

The House of Commons voted 277 to 2 to extend Mr. Reid’s term. We would be remiss in our obligations to the citizens and to our parliamentary officers if we did not extend his term so that we could do our job properly.

Government has extended for three months Mr. Reid’s appointment and they can, of course, extend it further. However, honourable senators, the pressure should be on us to put forward a process so that the government knows what is expected of them when they bring forward the names, and we are ready and willing to properly exercise this accountability.

Therefore I would ask this chamber to extend the term of Mr. Reid to coincide with what the House of Commons requested. I believe it would be in the interests of the government and this chamber.

• (2020)

**Hon. Marcel Prud’homme:** Would the honourable senator take a question?

**The Hon. the Speaker:** Senator Prud’homme wishes to ask Senator Andreychuk a question. Will Senator Andreychuk take a question?

**Senator Andreychuk:** Of course, honourable senators.

**Senator Prud’homme:** The question is simple. Is the honourable senator suggesting that we enhance the role of the Senate, as it should be enhanced, by calling Mr. Reid as a witness so that we can ask him more questions? Many people believe that the two positions should be united. Mr. Grace has said that would be a good idea. Sometimes, the Senate does its best work when we have these high officials in front of us to question them.

Would the honourable senator suggest to her leadership that they suggest to the Senate that, perhaps, it would be wise to call Mr. Reid? I share the opinion of the honourable senator that the appointment should be for one year. Mr. Reid has made many proposals publicly, but none to us. After all, we are the ultimate so-called chamber of sober second thought.

**Senator Andreychuk:** I will certainly put that to my leadership.

The problem of only calling Mr. Reid has been a problem that not only I have faced but which other senators have faced. We are told he will come before us because his appointment is being extended, or because a new appointment is being made. However, as a body, we have not really put forward our expectations.

Therefore, I find that some senators are asking questions more of the government than of ourselves because these are officers of Parliament. We should know what we demand of them. We should have a transparent and open process for anyone who is competent to apply for these positions. These are the most important positions for accountability in a democracy.

We are the ones who have allowed it to go on as an Order-in-Council process. It is time that we exercised our role in a more routine way with regard to all the officers of Parliament.

The original comments that were made were not made solely by me but by many other honourable senators over the course of the last two or three appointments.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I have a further question for Senator Andreychuk.

As the honourable senator knows, the item which she has moved is under the rubric, Motions. In the remarks of the honourable senator prior to the question asked by Senator Prud’homme, I thought that the honourable senator said that the Senate would have some determinative role to play with respect to the extension of the term. I see the honourable senator shaking her head, meaning that she understands that this is simply a recommendation to the Governor-in-Council to extend the term to one year. I take it that is clear. I wanted the chamber to understand if the honourable senator had a different view.

The motion is narrowly cast. It simply deals with the term of John Reid. However, most of the debate of the honourable senator relates to a completely different topic, which is the subject of this chamber examining the criteria for the appointment of parliamentary officers. Is that the case?

**Senator Andreychuk:** Senator Austin is right. We can pass a motion recommending to the government that the appointment be for one year. If the wording does not suit the government, then the leadership can discuss it.

We need a one-year term for two reasons. First, the government has signalled that it will go through a process of changing the access-to-information law. It has given a signal that it may combine the position with the one for privacy. Therefore, it would be important to keep Mr. Reid available for the next year. As a result, we would have the benefit of his knowledge while we are looking at other pieces of legislation. He has a seven-year background in this area.

We would also be able to know how to structure the competency that is necessary for that position. It is true that I am talking generalities. However, the only way to arrive at a generality is to pinpoint it specifically. I have said before that we need a process. Nothing has occurred.

If we do not put our feet to the fire with Mr. Reid’s situation and his successor, then we will still be talking in generalities five years from now. We can use this appointment as the first in setting a process into place.

On motion of Senator Rompkey, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.



## Appendix A

### Observations to the Eleventh Report of the Standing Senate Committee on Legal and Constitutional Affairs

Protecting children from sexual abuse and exploitation has been a deep and abiding interest of your Committee. We therefore support the overall goals and methods of the Bill. We do, however, have some concerns with several of its details.

We have serious reservations about the broadened definition of child pornography and the reformulated defence. The new definition could lead to a conviction for a child pornography offence without there being any abuse of an actual person.

We are also concerned about the revised defence, which will permit art that has a “legitimate purpose,” and “does not pose an undue risk of harm” to minors. This new defence is vague and subjective; leading to uncertainty for artists and writers and a possible restraint on their creativity.

Your Committee is also concerned by the imposition of mandatory minimum punishments that apply to some of the offences against children. Such punishments infringe upon the full application of the principles of sentencing which have been stipulated by Parliament.

We also wish to point out that an important sentencing tool is lost when a minimum sentence is mandatory, particularly in cases when a conditional sentence might otherwise be considered. When a conditional sentence order is prescribed, section 742.3 of the *Criminal Code* permits a court to *impose* as a condition that an offender attends a treatment program. When a conditional sentence is not available (as when a minimum term of imprisonment must be imposed), an offender *may accept, or*

*may refuse* to attend a treatment program under a probation order (section 732.1). Treatment programs seem particularly appropriate in connection with sex offences. Without them, an offender may leave prison unchanged such that the cycle of abuse may continue.

There is a need for more research in the area of child sexual abuse and exploitation. It is clear there is a need to know more about the risk factors for deviant behaviour so that we may intervene to prevent future harm. Specific mention was made about the lack of programs for men at risk of abusing children. We also need to know more about how to predict recidivism. In addition, we believe there is insufficient data available about the effectiveness of monitoring the behaviour of those under long-term supervision orders.

Assessing the effect of the mandatory minimum punishments in the Bill is also in order. We recommend that research in all of the foregoing areas be undertaken, so that it may be available for the five-year parliamentary review called for in the Bill.

Finally, in view of the importance of Bill C-2, and the fact that it contains a number of controversial provisions, we wish to review the Bill *before* five years have elapsed. Such a study will serve as an early warning system should we discover difficulties with the Bill. It will also allow us to assess whether the research projects we have recommended are sufficiently advanced so that the prescribed parliamentary review can be undertaken with the best possible evidence.

## Appendix B

### Appendix to the Sixteenth Report of the Standing Senate Committee on National Finance on Bill C-48,

#### An Act to authorize the Minister of Finance to make certain payments

At its meeting of Tuesday, July 12, 2005 the Committee agreed, on division, to adopt Bill C-48 without amendment. The Committee also agreed to allow the observations of a minority on the Committee, namely the Conservative Senators, to be appended to the Committee's report.

The following observations do not reflect the unanimous observations of the Committee.

#### MINORITY OBSERVATIONS ON BILL C-48

##### BACKGROUND

In February of this year the minority Liberal Government tabled its budget. As usual the budget was the product of long working hours by both government officials and bureaucrats from a variety of departments. In an unprecedented move, however, a few months later, Bill C-48 was presented as a result of an agreement between the Liberals and the NDP.

Conservative members of the Senate Committee on National Finance strongly oppose the structure of C-48 as it does not provide the transparency and accountability required from a budget bill. Canadians deserve better financial management from their government.

C-48 spends \$4.5 billion on various policy areas, but with little or no detail as to the programs that will be resourced when the money designated actually flows.

##### NO DETAILS

Bill C-48 authorizes funding in a wide variety of areas — post-secondary education, housing, the environment, public transit, and foreign aid — but with no details on how this spending will be allocated. Government officials questioned during the Committee's hearings on C-48 were also unable to provide details. The Parliamentary Secretary to the Minister of Finance, Mr. John McKay, commented on this lack of detail when he noted in his testimony before us that: "*I anticipate some concerns will be raised about the fact that there is not specific detail that one would anticipate in a budget.*"

Lack of specifics in a budget bill is contrary not only to our own parliamentary tradition, but to the traditions both practiced and aspired to by democracies the world over. As one of our witnesses, former Deputy Finance Minister Stanley Hartt noted in his submission to the committee:

*... prudence, and Parliamentary practice, should dictate that the House and the Senate appropriate moneys when programs have been thought through and developed, when program parameters exist that can be set before the legislators whose control of the public purse is paramount and who are entitled*

*to know what spending they are actually approving, and not merely be required to rely on a list of fine-sounding objectives.*

##### NO ROLE FOR PARLIAMENT

What the government is asking the Committee to do is to pass a bill that authorizes the spending of billions of dollars of taxpayers money without offering Canadians either details or a plan on how that money will be spent, and without offering Parliament any information through which it can hold the government accountable. Again in the words of Mr. Hartt:

*... senators should be alarmed at the precedent that Bill C-48 sets for the manner in which legislators are invited to use or, in this case, I think, fail to use the traditional power of Parliament to control public spending. Those powers were hard-won. We did not shed any blood in this country over them, but our forbears in Britain, whose parliamentary system we inherited did. The supremacy of Parliament on spending matters is a very valuable tradition that we should not be so casual about.*

The Comptroller General of Canada, testified that C-48 represents a prudent approach to fiscal management in that the \$4.5 billion would be spent out of surplus over a two year period only if there is a \$2 billion surplus in each year. However, this leaves those who may be counting on the money in a constant state of uncertainty about whether they will get the money until the surplus is actually announced (sometime in the Fall of 2006). As the Chair of the Committee noted, rather than allowing ministers and government officials time to plan their various programs it may instead raise false expectations. Needless to say, that would only have to occur once, before planning for what may never happen would be abandoned by those same officials and ministers.

The view of the Comptroller General was contradicted by the Parliamentary Secretary to the Minister of Finance, who noted in his testimony: "*I do not want to be too crass about it, but if I was a department anticipating receiving money, I would not be booking this money until I know that [\$2 billion] surplus was in place.*"

Conservative Senators are not impressed by the argument that at least by C-48 Parliament had a say in what areas future surplus monies would be spent. It is argued that this was preferable to a situation where Cabinet may spend the surplus on anything it likes without consulting Parliament. Conservative Senators disagree. Even with the passage of C-48 there is nothing stopping Cabinet from spending money as it sees fit. Bill C-48, requires asking Parliament to approve spending for which there is no oversight and which the government can spend according to its own whims, after which it can argue Parliament approved it, at least in general terms. This does not amount to an improvement in the expenditure process.

Some Senators argued that that there would be ample time for Parliamentary committees to scrutinize the spending in the five months between the time the fiscal year ends on March 31 and the time in which the actual amount of surplus is determined in the Fall. But clearly this would be scrutiny after the fact, as it would take place during the review of supplementary estimates. As Mr. Peter Devries from the Department of Finance told us:

*Once these agreements are in place and the payments are made, they will show up in supplementary estimates as a statutory program for information purposes, but of course the committees involved in reviewing those supplementary estimates can then ask any question of the minister or officials involved with respect to more details on those programs*

The November 2006-2007 Supplementary Estimates will be tabled more than six months after the end of the fiscal year, and two months after the books have been closed and the surplus will have been known with certainty. The money designated under Bill C-48 will have been spent — Mr. Devries told us that the government would be issuing cheques sometime in September or October of 2006. As Mr. Hartt described the process in his testimony: “In other words the money is blown; now we are going to be told, because people are nice and they will show up and sit in this chair, how it was blown.”

#### WHERE WAS THE FINANCE MINISTER?

Because of its brevity, and due to its lack of detail, we are of the opinion that this so-called budget bill is little more than hastily prepared legislation designed to do little else than prop up a minority government, as even the Minister of Finance has implied. We are convinced that government protestations otherwise, are merely an attempt, in the words of one of our witnesses to make a silk purse out of a sow's ear.

Conservative Senators are concerned that this Bill was developed without the Finance Minister — the Chief Financial Officer of Canada — directly involved in the negotiations that led to it being drafted and tabled in the Other Place. As well, he failed to appear before this Committee to defend the legislation.

In fact, the Finance Minister criticized aspects of the deal on the morning of the day it was announced by the Prime Minister. The Minister of Finance was quoted in the press that day as criticizing the removal of corporate tax cuts, only to tell this Committee during its hearings on C-43 that he had a hand in the deal, in that he was in close consultation with the Prime Minister and the Government House Leader on a day-to-day basis leading up to the agreement with the NDP. Yet, according to his Parliamentary Secretary the Finance Minister never discussed the substance of the NDP-Liberal agreement with him in those crucial days. Conservative members were disappointed that the Minister did not appear before the Committee on C-48 to clarify his role in this budget bill.

We are also concerned that the genesis of Bill C-48 sets a dangerous precedent as it means budget bills can be developed without direct involvement of the Finance Minister. Even the Parliamentary Secretary of the Minister of Finance acknowledged that “My involvement was after the fact.”

#### HOW WILL THE MONEY BE SPENT?

The bill asks for \$1.6 billion for affordable housing including housing for Aboriginal Canadians. Yet there is nothing in the bill that identifies how this money will be spent to benefit Aboriginal Canadians. Money is directed at a problem area without identifying how it can be spent more effectively.

The same is true in the area of foreign aid, a term which may mean development assistance, but that, at the same time, is so wide open that it could refer to military support for foreign powers. Bill C-48 designates half a billion dollars to foreign aid, with absolutely no information as to how it is to be delivered, to whom it is to be delivered, who will manage the funds once they are delivered, and to what positive end. As David Stewart Patterson, of the Canadian Council of Chief Executives testified:

*... it is also important to recognize that the best way to achieve some of these goals does not necessarily involve public spending....there is broad consensus, and you heard it in some of the G8 discussions over the past week, that the most effective thing Canada and other industrialized countries can do to help the poorest farmers in the least developed countries is to free up agricultural trade through the WTO. None of that kind of looking at alternatives in terms of the best way to meet these policy goals is addressed in the rather brief text of this bill.*

Much the same could be said about the money designated for the environment, for housing and for education (the latter two of which happen to be largely a provincial jurisdiction).

#### WHERE IS THE ACCOUNTABILITY?

Government officials who appeared before the Committee explained that the expenditures in the bill will be statutory. However, most statutory spending is carried out based on strict guidelines already set out in law. For example the *Employment Insurance Act* sets out specific rules for benefit levels and eligibility, while transfers to provinces and territories are made based on a set formula. There are no specific guidelines to govern any payments made pursuant to C-48. Parliament will have no say, as these guidelines will be set away from the gaze of Parliamentarians. This is not, as Mr. Patterson told us, sound public policy.

The bill allows the government to create or acquire unspecified corporations while providing no legislative guidance as to the accountability and governance of those corporations. This is an invitation to the kind of misuse and abuse of funds that led to Adscam, only Bill C-48 involves much more money.

#### CONCLUSION

We oppose this bill for many reasons. But ultimately we oppose it because in exercising one Parliamentary prerogative — to vote for a bill — the effect is to remove from our hands another Parliamentary prerogative, the ability to effectively scrutinize government spending. This we cannot support. If it is irresponsible for the government to introduce legislation of this nature, we feel that it would be just as irresponsible to support such legislation.

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