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Tuesday, May 15, 2007

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Tuesday, May 15, 2007

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

Prayers.

SENATORS' STATEMENTS

CHINESE IMMIGRATION ACT

SIXTIETH ANNIVERSARY OF REPEAL

Hon. Vivienne Poy: Honourable senators, yesterday was the sixtieth anniversary of the repeal of the Chinese Immigration Act, 1923, also known as the "Chinese Exclusion Act." This act was passed by the dominion government banning immigration to Canada with few exceptions. From then, until its repeal in 1947, only a handful of Chinese entered Canada.

Many senators may not understand why such a law was passed. I will explain. The Chinese Exclusion Act was the culmination of a series of acts focused on stopping Chinese from entering Canada. When the Canadian Pacific Railway, CPR, was completed in 1885, it was thought that Chinese labour was no longer needed. A head tax of $50 was imposed on each person of Chinese origin entering Canada irrespective of their allegiance or citizenship. This amount was imposed because it exceeded what a Chinese labourer could save, which was $48 in a year after living expenses.

The amount was increased to $100 in 1900 and $500 in 1903. This tax was still deemed to be not enough of a deterrent.

I will share one quote from the *Debates of the Senate* in 1923. Senator Sanford Johnson Crowe said:

> If you are going to open the door and allow wives to come in, you might as well give British Columbia to the Chinese. . . . When I say that there are 2,000 business licences taken out in the city of Vancouver alone by Orientals, you will realize that. The Chinese have gone into every business you can name.

• (1405)

Honourable senators, 60 years ago yesterday, Chinese exclusion was repealed. This year is also the fiftieth anniversary of the election of Douglas Jung, the first Chinese Canadian MP. Both events are cause for celebration.

The appointment of the Honourable David Lam as Lieutenant-Governor of British Columbia in 1988 was another important turning point in the history of Canadians of Chinese heritage. He was the first Chinese-Canadian to become a Lieutenant-Governor in Canada.

Canada is definitely moving in the right direction. However, when you look around this chamber and the other place, our representation is abysmal in comparison to our numbers in the general population. There is still much work to be done in order for Parliament to reflect the population it serves.

INTERNATIONAL CONSCIENTIOUS OBJECTORS DAY

Hon. Nancy Ruth: I hope all honourable senators had a great Mother's Day and have filed their income tax. The two have a relationship to each other. That is what I wish to talk about.

American Julia Ward Howe, the author of the *Battle Hymn of the Republic*, saw some of the worst effects of the Civil War. She worked with widows and orphans on both sides of the war, and she realized that the effects of war go beyond the killing of soldiers in battle. She saw the economic devastation of the Civil War, the economic crises that followed the war and the restructuring of the economies of both the North and South.

In 1870, Julia Ward Howe created an anti-war day that we know as Mother's Day for Peace. She was convinced that, "The sword of murder is not the balance of justice."

Today is International Conscientious Objectors Day. Conscientious objectors to physical military service have been recognized in most parts of the world. Conscience Canada, along with other groups, points out that modern wars are hugely dependent on tax monies.

For conscientious objection to be adequately recognized, citizens who object to paying for war must have the means to redirect their war taxes toward non-violent means of peace building. Canada has several historical precedents for recognizing conscientious objection to military taxation, starting with the War of 1812.

Our Charter enshrined freedom of conscience based on secular morality as well as religion. In 1981, Senator Eugene Forsey and six other MPs said:

> In times of military conscription, exemption from service in the military can be claimed on grounds of conscience, and alternative service is approved. It should be equally possible to claim exemption from taxes intended for war preparation and a related alternative should be offered.

I am one of those Canadians who, for some years, have withheld from my income tax payment the percentage for the military budget. I have put that money on deposit with a peace tax fund called Conscience Canada.

I encourage honourable senators to do so, too, and to work for the right of Canadians to do three things: to legally and conscientiously object; to pay taxes for peace, instead of the military; and, finally, to support Bill C-348 when it comes to this chamber.

As Julia Ward Howe said, "The sword of murder is not the balance of justice."

WORLD HOCKEY CHAMPIONSHIPS

CONGRATULATIONS TO TEAM CANADA ON WINNING GOLD MEDAL

Hon. Joseph A. Day: Honourable senators, on Sunday afternoon in Moscow, Canada's men's hockey team squared off against Finland in the gold medal game of the 2007 Ice Hockey Federation's world championship. Coming into the game, our Canadian squad was undefeated in their previous eight games, including a 5-1 victory over Switzerland in the quarter-finals and a 4-1 victory against Sweden in the semi-finals.

Led by team captain Shane Doan, the Canadian team finished the tournament with a perfect 9-0 record by defeating Finland with a score of 4-2. Canada's perfect 9-0 record marked a remarkable fifteenth time since 1930 that Canada has skated through the world championship without a loss.

• (1410)

Honourable senators, special recognition must go to tournament MVP Rick Nash, who scored two goals in the gold medal game. I predict that his backhand shot for the final game-winning goal will stay in our memories just the way that Bobby Orr's dive across the goal crease in that final game in Boston is so well remembered.

Honourable senators, special recognition must also go to Captain Shane Doan, who excelled through a great deal of political scrutiny resulting from, in my view, unfortunate and unfounded allegations.

Congratulations, gentlemen. Your professionalism has made all Canadians proud.

MANITOBA

REPORT OF CHILD CARE COALITION

Hon. Maria Chaput: Honourable senators, I have just received, through the Child Care Coalition of Manitoba, reports on child care in Manitoba. The coalition has produced four economic and social impact reports to document the many contributions made by the child care sector. I would like to quote from two of those reports.

1. Rural Child Care: Child care as economic and social development. Rural areas need child care. Regulated child care helps parents balance work and family responsibilities and provides children with a rich environment for development and care. Child care is good for equity and supports their labour force participation. Rural regulated child care is a key part of rural infrastructure and economic development.

2. Franco-Manitoban Child Care: Child care as economic, social and language development. In Manitoba's francophone communities, regulated child care services play an additional role. Francophone child care contributes to linguistic and cultural vitality in the next generation. French child care enables children to have a strong language foundation for primary and secondary schooling.

[*Translation*]

The Leader of the Government in the Senate, Senator LeBreton, answered my question on May 9, 2007, regarding child development, and I would like to quote part of her response:

> For anyone to say that this government is ignoring our children and ignoring minority language rights is just false.

At the end of her reply, Senator LeBreton added:

> I take great offence that the honourable senator would think that our government has not responded to these matters, because we have.

So, today I would like to revisit this subject.

[*English*]

My question to Senator LeBreton meant that the actions taken by the Conservative government toward child care programs demonstrate a lack of understanding of the needed regulated child care and the needed regulated francophone child care. For those in minority communities, regulated services are the window of opportunity for providing active support and services in French.

[*Translation*]

The needs of minority language communities were not taken into consideration when the Conservative government cancelled the child development agreements. You have weakened our resources and are chipping away at our already fragile and crumbling foundations.

Honourable senators, I can only repeat that regulated early learning and child care services, support and involvement in early childhood are essential to the survival of minority francophone communities, as well as to the success of French-language schools across the country.

[*English*]

CHINESE IMMIGRATION ACT

SIXTIETH ANNIVERSARY OF REPEAL

Hon. Lillian Eva Dyck: Honourable senators, May 14, 2007, marked the sixtieth anniversary of the repeal of the Chinese Immigration Act. This act, referred to as the "Chinese Exclusion Act," was enacted from 1923 until 1947 and prevented the wives and families of Chinese men in Canada from joining them. Consequently, Chinese immigration was effectively stopped until the act was repealed in 1947.

• (1415)

On June 22, 2006, the Canadian government apologized to Chinese Canadians who paid the head tax and provided funds for redress and for educational activities to acknowledge formally its former regrettable actions and to make reparations. This week, the Chinese Canadian National Council held a press conference here in Ottawa urging the federal government to extend direct redress to descendants of deceased head tax payers whose spouse had also passed away before June 22, 2006.

Honourable senators, let us all remember and celebrate the hard work and remarkable accomplishments of the many, many millions of Chinese Canadians, past and present, who have helped shape our great nation.

WORLD HOCKEY CHAMPIONSHIPS

CONGRATULATIONS TO TEAM CANADA ON WINNING GOLD MEDAL

Hon. Joyce Fairbairn: Honourable senators, while we are still deep into cheering the Ottawa Senators on their march toward the Stanley Cup, I want to join with others today in expressing the pride we have for all our players who led our Team Canada to victory in the world championship games in Moscow over the weekend.

Without a single loss throughout the games, our team won by a hard-fought four goals to two over Finland in the final gold medal contest yesterday. The most valuable player of the games was Brampton, Ontario's Rick Nash, with two goals in the final game and six overall in the tournament, an absolutely outstanding performance.

There was another outstanding and courageous performance by a young man who came from the small Alberta town of Halkirk. While helping out with that final goal, he also had the honour of guiding our team with tremendous commitment as its captain. His name is Shane Doan, who, at the young age of 30, already has an outstanding history in hockey over the past decade, first with the Winnipeg Jets and now in partnership with the Phoenix Coyotes. He played with Team Canada at the 2006 Olympics and has guided our team in Moscow with great skill and leadership.

In all my 23 years in the Senate, I have not received as many calls and emails from Albertans as in the last few days, as they rallied around this young man for his talent, courage and dedication to his country and all its citizens. I join them with pride and good wishes for many more years of success for Shane and all his teammates as they continue to dominate one of our great national sports. I also send best wishes to the Doan family and all the citizens of Halkirk who have supported his career.

[*Translation*]

ROUTINE PROCEEDINGS

COMMISSIONER OF OFFICIAL LANGUAGES

2006-07 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the 2006-07 annual report of the Commissioner of Official Languages, pursuant to section 66 of the Official Languages Act.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

USER FEE PROPOSAL FOR INTERNATIONAL YOUTH PROGRAM—REFERRED TO FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, pursuant to rule 28(3.1), I wish to inform the Senate that the Department of Foreign Affairs has filed a user fee proposal for the International Youth Program with the Clerk of the Senate. The proposal is deemed to have been tabled on April 17, 2007, pursuant to rules 28(1) and (2).

According to the User Fees Act and the *Rules of the Senate*, this user fee proposal should have been tabled in the Senate. Unfortunately, that did not happen. Nevertheless, the act and our rules state that it must be referred to a Senate committee, which has just 20 sitting days after the proposal is tabled to report. Twelve days have now elapsed since it was tabled.

After consultation with the Leader of the Opposition, it has been determined that the committee designated to study this document is the Standing Senate Committee on Foreign Affairs and International Trade.

The Hon. the Speaker: Pursuant to rule 28(3.1), this document is deemed to have been referred to the Standing Senate Committee on Foreign Affairs and International Trade.

• (1420)

[*English*]

SALES TAX AMENDMENTS BILL, 2006

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-40, to amend the Excise Tax Act, the Excise Act, 2001 and the Air Travellers Security Charge Act and to make related amendments to other Acts.

Bill read first time.

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

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

[*Translation*]

QUESTION PERIOD

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTEENTH REPORT OF COMMITTEE— CONDUCT OF STAFF

Hon. Céline Hervieux-Payette (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. Last week, the Standing Committee on Internal Economy, Budgets and Administration tabled its sixteenth report. I hope that the Leader of the Government in the Senate has thoroughly reviewed this report and has decided what type of action her government intends to take in response to serious violations of the rights of each senator targeted by Mr. Kroeker.

The committee said that by collecting and sharing information, Mr. Kroeker acted inappropriately and unethically.

I would remind honourable senators that we are not protected by the same legislation that generally protects government officials and other employees. I am referring to the Access to Information Act, the Privacy Act, and the Personal Information Protection and Electronic Documents Act. We have adopted a system exclusively for the Senate. Chapter 2:06 of the *Senate Administrative Rules* is entitled "Access to Information and Privacy".

The committee report unanimously concluded that Mr. Kroeker violated the rules in question. Since Mr. Kroeker was an employee of the Leader of the Government in the Senate, I would like to ask her what measures she intends to take to ensure that this kind of problem never happens again. What measures will be taken regarding Mr. Kroeker, who was employed by her government?

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. As I said last week, I believe that the report of the Standing Committee on Internal Economy, Budgets and Administration brought an end to this incident. As I said last fall, I do not believe that the Canadian public expects either government or an institution that is paid for by the taxpayer to be exempt from being open and transparent about the tax dollars they spend.

Senator Hervieux-Payette's comments in the media that somehow this incident was brought about by the efforts of the government to undermine the Senate by cancelling the trip were so absurd that they almost bear no response at all. The issue at hand was precipitated by the fact that, had the committee listened to the advice they had received from the military, this incident would not have happened.

• (1425)

[*Translation*]

HERITAGE

SUPPORT FOR ARTS AND CULTURE

Hon. Céline Hervieux-Payette (Leader of the Opposition): Honourable senators, I am going to give the Leader of the Government in the Senate one more day to think about the question, because her answer certainly does not correspond to the ethical principles of this chamber.

I would like to ask the Leader of the Government in the Senate a question on another matter instead. Yesterday, in Montreal, the Honourable Stéphane Dion, Senator Lapointe, Senator Fox and I held a roundtable with representatives from the cultural community. It was an opportunity to discuss the problems and challenges facing our artists, who earn an average of $23,000 a year. They are among the lowest paid Canadians. Among such problems, the flagrant lack of federal policies in the area of culture was particularly criticized by the cultural community. Our artists talked about the lack of funding for various programs, lack of coordination within the government and a lack of leadership on the part of the current government.

Culture is not an incidental component of a society; it is a fundamental part of peoples' identities. Culture is the lens through which each of us looks at our world. It helps us understand others. It forces us to look at ourselves. Can the Leader of the Government in the Senate tell us whether her government will finally listen to the cultural community and assist the cultural sector with stable, long-term programs and a concerted cultural policy?

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. I saw the television coverage of the Leader of the Opposition in the other place, Mr. Dion, flanked by the honourable senator herself, Senator Lapointe and Senator Fox, I believe.

I disagree with the premise of the question. In response to the question by Senator Lapointe the other day, I outlined important initiatives the government is taking to promote arts and culture. For the benefit of the honourable senator today, I will repeat them. In addition to the answer I gave to Senator Lapointe, we have undertaken many other initiatives. In Budget 2007, we announced that we will create a national trust to protect important lands, buildings and national treasures, which I know has been publicly supported by the honourable senator's former colleague, Sheila Copps, the former Minister of Canadian Heritage.

The budget also creates a new Canadian heritage sports fund to encourage youth participation in heritage sports, such as lacrosse. This month alone, our government has announced funding support for an art gallery for the Huron-Wendat First Nations in Quebec, for the festival of Celtic folk artists in Ontario, and for community radio broadcasting in francophone and Acadian communities across Canada.

This spring, Minister Oda announced funding for several museums across the country, including a Western Canadian aviation museum in Winnipeg, the Pier 21 Society in Halifax and the Bytown Museum in Ottawa. In addition to the $50 million we have provided to the Canada Council for the Arts, the government invests more than $25 million annually in the music industry through the Canada Music Fund.

Senator Hervieux-Payette: I guess it is like a grocery list, but I am talking about the policy. I have one simple question: What kind of support will our artists receive to tour and inform the world about Canadian artistic community productions, to make sure that Les Grands Ballets Canadiens, the Royal Winnipeg Ballet, l'Orchestre Symphonique de Montréal and the Vancouver Symphony Orchestra receive proper funding to do what we call "diplomatic cultural exchanges?" There are no budgets, and the minister responsible greatly needs that support.

Senator LeBreton: I believe I answered that question a few weeks ago. The Minister of Foreign Affairs and the Minister of Canadian Heritage are promoting Canadian arts and culture abroad through many programs. The government is proud of many of Canada's cultural groups and national institutions, such as the National Ballet.

• (1430)

I do not have a list at my fingertips, but we are undertaking many endeavours to promote Canadian culture. I would be happy to provide the senator with further information.

[*Translation*]

Hon. Jean Lapointe: Honourable senators, I would like to ask the Leader of the Government in the Senate a supplementary question. I want to thank her for her courtesy when she answered my question the other day.

However, she took me a bit by surprise. I discovered that she is a violin virtuoso. She played me an incredible concerto when she told me that the government had added $50 million to cultural programs. Initially, the Conservative government had decided to invest $300 million in culture and the arts in this country, but it has invested only $200 million. As a result, there is a $100 million shortfall. I believe that the Leader of the Government lulled me a bit with her violin, but we still do not have an answer. I respect her and hold her in high esteem, but she should not try to tell me any tall tales.

[*English*]

Senator LeBreton: Honourable senators, I cannot play the violin, but I sure can tap dance.

Our government came into office a little over a year ago. We are planning to do many things in a host of areas. We have brought down two budgets and started well in regard to supporting the arts and culture. We have received compliments from Canada Council as well as from people such as Sheila Copps on the National Trust.

As Canadians would expect, the government is very proud and supportive of Canadian arts and culture groups.

[*Translation*]

Senator Lapointe: Not only can the Leader of the Government play the violin and tap dance, but she can skate as well. I congratulate her. I was not aware she had such talents.

However, she has not answered my question: where is the $100 million her government promised but has not delivered? Instead of going from $150 million to $300 million, it has gone from $150 million to $200 million. I may not be an accountant, but I can see that $100 million is missing. Where is it?

[*English*]

Senator LeBreton: As I have pointed out many times, there were many promises that the previous government made upon which it did not deliver. In this case, the previous government made the promise and we are delivering on it.

[*Translation*]

OFFICIAL LANGUAGES

REPORT OF COMMISSIONER—CANCELLATION OF PROGRAMS—EFFECT ON LINGUISTIC RIGHTS

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. In his statement this morning, the Commissioner of Official Languages, Graham Fraser, said that:

> [The government] has sent positive signals... [Unfortunately] certain government actions taken over the course of the last year [were not consistent with the government's words].

According to Mr. Fraser:

> The elimination of the Court Challenges Program in particular delivered a serious blow to Canadians' ability to defend their language rights . . .[and] raise[s] some doubts about whether it is really committed to implementing these new legislative obligations.

He says that by eliminating the Court Challenges Program:

> . . . the Harper government violated the act and trampled the rights of linguistic minorities by cutting services.

When will this government put its money where its mouth is and assume its responsibilities by fully respecting the Official Languages Act, which this government supported when it was amended in 2005?

• (1435)

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, we received the report from the Commissioner of Official Languages this morning. The government is reviewing the report and will respond. Of the little bit of the report that I had a chance to

read, I was happy and delighted to see that it recognized the Prime Minister for his commitment to linguistic duality and stated that he had served as an important role model for other public officials.

I am very proud of the Prime Minister in his commitment to this area. I believe our government has demonstrated a strong commitment to linguistic duality and official language minority communities. Budget 2007 invested an additional $30 million for cultural, after-school activities and community centres. This was on top of the $642 million over five years that was provided in the Action Plan for Official Languages for the promotion and development of official languages.

[*Translation*]

Senator Tardif: In light of Mr. Fraser's statements, are we to conclude that this government is all talk and no action and that it is not fully assuming its responsibilities under the Official Languages Act, for instance, by suspending the work of the House of Commons Standing Committee on Official Languages?

[*English*]

Senator LeBreton: I do not believe the honourable senator can assume, or presume, any such thing. I wish to point out to Senator Tardif that, since taking office, we have announced significant support for official language minority communities and linguistic duality: $1 billion over four years, until the year 2009, in education agreements with the provinces and territories; $64 million over the next four years, up until 2009, in agreements with the provinces and territories for services; and $120 million in agreements for the official languages minority communities. I do not think it is correct for the honourable senator to stand here in this chamber and state that this government is not fully supportive and, indeed, fully committed to official languages and linguistic duality.

[*Translation*]

REPORT OF COMMISSIONER—RECOMMENDATION TO CREATE MINISTERIAL PORTFOLIO

Hon. Jean-Claude Rivest: Honourable senators, the report of the Commissioner of Official Languages was tabled today. I realize that not everyone has read it yet. However, an important recommendation was made by our late colleague, Senator Jean-Maurice Simard, and by various minority community representatives, whereby the government should have a minister responsible for official languages with considerable power and that this responsibility should be assigned to the President of the Privy Council, who has authority over all the departments.

The current government has entrusted the responsibility of official languages to a specific minister — who is doing her job — but she is one colleague among many. She does not have a supra-ministerial authority and the Commissioner of Official Languages, as you will see when you read the report, has put tremendous emphasis on the importance of official languages practice. He has very strongly recommended that the government return to the former structure and assign the responsibility of official languages to a Privy Council minister, perhaps, who would have horizontal authority over all government departments. This is extremely important to Canadians living in a minority situation.

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): As I mentioned previously, we welcome the report of the new Commissioner of Official Languages. The government has made many commitments to linguistic duality and official languages. The specific reference made by the Honourable Senator Rivest is one that I am quite certain the government will carefully study. The Commissioner of Official Languages is an officer of Parliament and, as such, reports to Parliament.

• (1440)

I must say that I was disappointed that, somehow or other, as parliamentarians in general, the NDP gained access to this report before other parliamentarians. That is another matter.

With regard to the honourable senator's specific question, it is a valid one and I will be happy to seek an answer for him.

JUSTICE

ABOLITION OF COURT CHALLENGES PROGRAM

Hon. Pierre De Bané: First, I would like to commend the Prime Minister for always speaking in both of the official languages recognized in our Constitution, in Canada and abroad. This is absolutely admirable.

Second, I would like to urge the Leader of the Government in the Senate to reinstate the program allowing minority communities, both in Quebec and in the rest of Canada, to be able to use legal means to affirm their rights. One cannot, as our Deputy Leader has said, overstate the importance of that program. We all know those communities are short of funding and that it costs a great deal to take legal proceedings.

I would urge the Leader of the Government in the Senate to reconsider the reduction of funding to that program.

Senator Tardif: The elimination of it.

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I share the honourable senator's pride in the Prime Minister. I am envious of him. Although I can personally read French, I have never managed to speak French, and it is one of my real regrets. The Prime Minister has done an incredible job. All over the country, more often than not, he will begin speaking in French.

With regard to the Court Challenges Program, as the honourable senator knows, there is a case involving the Court Challenges Program before the courts at the present time. In view of that, it would be inappropriate for me to comment. However, I will be happy to make the honourable senator's views known to my colleagues.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

WORLD BANK—SUPPORT FOR PRESIDENT

Hon. Peter A. Stollery: Honourable senators, the President of the World Bank, Mr. Paul Wolfowitz, is mired in a scandal involving payments to his girlfriend.

[*Translation*]

The position of the President of the World Bank is becoming increasingly precarious. The World Bank ethics committee has accused him outright of breaking the organization's rules by giving an outrageous raise to his girlfriend.

[*English*]

I would add, honourable senators, that the committee looking into the matter has reported whether, as quoted from their confidential report, Mr. Wolfowitz ". . . will be able to provide the leadership needed to ensure that the bank continues to operate to the fullest extent possible in achieving its mandate."

We are told via the *New York Times* that Canada is one of only three countries supporting Mr. Wolfowitz. I appreciate that the Leader of the Government in the Senate may not be aware of this action. However, we would like corroboration as to whether or not we are one of only three countries supporting Mr. Wolfowitz in his problems with the management of the World Bank.

I want to add that the World Bank is an organization with 23,000 employees, and is important to Canada.

• (1445)

Senator St. Germain: Do you support him, senator?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Far be it from me to be answering for the World Bank. Obviously, I saw the news reports today. I am not aware of the story in the *New York Times*. Although we are participants, the World Bank obviously will adjudicate and deal with this matter in their own way.

However, I will be happy to pass on the honourable senator's comments to my colleagues and provide him with the response of the government.

Senator Stollery: Honourable senators, I would like to point out to the Leader of the Government in the Senate that our executive director on the World Bank is appointed by the Minister of Finance and effectively, as an ambassador, would be carrying out the instructions of the Minister of Finance. It is a specific question: Is the Minister of Finance giving instructions to his representative on the board of the World Bank to support Mr. Wolfowitz, as one of only three countries in the world who are doing so?

Senator LeBreton: I thank the honourable senator for his question. I will take it as notice.

FINANCE

CHANGE TO FORMULA FOR EQUALIZATION TRANSFERS TO PROVINCES

Hon. Wilfred P. Moore: Honourable senators, my question is directed to the Leader of the Government in the Senate. Last Thursday, in response to a question from Senator Callbeck, the Leader of the Government said that the Harper government "ensures equal support for all Canadians, no matter where they live, and ensures equal treatment of all provinces and territories."

The Harper budget is based on a per-capita distribution of cash transfers to the provinces under the Canada Social Transfer. This fiscal year, my province of Nova Scotia will receive $6.5 million more than it received last year when the CST was based on an equity-adjusted tax point formula. Commencing this year, however, Alberta will receive $3.44 billion more than last year.

Would the Leader of the Government in the Senate please advise as to the details in the Harper budget wherein Nova Scotia will receive the $3.37 billion to bring it to the same equal support that Alberta is to receive?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for his question. I did read the honourable senator's column in whatever newspaper it appeared. I will take the specific question as notice and provide a delayed answer.

Senator Moore: I also ask that the leader table the study that must have been conducted by the government to demonstrate the need for Alberta to receive this additional $3.44 billion per year, and the impact of that transfer on the ability of each province to provide comparable services to its people.

Senator LeBreton: I will add that request by the honourable senator to the request for details.

REVIEW OF COST OF FOREIGN ACQUISITIONS—TAX LOOPHOLES

Hon. Jerahmiel S. Grafstein: My question is for the Leader of the Government in the Senate. Let me return to the budget-related matter of the interest deductibility of Canadian foreign subsidiaries, which continues to reverberate in the economy. The Department of Finance appears to remain transfixed or almost obsessed by the so-called "double dipping" by Canadian corporations abroad. Should the minister not be addressing goals to assist these Canadian companies to become more competitive, since the so-called "double-dipping" abroad does not in any way, shape or form affect tax revenues in Canada but reduces their effectiveness and competitiveness at home and abroad?

• (1450)

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for his question. I believe that Minister Flaherty clarified the situation in a speech to the Toronto Board of Trade yesterday. In his speech, he announced the government's plans to improve tax fairness by closing loopholes for multinational corporations and using the revenue to further reduce business taxes in Canada, thus helping not only corporations in Canada but all other Canadian taxpayers.

We are improving tax fairness for Canadians by stopping multinational corporations from using tax havens to double-dip by claiming two expense deductions for only one investment. As an ordinary Canadian taxpayer, I find this to be something that is quite reasonable, and I am sure most Canadians would see it as only fair. Why should corporations be allowed to claim two deductions for only one investment? Minister Flaherty stated that ensuring big corporations pay their fair share of taxes means that taxpayers will no longer be indirectly subsidizing the international operations of big corporations. Who could argue with that?

Senator Grafstein: The Leader of the Government in the Senate has indicated that the ministry is interested in closing tax loopholes. Despite the ministry's assurances, however, there is still confusion in the marketplace today with respect to the minister's statements yesterday in Toronto.

With respect to closing tax loopholes, one glaring loophole is: The ministry has taken no steps to immediately eliminate debt dumping of foreign subsidiaries in Canada that does directly reduce Canadian tax revenues in a natural tax shelter. Is this fair to Canadian corporations here or abroad?

The Hon. the Speaker: Honourable senators, reading the time from my new watch, Question Period is over.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour of presenting a delayed answer to the oral question raised by Senator Atkins on March 22, 2007, regarding transport, reports of the Standing Senate Committee on National Security and Defence on airports and seaports, and responsibility for security.

TRANSPORT

REPORTS OF NATIONAL SECURITY AND DEFENCE COMMITTEE ON AIRPORTS AND SEAPORTS— RESPONSIBILITY FOR SECURITY

(*Response to question raised by Hon. Norman K. Atkins on March 22, 2007*)

Although the question at hand deals with the machinery of government, Transport Canada has been very active on the airport security file in the past year:

- We moved quickly in August 2006 to respond to a potential threat from terrorist use of liquids and gels aboard aircraft, and established rules in conjunction with the U.S. and Europe to make it easier for passengers to comply while, at the same time, address this new threat.

- All air passengers are screened every time they enter a sterile area. Non-passengers and airport employees are screened on a random basis because they have each gone through a security clearance check.

- A new development this year is the Restricted Area Access Cards (RAIC), issued once comprehensive background checks have been completed. The card can be cancelled if law enforcement authorities find adverse information on an individual.

- A restricted area identification card (RAIC) uses two biometric identifiers. This is required for all persons who access airport-restricted areas. The RAIC will verify that the person who was issued the card is the same person presenting the card at a restricted area access point, that the card is valid and the individual has a current security clearance. Airport personnel who are issued the RAIC are subject to access control requirements.

- Today, 100 per cent of the air cargo on passenger aircraft is subject to a range of security controls, which may include search. The department is focusing its efforts to enhance the security of cargo, including security applied from customer to aircraft, i.e., the supply chain, in cooperation with other countries.

- Budget 2006 also provided $26 million over two years for the design and pilot testing of an air cargo security initiative including the development of measures to ensure cargo security throughout the supply chain, as well as the evaluation of screening technologies. Work on enhancing this important aspect of the aviation system is underway.

- Budget 2006 also provided $133 million over two years for CATSA to address increase passenger traffic, and to replace aging equipment.

- Passenger Protect is a new program that should start in the Spring/Summer of 2007. It will use law enforcement and intelligence information to stop people who pose a threat to a flight from boarding adding yet another layer of security.

- Canada exceeds International Civil Aviation standards by requiring that all hold baggage on international flights be screened as of January 1, 2006 as well as on some domestic flights.

- Equally important, Transport Canada works closely with the RCMP, CSIS and CBSA on an ongoing basis, and takes steps, as necessary, to address specific threats identified by these agencies.

- Cooperation between Transport Canada and law enforcement agencies, including the RCMP, signals the Government's commitment in removing the elements of organized crime in Canada's airports and ports environment.

ANSWER TO ORDER PAPER QUESTION TABLED

ENVIRONMENT—
PRIVATE PROPERTY IN NATIONAL PARKS

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 22 on the Order Paper—by Senator Spivak.

[*English*]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Before proceeding to Orders of the Day, I would like to introduce one House of Commons page participating in the page exchange program this week. Jessica Harris is from Prince Albert, Saskatchewan, and she is studying at the faculty of social science at the University of Ottawa, where she is majoring in political science.

[*Translation*]

ORDERS OF THE DAY

CRIMINAL CODE

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator Meighen, for the third reading of Bill C-9, to amend the Criminal Code (conditional sentence of imprisonment).

Hon. Mobina S. B. Jaffer: Honourable senators, I am pleased to speak today at third reading of Bill C-9, to amend the Criminal Code (conditional sentence of imprisonment).

When I spoke at second reading of this bill, I stressed the fact that it was very different from the text tabled by the government in the other chamber. The original bill would have completely taken the power away from the judges to impose a conditional sentence of imprisonment for offences punishable by a maximum sentence of 10 years or more. A number of offences would therefore not have been eligible for conditional sentences.

This is the bill, amended by the opposition parties in the other place, before us today. This version of the bill, which I think is better than the previous one, eliminates the possibility of a conditional sentence for offences involving serious personal injury, terrorism and organized crime, which are prosecuted by indictment and punishable by a maximum sentence of 10 years.

[*English*]

Bill C-9 creates a substantially smaller list of offences for which conditional sentences will no longer be available, thus maintaining the discretion of judges but still sending a strong message from Parliament that we do not believe conditional sentences are appropriate for certain violent and subversive crimes.

Despite the substantial improvements to this bill, it continues to raise some broader issues that I believe need to be addressed. Many of these issues were raised in the Legal and Constitutional Affairs Committee, and I would like to take some time to elaborate on them. What is more, it must be taken as part of a larger package of reforms to the Criminal Code as part of the government's crime agenda.

[*Translation*]

In the speech I gave at the second reading of this bill, I spoke of my personal experience regarding conditional sentencing, particularly concerning specific cases I was involved in as a lawyer, cases in which I felt that conditional sentencing had been useful and appropriate. Having since had the opportunity to carefully examine this bill in the context of the Standing Senate Committee on Legal and Constitutional Affairs, I can assure you, honourable senators, that a good number of my impressions have been confirmed. We heard convincing testimony concerning the effectiveness of conditional sentences and their ability to guarantee a justice system that works. We were also presented with statistics that seem to confirm the effectiveness of such sentencing since its introduction in 1996.

[*English*]

Though I am very much in favour of the changes made to this bill in the other place, I was prepared to proceed in the Standing Senate Committee on Legal and Constitutional Affairs, as Senator Tkachuk suggested in his speech at second reading. He had suggested that we consider certain amendments to improve the bill in a non-partisan way. However, when the Minister of Justice appeared before our committee, he told us that his department was now satisfied with the bill now before us. Though they continued to prefer the original version, it was felt that further changes would only cause unnecessary delays in moving the bill forward.

I commend Minister Nicholson for acknowledging the wisdom of the other place in improving this bill in the spirit of a minority Parliament. He told the Legal and Constitutional Affairs Committee that despite his preference for the original bill, this legislation still sends a message from Parliament about the types of offences that should be considered for a conditional sentence of imprisonment, while recognizing that a conditional sentence order can be an effective and sensible sanction for many non-violent offences.

That is the point that I attempted to make when I spoke at second reading. Over the course of my career as a lawyer, I have seen numerous instances where conditional sentences are not only useful but are far more appropriate than a sentence of imprisonment.

I want to underscore, as the minister did, that a conditional sentence is still a restriction on the freedom of an offender.

[*Translation*]

Other witnesses also brought this to the attention of the Standing Senate Committee on Legal and Constitutional Affairs, as well as noting that the Supreme Court regards conditional sentencing as a form of punishment.

The supporters of the first version of the bill spoke at length about how the public perceives conditional sentences and the need to respond to the concerns of Canadians, who seem to have the impression that criminals are getting off lightly with conditional sentences or with what is commonly referred to as house arrest.

[*English*]

Honourable senators, after hearing the testimony put to us on the Standing Senate Committee on Legal and Constitutional Affairs, I am forced to conclude that conditional sentencing may have become something of a lightening rod for broader criticisms of our sentencing systems. The criticisms seem to be based mostly on people's initial reactions to conditional sentences when they are handed down for particular crimes without any knowledge of the specifics of a given case. In fact, over the course of my research on this subject, I discovered a number of polls conducted on the subject of sentencing that were quite enlightening.

• (1500)

For instance, an Angus Reid poll on the subject of sentencing, conducted in 1999, showed that relatively few Canadians could correctly identify what a conditional sentence order was from a list of options. What is more, even when they had been given a description of a conditional sentence, the poll found that the more specific information those polled had about a given case, the more likely they were to agree that a conditional sentence was an appropriate option.

One of the witnesses who appeared before the Standing Senate Committee on Legal and Constitutional Affairs, Dr. Anthony Doob, had conducted research that showed similar results.

[*Translation*]

We heard repeatedly in the committee that conditional sentences were either working extremely well, or were at the very least not the problem. André Rady, a member of the board of the Canadian Council of Criminal Defence Lawyers, told us:

> Conditional sentencing can be very onerous. . . They can continue to go to school or what have you, yet they are still restricted. They do not get to go to the movies, hockey games, et cetera, and are effectively confined to their house for the term of the conditional sentence.
>
> Despite that we may think it is probably nicer in most homes than in a jail cell, it can still be onerous. The Supreme Court has said conditional sentencing still acts as a deterrent. To a lot of people, a conditional sentence can be quite tough.

This is not to argue that a conditional sentence is as harsh as jail time.

[*English*]

Though there certainly have been cases where the strict conditions of a conditional sentence may have caused some offenders to wonder if a jail sentence might not have been preferable, there is no question that at the time of sentencing most offenders would prefer a conditional sentence over imprisonment. However, when we talk about conditional sentences, we must remember that we are talking about a very real punishment. Conditional sentences are not the same as suspended sentences or even probation; they are serious restrictions on an offender's liberty.

Another problem with the argument against conditional sentencing is that it seems to assume the harshest penalty is always the most effective or appropriate. The Standing Senate Committee on Legal and Constitutional Affairs heard numerous reasons to believe that this is not the case.

Honourable senators, perhaps the most compelling argument was the hard data offered by representatives from the Canadian Centre for Justice Statistics, who told us that those who had been given conditional sentences were significantly less likely to reoffend than those given prison terms. This could be because those who were given conditional sentences come from a group of offenders who pose the least risk of reoffending, or it could be that conditional sentences are working to ensure the offender is properly reintegrated into society. Most likely, honourable senators, the reality is a combination of the two.

Whatever the cause, this statistic would seem to show that judges are exercising their discretion properly when handing out conditional sentences, taking the likelihood of a reoffence and the rehabilitation of the offender into account when deciding on the appropriate punishment.

Mr. Russell Silverstein, Director of the Canadian Criminal Lawyers Association, told the committee that it is his experience that prisons can actually have the reverse effect of increasing the likelihood of reoffending. He further told us:

> If you abolish conditional sentences, that will have a negative impact regardless of which way the cause is flowing. If there are those who will not reoffend and are given conditional sentences and do not reoffend because it is in their character, putting them in prison will increase the likelihood that they will in fact reoffend. We know that amongst those who are incarcerated, there is a high level of recidivism. You only need to go to the jails and see the life there to determine why the drug culture and fraternity of criminality in jails breeds criminality amongst those who only have their toe in the water of criminality.

Honourable senators, when I spoke previously about this bill, I noted that there can be many practical reasons in any individual case that might make a conditional sentence more appropriate. These could include the need for an individual to continue working to support dependents, attend counselling or even avoid incarceration because of the specific psychological effects they may have on some individuals.

The Canadian Centre for Justice Statistics and other witnesses before the committee confirmed that conditional sentences often serve these purposes better than prison sentences. Part of this has to do with the fact that those given conditional sentences are generally under supervision longer than those in prison in cases who would have been eligible. In fact, the Canadian Centre for Justice Statistics told us that those given conditional sentences were under supervision for approximately twice as long.

Honourable senators, if Canadians knew these facts about conditional sentencing, I cannot help but think many more would feel that these sentences are not only useful, but appropriate punishments in many cases.

[*Translation*]

I want to speak to at least one of the observations that the committee included in its report. I mentioned in my speech at second reading that Bill C-9, along with other bills that have been put forward by this government, are likely to have a serious impact on our legal aid system.

Though legal aid is primarily a provincial concern, those systems are run with a substantial contribution from the federal government. For many years now, provincial attorneys general and stakeholders involved in providing legal aid have been calling for this funding to be increased.

[*English*]

Though the federal funding agreement for legal aid was extended for an additional five years in the recent budget, this only continues the same inadequate funding that has been in place for some time without so much as an adjustment for inflation. Another five years at this level of funding is considered by many to be unsustainable, even without the impact from bills such as this one. According to the testimony that the committee heard when studying this legislation, the impact would be very real. The Canadian Centre for Justice Statistics told us that 90 per cent of all conditional sentences come as a result of guilty pleas. Many, if not most, of these pleas are likely the result of bargains between defence lawyers and Crown prosecutors. While these plea bargains are not binding on a judge, they are generally respected in practice. When an offender pleads guilty, it can prevent a lengthy trial process and save our system a massive amount of time and money.

Honourable senators, the defence lawyers who testified before the Standing Senate Committee on Legal and Constitutional Affairs told us that without these types of arrangements our current system would not even be able to function. They were all of the view that the chances of a guilty plea increased dramatically when an offender knows a conditional sentence is an option. Simply put, if we remove the possibility of a conditional sentence, that will have the effect of reducing the number of guilty pleas and placing a much greater burden on our criminal legal aid system.

Moreover, as there are rules and minimum standards governing our country's criminal legal aid system, costs are certain to increase. The money must come from somewhere; and if it does not come from the federal government, one of my great fears is the cost of the criminal system will be covered by the civil legal aid system. This means that the ones who suffer will be people such as single mothers trying to collect back child support.

The Hon. the Speaker: I regret to advise the honourable senator that her 15 minutes of time has expired.

Senator Jaffer: Honourable senators, I thought I was the critic for this bill and so I had a longer period of time.

The Hon. the Speaker: The honourable senator could ask for an extension of time.

Senator Jaffer: May I please have 10 minutes?

The Hon. the Speaker: The honourable senator is requesting unanimous consent for additional time.

Some Hon. Senators: Agreed.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Five minutes.

Hon. Anne C. Cools: She asked for 10, Your Honour.

Senator Comeau: Five minutes.

• (1510)

The Hon. the Speaker: Honourable senators, order. To make the matter perfectly clear, pursuant to rule 37(3) of the *Rules of the Senate of Canada*, the sponsor of the bill has 45 minutes and the first senator speaking thereafter has 45 minutes. Last week, the Honourable Senator Joyal, I believe, spoke after the sponsor of the bill and, therefore, would have used his 45 minutes.

As is her right, the Honourable Senator Jaffer is asking the house for unanimous consent to extend her speaking time. The Deputy Leader of the Government is indicating five minutes. Honourable senators, is there unanimous consent?

Senator Jaffer: May I respectfully say that I understood His Honour to say, when he made his ruling on the matter, that a senator could ask for the time. Perhaps I am mistaken but when a senator asks for more time, the ruling was that the Speaker would respect the time. I would ask, in light of the Speaker's ruling, that I be given ten more minutes.

Senator Comeau: Five minutes.

The Hon. the Speaker: The honourable senator is asking for unanimous consent for an additional ten minutes. Is there unanimous consent, honourable senators?

Some Hon. Senators: No.

Senator Cools: Honourable senators, if I may make an intervention, I do not believe that the intent of the *Rules of the Senate of Canada* is to convert a senator into the position of mendicant before the Deputy Leader of the Government in the Senate. I do not believe for a moment that is the spirit or the intent of the rule.

It is my understanding that the Speaker's intent expressed in his ruling was to promote and to encourage senators to ask for the amount of time that they require and that it be properly considered without an intervention from the Deputy Leader. It is undesirable and unkind. This place is operating under a strange set of circumstances with the shortage of Conservative senators such that the debate becomes automatically truncated, and many Liberals carry the responsibility of sustaining debate in a substantive way. On the Conservative side, in terms of the elucidation of bills, I see nothing wrong happening, but perhaps the Deputy Leader sees life differently.

The Hon. the Speaker: Order, honourable senators, please. No point of order has been raised that I have heard yet. The situation is clear to the house. A request for leave to continue was made by

the honourable senator who had the floor. Leave was not granted. The role of the Speaker is to facilitate the following of the rules, and that is where it stands.

The usual practice of the house is to extend speaking time for five minutes but I will not interfere because all honourable senators are familiar with that practice. It is up to Senator Jaffer to make the request. She has made one request and leave was not granted. I do not know whether she wishes to ask again.

Senator Jaffer: Honourable senators, I ask for five minutes.

Senator Comeau: Agreed.

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

Hon. Senators: Agreed.

Senator Jaffer: Honourable senators, the money must come from somewhere and if it does not come from the federal government, one of my great fears is that costs of the criminal system will have to be covered by the civil legal aid system. This means that the ones who suffer will be single mothers trying to collect back child support, new Canadians seeking legal services in their native languages and divorced fathers seeking access to their children.

Conditional sentences are handed down in 6 per cent of all convicted cases. However, when we consider that currently 10 per cent of all criminal cases reach trial, it is easy to understand the burden that even a slight shift could place on the system. I would once again urge the government to heed the advice of this all-party report and increase the federal contribution to legal aid funding.

I will tell honourable senators what Mr. Rady said about a case, *R v. Hotten*, when he appeared before the Senate Legal Committee. Mr. Rady talked about what a difference it made for a young person to have the benefit of conditional sentencing.

[*Translation*]

I quote:

> Haughton was a young man who set fire to the Salvation Army church in London, Ontario, causing $900,000 in damage. He was found in North Bay because his parents were concerned about him, thinking he was suicidal. North Bay police find him and want to take him to the mental hospital. He tells them, "no you want to take me to jail because here is the lighter I used to start the fire at the church." He pleaded guilty and was granted a conditional sentence.
>
> That conditional sentence has now been completed. During that course of time, this young man completed his degree in music at McMaster University. He is now gainfully employed as a teacher and making every effort to pay back the $900,000. Through some family savings, I believe he has paid back over $100,000 in that case.
>
> If this fragile young man had gone to jail, he probably would never have recovered from that experience. It is a very unusual case for someone not to go to the penitentiary for arson, but under those circumstances with the strict house arrest and the guidelines for treatment, it is a perfect case where there was a successful contional sentence for a very serious crime. I can say it was successful because it is over and he has done what society wants of him which is to rehabilitate himself and put the victims back into the position they once were before the fire started.

Honourable senators, I believe that this is a perfect example on which to conclude. I will just add that sentencing is an extremely complicated issue and that we should be very careful when considering taking away our judges' discretionary power.

[*English*]

Honourable senators, I look forward to further examination of these important issues by the Standing Senate Committee on Legal and Constitutional Affairs. Once again, I commend parliamentarians on all sides to strike an appropriate balance on Bill C-9 that I will be able to support at third reading.

Honourable senators, I am disappointed with the way in which matters have been covered in this place. I hope that the Senate will return to non-partisan ways in the future, like the way in which I addressed Bill C-9.

Hon. Sharon Carstairs: Honourable senators, I say with deep regret that this place has treated Senator Jaffer badly and, therefore, I wish to take the adjournment of the debate so that I may finish her speech tomorrow.

On motion of Senator Carstairs, debate adjourned.

FIRST NATIONS LAND MANAGEMENT ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Segal, for the second reading of Bill S-6, to amend the First Nations Land Management Act.

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 bill read second time.

REFERRED TO COMMITTEE

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

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

• (1520)

ACCESS TO INFORMATION ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Fraser, for the second reading of Bill S-223, to amend the Access to Information Act.—(*Honourable Senator Comeau*)

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, as parliamentarians, it is our obligation to always act in the public interest. Canadians have a right to expect that we will responsibly spend the taxes that we collect from them for the collective good of our society, for collective social programs, for collective security, and so on. Canadians have a right to expect that the legislation we pass in Parliament is designed to improve our society.

As parliamentarians, we may differ on the best policies and means to achieve the optimum goals for our society. We have different parties that offer differing proposals to consider. Generally, parliamentarians react to legislation depending on the caucus to which they belong. That is understandable because the party caucuses seek internal party consensus on public policy proposals.

Fortunately, Bill S-223 is not the consensus proposal of a party but, rather, the proposal of an individual senator. I would ask all honourable senators, therefore, to critically evaluate Bill S-223 through that lens. I would suggest that this is not the type of bill that can be accepted in principle and then sent on to the committee to be fixed. This bill runs counter to Canadians' expectation of accountability. In fact, it would water down our capacity for accountability.

Canadians are not voyeurs. They do not necessarily want to get into the gritty and raw details of professional audit papers. They want to be assured that professional parliamentary auditors are provided with the means to pursue investigations in order to safeguard their collective interests.

Senator Milne says that the intent of this bill is "to provide sensible changes to Canada's new and badly flawed access to information regime." The provisions of Bill S-223 were proposed as amendments to Bill C-2, the Federal Accountability Act at committee stage and the Auditor General argued that the provisions would reduce, not increase, accountability. The Auditor General, in fact, convinced members at committee to drop the amendments which are the basis for Bill S-223.

It is not my intention to question Senator Milne's motivation. What I will point out, however, is the consequences of her proposed amendments, amendments that will seriously weaken the audit and investigatory capacity of the Auditor General and the Official Languages Commissioner by requiring the release of records created during an investigation. This would immediately undermine an investigator's ability to guarantee anonymity to potential witnesses.

Those in this chamber who have followed and supported the work of the Commissioner of Official Languages can attest to the value of the audit function of the commissioner to advance the cause of linguistic duality in Canada. We all agree that this is a fundamental Canadian value.

[*Translation*]

My colleagues in the Standing Senate Committee on Official Languages will be very aware of the consequences of these amendments, and I hope they will voice their opposition.

We have just concluded a study to protect the rights of public servants to work in their mother tongue. Bill S-233 will remove this protection that is so important to them.

The Official Languages Act clearly indicates that the information obtained in an investigation must be kept secret. Section 72 states:

> Subject to this Act, the Commissioner and every person acting on behalf or under the direction of the Commissioner shall not disclose any information that comes to their knowledge in the performance of their duties and functions under this Act.

[*English*]

Section 72 of the Official Languages Act therefore allows professional audits to be done without compelling the public disclosure of sensitive raw audit data. This protects the investigator, the person being investigated, and the witnesses, and provides for a full and extensive audit by professionals.

[*Translation*]

The confidentiality of matters addressed following a complaint, for example, is a standard working practice in the office of an ombudsman. Not only is this normal, but it is essential to the proper functioning of such an office. This is an internationally accepted approach. It is not a Canadian invention; it is done all around the world.

In the case of the Commissioner of Official Languages, this standard becomes even more important when government employees file complaints because their right to work in the official language of their choice in certain regions of the country, pursuant to the provisions of the act, is not always respected. Quite often, complaints filed in these matters are about the employees' immediate supervisor. It goes without saying that, for professional reasons, these employees want to avoid being identified at all cost. They naturally fear the possible consequences to their career.

Bill S-223 would create an incentive not to file a complaint. This would go against the primary purpose of the Official Languages Act, which is to respect the linguistic rights of Canadian citizens.

[*English*]

The Federal Accountability Act will significantly improve the Access to Information Act by increasing coverage and oversight of the act and by improving the access request process. However, one cannot forget that any reforms to the Access to Information

Act need to be carefully crafted. This is because the Access to Information Act balances two competing interests, that is, the citizen's right to know and the need to protect certain types of information in the public interest. This balancing act is delicate and complex, which is why any changes to the act can only be made after extensive study, research and consultation, so that one interest does not, in the end, upset or override the other.

For example, we must not forget that the goal of the Access to Information Act is not to sacrifice the competitiveness of Crown corporations or to impede the core mandates of the agent in order to increase access to information. Canadians' "right to know" must be balanced with the need to keep certain sensitive information private, so that government institutions may properly function. This is why additional protections were given to the agents of Parliament in Bill C-2. The Access to Information Act did not provide clear protection for certain of the agents' sensitive information, especially information related to their investigations, audits and reviews. The agents require these exemptions so that they can effectively carry out their core mandates. As such, additional protections were provided for these types of information.

Specifically, section 16.1 was added to create a mandatory exemption for records containing information obtained or created by four of the agents — the Auditor General, the Commissioner of Official Languages, the Information Commissioner and the Privacy Commissioner — in the course of their investigations, examinations and audits.

Section 22.1 was added to clarify that draft reports and working papers related to internal audits of government institutions may be withheld from disclosure for 15 years, except that draft reports may not be withheld where the final report of the audit has been published or is not delivered within two years.

Honourable senators, Senator Milne is proposing to weaken these two exemptions. She also wants to add to the act a general, broad, public interest override. I believe these amendments, if passed, will weaken the Access to Information Act.

Section 16.1 deals with audits and investigations. The first change that Bill C-223 proposes is to amend this section to provide for increased access to information created by the Auditor General or the Commissioner of Official Languages in the course of conducting investigations and audits.

As noted earlier in my comments, the Auditor General and the Commissioner of Official Languages would not be able to refuse, under that section, to disclose records containing information that was created in the course of an audit or investigation once that audit or investigation is completed.

• (1530)

The Auditor General herself made it clear that providing for the release of audit working papers in this way will irreparably damage the ability of her office to carry out effective audits. This amendment would mean that her office could not promise confidentiality to anyone considering disclosing the suspicions of wrongdoing to an auditor. Under the provisions of this act, the auditor would have to inform interviewees that their identity and comments are subject to public disclosure, regardless of the results of the audits. Public servants or others who have observed suspicious activities will no doubt stay silent because of this public exposure at the end of the audit.

Few people are professional auditors. Few have training to evaluate the legal implications of their suspicions, but most public servants would be sufficiently aware of the consequences to their future employment prospects if they were informed that their observations on their employer or fellow workers would be made public. This amendment could also mean that the auditors would become reluctant to report any theories, unproven allegations or disputed conclusions. How could accountability and transparency be strengthened by such an amendment?

The mandate of the Auditor General is to provide independent information and advice to Parliament to help hold the government to account for stewardship for public funds. The amendment to subsection 16.1(2), if passed, would severely weaken the ability of the Auditor General to carry out her important mandate. I submit that we should not undermine the Auditor General by supporting this amendment.

The second amendment proposed in the bill is to amend subsection 22.1(2) to provide for increased access to audit working papers related to internal audits of government institutions. Again, I must stress that section 22.1, which is a new section added through the Federal Accountability Act, was not added without much thought or consideration. It was not added arbitrarily. There was simply not enough protection in the Access to Information Act for the extremely sensitive internal audit information of government institutions.

Section 22.1 currently protects internal audit working papers for 15 years and draft reports until the completion of the audit, since these records may contain erroneous or unsubstantiated information. It is also intended to provide a time-limited protection for information provided to internal auditors in order to encourage free and frank disclosure of potential issues of concern which may arise during the audit.

Honourable senators, I believe the proposed amendment to section 22.1 would seriously weaken the internal audit capacity of the government by permitting the disclosure of "related audit working papers" in addition to "draft reports" under the Access to Information Act where a final report has not been delivered within two years. In effect, this amendment would remove the protection for internal audit working papers once the final audit report has been published.

I should note that the Comptroller General has made it clear that providing for the release of audit working papers in this way will irreparably damage the ability of internal auditors to carry out effective audits. This amendment would mean that internal auditors could not promise confidentiality to anyone considering disclosing their suspicions of wrongdoing to an auditor. Also, auditors would become reluctant to record any theories, allegations or conclusions before they are proven.

Honourable senators, I ask you: Do we want to weaken the ability of internal auditors to do their job? How can we have increased government accountability if auditors are not able to fully explore all theories and allegations when conducting their audits? How can auditors do their jobs if they are not told of

suspicious actions? This amendment, if passed, would effectively constrain internal auditors so that they could not do their work. Would inaccurate internal audits lead to a more open and effective government? Obviously not.

The third amendment to Bill S-223 is to provide an override to the Access to Information Act. I cannot stress enough the negative impact this amendment could have on the Access to Information Act. The Access to Information Act was set up to ensure a careful balance between mandatory and discretionary exemptions. This amendment would upset this balance by giving the heads of institutions the discretion to override mandatory exemptions. As such, the amendments would undermine the policy choices that were made when the act was developed.

Further, certain mandatory exemptions such as those for personal information and third-party trade secrets already have discretionary public interest tests attached to them. It is not clear how this broad, undefined override would interact with those other overrides. I would also note that this amendment would, in effect, give the Information Commissioner order-making powers, as he would be able to disclose records obtained from other government departments and institutions, created or obtained in the course of his investigations, and which would be otherwise subject to mandatory exemption.

Honourable senators, I believe that all parliamentarians are committed to accountability and transparency. Bill C-2, the Federal Accountability Act, went to great lengths to accomplish that goal. It is my opinion that the amendments made by the Federal Accountability Act to the Access to Information Act has strengthened that act while carefully maintaining the act's balance between access to information and the necessary protection of certain sensitive government information.

Honourable senators, as I noted earlier, Canadians are not necessarily clamouring to get involved in the nitty-gritty, raw details and scandals that might be produced from such papers. They want to be assured that our auditors are professional and know how to do their jobs. It is obvious that Bill S-223, which purports to increase transparency and accountability in the government, fails in its application. Instead of making the government more transparent, it could create situations in which audits and investigations could not be properly conducted. Instead of maintaining the Access to Information Act's balanced exemption structure, it asks for a public interest override that could undermine the government's assurances, for example, to its citizens and other governments that it can safeguard sensitive information that, in the public interest, should not be disclosed.

I therefore respectfully ask that honourable senators read this bill very carefully and I am confident that they will join with me in rejecting the bill before it goes any further.

Hon. Lorna Milne: Will the honourable senator accept questions?

Senator Comeau: Absolutely.

Senator Milne: Thank you, Senator Comeau. First, I will start by reminding the honourable senator that, in 2006, the Conservative Party of Canada publicly stated in their election platform that they were committed to expanding the coverage of the Access to Information Act to all Crown corporations, officers of Parliament and organizations that spend taxpayers' money or perform public functions.

In June 2005, the leader of the Conservative Party, Stephen Harper, made the same commitment in an editorial in the *Montreal Gazette*. Each of these statements commits the Conservative Party to providing a general public interest override for all exemptions in order that the public interest should come before the secrecy of government, and to make exemptions discretionary and subject to an injury test.

If the leader of the honourable senator's party has twice committed to precisely what is contained in my bill, then why is he not also committed to supporting it?

Senator Comeau: I see your fan club is here. I am quite sure that he has read very attentively the provisions that the honourable senator is proposing in her bill.

Let us go over what the honourable senator is referring to as the Access to Information Act override that would be provided to the heads of corporations. If she carefully read the documents to which she refers, I do not believe that the Prime Minister was referring to heads of departments being offered the two override provisions of the Access to Information Act and the sensitive information that may be collected from Crown corporations and corporations that are in the competitive world. I do not believe that that is what he was referring to in improving information for Canadians.

Furthermore, I do not believe that the Prime Minister was referring to having the Official Languages Commissioner, the Comptroller General and the Auditor General divulge from whence they were getting their information during the course of their audits, and to start laying out names of people who have made complaints in order to improve the workings of government.

• (1540)

It can be Canadians in general, but in many cases, it can be people working within the departments who see suspicious behaviour that they might not be sufficiently wise to pursue on their own. Therefore, they can call in professional people, for example, professional auditors, to investigate the suspicious behaviour. Many investigations might come to nothing at the end. The people who provide information to auditors may not be sufficiently knowledgeable.

Again, it becomes a protection of those people who might not otherwise know how to pursue their suspicions. Under the current regime, without the exemptions of the honourable senator, it is proposed that the investigators can conduct their investigations without having to second-guess, once they must make those documents public, under your proposals, the damage they might cause.

Senator Milne: I suspect that the honourable senator refers to the fact that they might be afraid of being carted off in handcuffs.

In the evidence before the committee, we found that no distinction is already made between working papers and draft audits with respect to documents created by the Auditor

General's office. These internal audits are conducted mostly by government departments, the entities to which the Access to Information Act was intended to apply. In the past, internal audits have been critical in bringing problems to the attention of senior officials in the federal government and to the Canadian public. For example, without this type of access, which my bill will continue to provide, the problems with the grants and contributions at Human Resources Development Canada, HRDC, would never have come to light.

Senator Comeau: Let me refer to the first part of the honourable senator's comments with respect to people carted off in handcuffs. The honourable senator must be referring to that young individual who has a website, which, I believe, calls for airplanes to fly into Centre Block, and without going into too much detail about website, they have some kind of a song. He belongs to a group that sings weird songs. The honourable senator might want to read some of the documentation on this young fellow.

Regarding individuals working for government departments who send off or fax secret documents from within their departments, if the RCMP, which takes orders from itself, has a wish to pursue these individuals, it has the right to do so. The RCMP does not take its orders from government. It acts on its own.

As for the second part of the honourable senator's comments, I am not sure I follow her objections. She says that by making it possible for people's names to be divulged publicly after the audit is completed, that will somehow be an incentive for people to report wrongdoings and suspicions. I am not sure if I follow her logic in the case of her amendment.

The Bill C-2 accountability act as it is now offers people protection in that their names will not be paraded on the public grounds of Parliament and in the newspapers. The act now provides an incentive for people to whistle-blow and report. In the case of the Commissioner of Official Languages, people can go to the commissioner and say, "My employer is not providing me with a workplace that is conducive to the practice of my official language. I would like you to investigate this."

The honourable senator is proposing that the name of this poor individual will become public, after the audit is done. That is what we are trying to avoid, and I am also trying to do so by rejecting completely the amendments that would cause these things to happen.

Hon. Anne C. Cools: I wonder if the honourable senator would take another question.

Senator Comeau: Yes.

Senator Cools: I was listening, and I thank the honourable senator for creating some interest on my part in this particular bill.

I wonder if he could expound on a couple of remarks he made. He kept saying that the amendments — I think he meant the bill — will undermine the role of the Auditor General, but he did not explain how. I wonder if he could tell me how the bill proposes to undermine the role of the Auditor General. It not only undermines the Auditor General; he says it would also undermine the Auditor General Act. I wonder if he could provide some explanation as to how that would be done.

Senator Comeau: If the honourable senator has been listening to my rather long speech on it, I think I repeated a couple of times that the Auditor General herself indicated that by having to release audit papers at the end of an audit — I think I am saying this for the fourth time — that it will be a disincentive for people to speak to the auditor. That also applies to one of the provisions to the Comptroller General, the internal auditors. Releasing audit papers will be a disincentive for internal audits to be done because it will be a disincentive for people to provide information to the Comptroller General. I repeat that people would be in the same position with respect to the Official Languages Commissioner.

[*Translation*]

Hon. Maria Chaput: Honourable senators, I share a number of your concerns about this bill. One of them has to do with the Commissioner of Official Languages.

If memory serves, Ms. Adam, the former Commissioner of Official Languages, once spoke of the importance of protecting both the identity of complainants and the information collected. I think she would say the same today if she was still in office.

My question is about the process you are recommending today. I do not have your experience, of course, but I would have thought it beneficial to refer the amendment to the committee, which in turn would have called the Commissioner of Official Languages to explain why he disagrees with it. Should the commissioner have approved the amendment and the bill have come back to the Senate unamended, I would have had the opportunity to vote against it.

I just want to know why this process was preferred to the one normally used here?

Senator Comeau: This process was selected because, if we approve Bill S-223, this means that we accept it in principle.

In other words, as a chamber, we agree with Senator Milne's suggestions. We agree with the idea that audit records may be disclosed after an investigation is concluded and we accept the provisions in principle.

How could we do so and, then, come back and say that we no longer agree? It is out of the question to make a few small changes and make the bill amendable. It cannot be amended.

That is why I am proposing that we reject it in principle, because this particular bill cannot be amended in such a way as to adequately address my concerns about the Commissioner of Official Languages. Having been an internal auditor myself, I know how important it is to be able to reassure people that their comments will not be disclosed.

• (1550)

I can imagine how worried the Auditor General and the Comptroller General must be. I think that, in principle, this bill is not acceptable.

Hon. Claudette Tardif (Deputy Leader of the Opposition): If this bill were passed, would it be easier or more difficult for the person who filed a complaint under the Official Languages Act — either for access to public services or for the language of work — to remain anonymous?

Senator Comeau: We could no longer guarantee anonymity. In other words, we would almost be forced to tell people filing a complaint that we could not guarantee that their name would not be publicly disclosed at the end of the audit.

Section 72 of the Official Languages Act makes it possible to guarantee that names will not be disclosed, which is an incentive to file a complaint. For example, an employee working at Transport Canada who cannot work in his first language can file a complaint with the Commissioner of Official Languages and, at present, remain anonymous. With this bill, anonymity would no longer be protected. At the end of the audit, the boss would know who filed the complaint.

If I were unable to obtain services in French from an RCMP officer in a region where there is a francophone minority, the last thing I would want to do is file a complaint against the RCMP, only to have them find out a few days later that I was the one who filed the complaint. We must protect and encourage people who, in other circumstances, would not be protected. This is another reason the bill cannot be improved.

[*English*]

Senator Cools: Could I be informed of how much time Senator Comeau has remaining?

The Hon. the Speaker: Senator Comeau has another 12 minutes.

Senator Cools: I thank Senator Comeau for awakening my interest in this bill. At the outset of his speech, he said that Canadians have an expectation of accountability. Could he tell me what the Canadian expectation of accountability is?

Senator Comeau: I feel like a class valedictorian.

If the senator had been listening to my opening comments, she would have heard that Canadians expect us to be mindful of the taxes we collect from them in order to provide security and services to society in general. On one hand, Canadians expect their parliamentarians and legislators to spend these resources wisely and, on the other hand, to enact legislation that will assist professional auditors, the Auditor General and others, in the protection of these resources.

They are asking that we empower auditors to go into the details of how their money is spent and to fix any problems that might arise along the way. I do not think Canadians want to know the details of the audit papers. They are asking that auditors be given the tools to do their work in order to protect their interests and their resources.

On motion of Senator Robichaud, for Senator Day, debate adjourned.

PROTECTION OF VICTIMS OF HUMAN TRAFFICKING BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Phalen, seconded by the Honourable Senator Day, for the second reading of Bill S-222, to amend the Immigration and Refugee Protection Act and to enact certain other measures, in order to provide assistance and protection to victims of human trafficking.—(*Honourable Senator Andreychuk*)

Hon. A. Raynell Andreychuk: Honourable senators, I would like to speak to Bill S-222, dealing with human trafficking, the week after our coming recess.

Order stands.

DIVORCE ACT

BILL TO AMEND—THIRD READING—
DEBATE ADJOURNED

Hon. Consiglio Di Nino moved third reading of Bill C-252, to amend the Divorce Act (access for spouse who is terminally ill or in critical condition).—(*Honourable Senator Di Nino*)

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

Hon. Anne C. Cools: I wish to speak to this bill and would like to move the adjournment of the debate.

Senator Comeau: Debate.

The Hon. the Speaker: I am about to put the motion to adjourn the debate moved by Senator Cools, but if another honourable senator —

Senator Cools: If the honourable senator wishes to speak now, I will adjourn the debate later.

Hon. Nancy Ruth: Honourable senators, I allowed this bill to proceed on division when it was in committee, and I wish to tell you why.

This is a bill about allowing access to their children to the terminally ill and those in critical condition before they die. On the face of it, this bill seems compassionate and absolutely gender neutral. However, it is an amendment to the Divorce Act, which impacts virtually everyone in Canada. Therefore, I must ask: Who are the spouses who do not have custody who will need this amendment to the Divorce Act? They are probably not men and women who share joint custody. My best guess is that they are the fathers who do not have custody.

Given that and the fact that the bill provides no definition of "terminal illness," I fear that it may provide a back door to the issue of custody.

Terminal illness is not defined in this bill. I would be happier if it were.

• (1600)

For instance, would Parkinson's disease be seen as a terminal illness, which it is, while a person with Parkinson's could well live for a couple of decades or more? That is why I am concerned that this bill is an indirect road to changes in custody issues, and that is why I voted on division. I hope honourable senators will consider my comments.

Senator Di Nino: I would like to make a few comments on the bill.

Senator Cools: Who sponsored the bill here? If Senator Di Nino speaks, he will have the effect of closing the debate.

Senator Di Nino: No.

Senator Cools: Yes, if Senator Di Nino speaks —

Senator Di Nino: I have not spoken yet.

The Hon. the Speaker: Order. The chair is recognizing Senator Di Nino to speak in the debate.

Senator Di Nino: Honourable senators, Bill C-252, which seeks to amend the Divorce Act, would ensure that courts take into consideration the terminal illness or critical condition of a divorced parent when he or she seeks a variation in the access order in respect of his or her child. This bill was passed in the Standing Senate Committee on Social Affairs, Science and Technology on Wednesday, May 9, following a considered discussion with many thoughtful questions from honourable senators.

The committee testimony of the two Department of Justice officials who appeared along with the sponsor at the other place, the Honourable Member for Lethbridge, Rick Casson, reinforced our confidence in the soundness of this bill.

Under section 17 of the existing Divorce Act, a former spouse may seek a variation from the court in respect of custody and access made under a previous order of the act. Section 17(5) requires that the court be first satisfied that a change in the circumstances of the child has occurred. The addition of 17(5.1) by Bill C-252 will deem terminal illness or critical condition of a parent as a change in the circumstances of the child and enable that parent to overcome the initial threshold before a court will entertain making a variation order. The judge's inquiry regarding access then becomes a question of what is in the best interests of the child, the central test which is unchanged by Bill C-252.

Honourable senators, this amendment may result in some evolution of the jurisprudence, but a case-by-case determination will still be required before a change in access rights is granted. It will be the judges, dispassionately sifting through all available facts, who will have the final say but, by filling in this gap in the Divorce Act, they will at least have to consider the illness of a parent in making their determination, whereas now they may disregard it.

Whether a precise legal test is developed to define "critical condition" or "terminal illness" is not known at this time, but that will be left to the courts. Unless jurisprudence develops around the particular standard, the determination will be made on a case-by-case basis, based on medical evidence presented.

On the issue of frivolous claims which may be brought with the passage of this bill, the rules of court procedure in every provincial and territorial jurisdiction generally address these issues. In my opinion, those rules and the wisdom of the judiciary can be relied on to deter frivolous claims. They will also have to be relied on to expedite urgent cases to the extent that that is possible and in the best interests of the child.

Honourable senators, this bill is really meant to deal with the most important relationship most of us share, or should have — that of a parent and a child. It is about ensuring that courts take into consideration the extraordinary, difficult situation in which that relationship will be permanently severed by the death of a parent. The importance of closure and final goodbyes will be appropriately weighed in light of all circumstances, and I doubt many of us have not gone through that.

As I said during my remarks on April 17, Bill C-252 probably will not affect a large number of individuals. Most custody and access agreements are reached amicably by parents, and the situation where one of the divorced parents seeks greater access to their child because the parent is terminally ill or in critical condition probably does not occur very often. However, for those occasions when it does occur, this proposed amendment to the Divorce Act may help to bring much needed relief to both the parent and the child. To add to what the sponsor in the other place, Mr. Rick Casson, said in committee, in the end it does not really matter how many people it will help, it is simply the right thing to do.

I urge all honourable senators to support Bill C-252 and make this important, incremental change to the legislation.

Hon. Wilbert J. Keon: Honourable senators, this bill came into being because a mother was dying. She had lost custody of her child and could not get through the red tape of the courts that would allow her to see her child before she died. This can occur. There are many young mothers who have lost custody of their children in the not-too-distant past, and the procedure for them to see their children when they are dying is difficult. It is difficult to get through the courts. It takes time and so forth and, in the past, many parents had to die without seeing that child one last time.

This bill will certainly not overcome all of the red tape that the courts present to a parent in such a predicament, but it recognizes that such situations exist, and it should create an awareness in the legal system that there should be compassion for a person who is dying and that they should be allowed to see their child or children, provided this would not in any way harm the child or children.

Senator Cools: May I ask a question? I thank Senator Keon for his sensitive statement. I would like to ask Senator Keon, for those of us who know something about the nasty business of divorce and have studied it formally. I am asking Senator Keon about the examples he cited, which are tragic and terrible examples, but they are instances where it was the mother who was being denied access. Would I be correct in saying that there are at least an equal number of men, fathers, who have been in the same position?

Senator Keon: Not in my experience, Senator Cools. In my medical career of 40 years, I did not encounter a father looking for permission to see a child where he had lost custody of the child in the divorce.

Senator Cools: I thought you were speaking from data other than your own medical experience, which is extremely valid and extremely important and brings much to the debate.

Hon. John G. Bryden: Honourable senators, I am asking this question of Senator Keon because of his profession and experience. Is there an accepted definition of "terminally ill"? What constitutes a terminal illness? In one sense, we are all terminally ill, some days more so than others. Is there an accepted definition or does it vary from person to person or disease to disease?

• (1610)

Senator Keon: Honourable senators, like many situations in medicine, it is fuzzy. However, one can predict with a great deal of accuracy when death will occur in a number of illnesses.

Senator Nancy Ruth: The bill does not say there is an expectation of death. It says "terminally ill."

Senator Keon: I believe that definition can be intelligently interpreted by the medical and legal system at the appropriate time. Perhaps we should have a definition some day, I do not know. Certainly in the specialty that I practice, we can predict death accurately in a matter of hours. The classifications of emergent, urgent and elective treatments of our patients were based in time frames because their life expectancy was known.

That may be an oversimplification, however. Other diseases may not be so simple. I have enough confidence in the medical and legal professions that they can predict accurately how long someone has to live with a given disease. Hopefully, this bill will allow the wheels of justice to turn a little faster.

Hon. Terry M. Mercer: I want to ask a question of the honourable senator. I am sympathetic to the principle here, but when the honourable senator talks about the details I become concerned.

What is reasonable? Is it that there is no harm to the child emotionally? Is it reasonable if the child is forced to see a parent when there may have been abuse, whether physical, psychological or sexual, or the break-up of the parents could have been so traumatic for the children that it could bring back memories that might trigger other emotional problems? I have difficulty reaching a concept as to how this situation could always be good for the child. I know how it would be good for the dying person to see their children before they go and be at peace. However, that may not necessarily be a good thing for the child.

Senator Keon: You are asking a doctor, not a lawyer, to interpret the law, but I will respond.

The legal system, in my medical-legal experience, is tilted towards the child. The child is protected now and I do not see anything here that would in any way erode the protection of a child.

I cannot imagine any judge allowing a child to be subjected to a situation that would be harmful in any way or unpleasant in any way. I cannot imagine the courts ever allowing a child to be forced against their will to see a patient who is in a terminal condition.

Senator Mercer: There was a court case in Western Canada a few years ago where children were forced to see a father who had been abusive because he had applied to the courts and gained access to his children. It was a terribly traumatic situation.

My concern is that we are not specific enough in protecting the children. Again, I am sympathetic to the purpose and the principle of the bill. However, I am nervous that we may be going too far in not defining what "terminal illness" is, as well as not specifically defining "protection of the children" in the bill.

Senator Keon: I am not sure if that is a question but I will try to respond.

I suppose the laws are imperfect. We live in an imperfect world and there will always be some difficulties. However, I believe this step is an important one forward. The process that someone must go through to see a child, of whom they have lost custody, while on their deathbed is a slow and difficult process. This bill will help expedite that process. As far as I am concerned, I have confidence in the courts that there will be no wrongdoing. If, on occasion, there is, I am sure an amendment will be advanced to eliminate whatever damage is perceived.

Hon. Tommy Banks: Honourable senators, I do not know anything about this, obviously, but Senator Keon has raised a picture in my mind and I am imagining someone who is found to be terminally ill and, as the honourable senator said, on his or her deathbed. Does the court require that the child to visit the parent or does the court permit the child to visit?

Senator Keon: The court would permit, not require.

On motion of Senator Tardif, for Senator Trenholme Counsell, debate adjourned.

THE SENATE

FAILURE OF GOVERNMENT TO APPOINT QUALIFIED PEOPLE TO THE SENATE—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Banks calling the attention of the Senate to the failure of the Government of Canada to carry out its constitutional duty to appoint qualified persons to the Senate.—(*Honourable Senator Fraser*)

Hon. Catherine S. Callbeck: Honourable senators, an inquiry is before us with respect to the ongoing failure of the present government to appoint qualified people to the Senate. This inquiry, introduced by our colleague Senator Banks, asserts that the Government of Canada has failed to carry out its constitutional duty by not filling vacancies in the Senate in a timely manner.

Senator Banks has said that the Constitution Act obliges the government of the day to ensure that Senate vacancies are filled so that it can carry out its responsibilities to the people of Canada. This is clearly spelled out in section 24 and section 32 of the Constitution. Section 24 says:

> The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified Persons to the Senate; and subject to the Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator.

Section 32 states:

> When a Vacancy happens in the Senate by Resignation, Death or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.

• (1620)

There are now 12 vacancies in the Senate. The present government does not appear to be in any hurry to fill these vacancies, which now represent more than 10 per cent of the membership in this institution.

Certain provinces and regions in this country are under-represented in this institution. One of those provinces is Prince Edward Island. There has been a vacancy in the Senate from my province for close to three years now, when Senator Rossiter retired on August 15, 2004. That means that my province is being denied the full representation to which it is entitled in the Parliament of Canada under the Constitution.

When Prince Edward Island joined Confederation, it had significant concerns as to how it was to be represented in Parliament. Many Islanders were concerned, then as now, that as Canada's smallest province its level of representation would not be sufficient to ensure that its interests and aspirations would always be reflected in national policies.

Upon entering Confederation, Prince Edward Island was allocated six seats in the House of Commons and four in the Senate. Shortly after, its population began to decline relative to Canada's growing population. As a result, it saw the number of seats to which it was entitled in the House of Commons reduced to five, then to four, and then it faced the prospect of seeing the number of seats in the House of Commons reduced to three.

As a result, the provincial government of the day pursued a constitutional amendment to protect its representation in the House of Commons. Accordingly, in 1915, an amendment was made to the British North America Act by adding a new section dealing with the number of seats to which a province was entitled in the House of Commons. The new section, 51(a), stated:

> A province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province.

That constitutional guarantee ensures that Prince Edward Island will continue to have four Members of the House of Commons, the same number of members to which it is entitled in the Senate.

I mention this background to emphasize the importance which the people of Prince Edward Island have attached to their representation in Parliament. Islanders, like all Canadians, want to ensure that they are being fully represented in Parliament, in government and in this nation's affairs. However, at the present time, Prince Edward Island has only 75 per cent of the representation in the Senate to which it is entitled in the Constitution, and also does not even have full representation in the federal cabinet. That responsibility now rests with the Minister of Foreign Affairs, who is also the minister responsible for the Atlantic Canada Opportunities Agency, who is also the minister responsible for representing the Province of Nova Scotia's interests in the federal cabinet, and who is also responsible for serving his constituents in the riding of Central Nova. Given his many duties, it is hard to believe that the interests of Prince Edward Island are on the top of the agenda for the Honourable Minister of Foreign Affairs.

The Prime Minister had, and still has, the opportunity to ensure that the people of Prince Edward Island are provided with a seat at the cabinet table. As I said, there was a vacancy in the Senate for Prince Edward Island when the present government was first elected, and that vacancy still exists. There are no signs that it will be filled in the near future. The Prime Minister could have chosen, and still could choose, a qualified Islander for appointment to the Senate and to his cabinet.

In fact, that is exactly what the Prime Minister did when he appointed the Minister of Public Works to the Senate and to the cabinet. The Prime Minister, by that appointment, demonstrated that he was not opposed, in principle, to the appointment of senators. The Prime Minister, by that appointment, demonstrated that he was willing to appoint people to his cabinet through appointment to the Senate.

Why, then, does this Prime Minister believe that it is appropriate and acceptable to provide representation to the people of Montreal through such an appointment when he apparently does not believe that the people of Prince Edward Island are entitled to the same consideration? The fact is that the Prime Minister already had qualified senators from Montreal that belonged to his party. Montreal could have been represented by one of those sitting senators. I think they would have been happy to do so. The Prime Minister did not have to make an appointment to the Senate to have representation at the cabinet table for that area.

Yet he refuses to name a senator for Prince Edward Island who could represent our province in his cabinet. It seems the Prime Minister feels Prince Edward Island is not deserving of full representation at the cabinet table, and the people of my province are being further denied the representation to which they are entitled — if not constitutionally, then certainly by convention.

As Senator Moore stated in his remarks, I too was surprised by the Prime Minister's recent announcement of a Senate appointment for his home province of Alberta. The Prime Minister has demonstrated that it is quite acceptable to allow seats to remain unfilled in the Senate for other provinces — some even for years — while at the same time appointing a senator in Alberta, a province for which there is no vacant seat until June.

This inquiry introduced by Senator Banks makes a number of excellent points. Among those, he suggests that the effectiveness and proper functioning of the Senate is being impaired by the number of vacancies which now exist. He has stated as well that the failure to fill vacancies is creating an inequality under the Constitution Act which guarantees the equality of representation for the four senatorial divisions in this country. Ultimately, the failure to make appointments as required by the Constitution is a failure to ensure the proper functioning of Parliament itself.

In the meantime, the people of Prince Edward Island, like others across this country, are being denied full representation in the Parliament of Canada as required by the highest law in this nation. The present government, for narrow political motivations, is putting the interests of itself above the interests of Canadians.

On motion of Senator Munson, debate adjourned.

STUDY ON CURRENT STATE OF MEDIA INDUSTRIES

GOVERNMENT RESPONSE TO TRANSPORT AND COMMUNICATIONS COMMITTEE REPORT— INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Fraser calling the attention of the Senate to the Government response to the second report of the Standing Senate Committee on Transport and Communications entitled: *Final Report on the Canadian News Media.*— (*Honourable Senator Banks*)

Hon. Tommy Banks: Honourable senators, given the time, I will take the opportunity to speak to this inquiry that is before us. I have not organized an adjournment by anyone, but we will see if anyone wishes to adjourn it.

• (1630)

This inquiry is in relation to a report by the Standing Senate Committee on Transport and Communications on the status of news-gathering mechanisms in Canada, namely, the news media, and that report paid a lot of attention to the question of convergence of ownership of the news media.

My connection with news-gathering media is a grazing one, although a long one. I do not know anything about newspapers. The only thing I know about newspapers is that, in my previous life, I framed good reviews and burned bad ones.

I do know rather a lot about broadcasting, or at least about the way it used to be, and the way it largely still is. In fact, I was, for a short and largely technical time, an owner of a television station.

This report deals, in some degree, with the convergence of ownership among broadcasters. There is nothing morally or ethically wrong with the convergence of ownership among broadcasters. If I were a proprietor of a broadcast undertaking and permitted to do so, I would do exactly the same thing. It is very efficient.

However, efficiency and the aggrandizement of the interests of the shareholders of broadcast undertakings is not the only consideration in this country which can be taken into account in the licensing, governance and regulation of broadcasters. There is a public responsibility, at least there used to be. If we are to change that concept of public responsibility, then we should do so openly, clearly and publicly, and not merely by lack of attention to it, or by attrition of the public interest. If we are to do that, let us admit that it is a media free-for-all. Until and unless we do that, there is an overriding public interest, an overriding public responsibility and an overriding public obligation that attends to broadcasters, and they are not being met.

Whether by design or perhaps inadvertently, in my personal opinion the CRTC, by way of decisions that have been, in the main, ill-advised over the past few years, has had the effect of weakening seriously, if not destroying, the Canadian independent production industry.

We must start over, senators, from the very beginning, with a clean sheet of paper and re-examine the regulation and governance of the broadcast industry in Canada. Why do we need to do that? There used to be, in the good old days not very many years ago, a guy in every city, in every radio station, in every television station, who was upstairs in the office, to whom a creative person could take an idea, and every once in a while that guy upstairs would say, "Regardless of the fact that this is not going to make me any money, and in fact it may cost me money, we should do that." They did that out of a sense of community responsibility that those guys upstairs — they were all guys — used to have. In every city and town, the owner of that radio station or television station was there, and they did things very differently from the way they are done now.

Putting aside the obligations that those proprietors have, as a result of the promises and performance that they go through when they make their application for a broadcast licence, there was another reason for which they sometimes did those things. Every one of those owners had a sense of community; some greater than others, but they all had it. They all lived in that community. They had pride of place in their community. I knew many of those men. I still know many of them, but they are no longer in those positions.

Every day, in my travels all across this country, from St. John's to Victoria, I saw evidence that this policy might not make us any money, in fact it might cost us some money, but we should do this because it should be done. We should do it for altruistic reasons; we should do it for its own sake. That community pride of place has gone. It is not that it has been reduced; it has gone.

There are managers now in those communities, running those broadcast undertakings, and they may see and understand some of those things that ought to be done for their own sake, but they are no longer the decision-makers. The decision-makers now live somewhere else and have different interests. The obligation, duty and allegiance of those managers are to a widespread group of shareholders who do not necessarily care what happens in Rosetown or Chicoutimi or Toronto.

Those obligations and duties and allegiances of the managers to the shareholders are not wrong. It is to their shareholders, and the dividends that they pay them, that those duties are, in fact, owed.

There is, as I have described, an absence of that other set of obligations that, until very recently, have always been there and have largely been met in every one of our communities. Sometimes they were met strictly because of the hammer; because

of the promise of performance to which they were held. Often they were met for purely altruistic reasons, and there lies the shortfall — and it is not merely a shortfall, honourable senators, it is a gaping hole — in this aspect of the fabric of Canadian broadcasting.

That shortfall, that huge gaping hole, is a public obligation and duty that is at least as important as the one that is owed to shareholders. That has always been the public policy in broadcasting in Canada. It still should be, and it is not being met.

That is why we need to go back to the beginning, the very beginning, to square one. We need to bring broadcast regulations in Canada into the 21st century. They are now barely in the 20th century. Some of the measures that can be taken in that respect, and can be considered, are contained in the report before us.

However, we need to go even further than that. We need to start from the ground up, with a clean sheet of paper, recognizing that the landscape in which the present regime of broadcast regulations in this country was designed is no longer a landscape that exists; it has changed drastically. It has changed to the extent that the entire regime is at odds with the present circumstances in which it operates, both technologically and otherwise.

I hope the Senate will be the place from which that initiative will emanate. I will join with my colleagues in working to that end.

Hon. Joan Fraser: Thank you for that extremely eloquent, well reasoned and very knowledgeable speech.

In my view, the honourable senator's diagnosis is sadly accurate. I wonder if senators saw on the weekend a report in *The Globe and Mail* about a hearing that the CRTC held last week, where proprietors of CTV and CHUM were before the commission, seeking permission for their much publicized merger, the announcement of which honourable senators may recall was accompanied by the notice of many layoffs, particularly of journalists and newsroom people.

The new chair of the CRTC listened to the proposals, which would involve giving the newly merged company two television stations in quite a large number of cities. I speak from memory here, but he said to the owner of the CTV network, or the representative, "You have made a very good case in explaining to me why what you propose is in the interests of CTV, but I do not see in your remarks anything about what is in the public interest."

Does the honourable senator think that I am being over-optimistic if I suggest that such remarks might be a ray of hope?

Senator Banks: I thank the honourable senator for the question and also for this excellent report. We know Konrad von Finckenstein from another picture. I think that "hope" is the operative word.

• (1640)

I have great hope that he, and perhaps other members of the commission, will follow with action — and with the demonstrable application of policies that have been bent out of shape in the past 20 years — to take into account the public interest. However, that hope is mitigated to a degree by the fact that other previous members and even chairs of the CRTC have said those things, and have said that they will operate with great deference to the larger public interest, and that has — if I can use gross understatement — not always been followed up on.

Any time there is a new broom, one hopes that it might sweep clean. Mr. von Finckenstein is demonstrably a principled man, and I think he understands the question. However, it is more complicated than merely understanding the question, unfortunately, as previous examples of the thing we are talking about have amply demonstrated.

Presently, many people on the staff of the CRTC, with respect, know a lot about broadcasting. There are even some ex-broadcasters on the staff of the CRTC. I am not up-to-date on the present membership, but there have not been many broadcasters in the past little while who are members of the CRTC, which leads to other kinds of regulatory and management questions in relation to the fabric of Canadian broadcasting.

When was the last time a broadcaster was the president of the CBC? I do not remember and I am 70 years old. There have been presidents of the board of the CBC who have been broadcasters. In the case, for example, of Patrick Watson, many of us said that at last someone has been appointed to the chairmanship of the CBC board who actually knows what is going on.

Senator Mercer: God forbid.

Senator Banks: Well, he did, and there have been others. However, they found that the spaghetti bowl, the push back, the resistance and inertia were such that even they had difficulty making a difference. The same thing has obtained with respect to some broadcasters who have had dealings in the past with the CRTC.

The short answer to your question is, we must have hope. If we do not have hope, and if someone does not realize that hope, we are precariously close to the tipping point where we will lose it. We will lose something that not only most thinking Canadians, but most Canadians, if it came down to it, I believe, would say is an important public interest. I do not think we want to lose that. We are approaching the abyss so I join you in your hope that the article, which I did not see, augurs well.

The Hon. the Speaker *pro tempore*: Senator Banks' time is completed. Will you accept five minutes more?

Hon. Senators: Agreed.

Hon. Jim Munson: Since the chair of the CRTC, Konrad von Finckenstein, mentioned the words "public interest," does the honourable senator think it would be in the public interest for the CRTC to avoid making any decision in dealing with this merger that may happen, or the buy-out of CHUM by CTV, and that there be public meetings across this country? The word "public" is always used, but nobody in the public seems to be able to walk into the process, for example, into the labyrinth of the CRTC at Gatineau and sit down and say, we want to have a fulsome debate.

In our work in the Standing Senate Committee on Transport and Communications, we went across the country and heard people. We had town hall meetings and people spoke to us. There is a great deal of concern out there, whether it comes to the Irving empire in New Brunswick or whether it happens in Vancouver.

It seems we say all of these things, but nobody really listens. I am wondering, from your perspective, at what point does the chairman say we will not make a decision until we tap into the public?

Senator Banks: I thank the honourable senator for the question. I will precede my answer with an explanation, which should help explain my answer. That is up to the CRTC. I would not want us to abridge or abrogate the principle that the CRTC is among those institutions in Canada that is genuinely at arm's length and not susceptible to political pressure on one side or the other of any particular issue.

What the honourable senator suggests is something that the CRTC might want to take into consideration in finding out and being better informed about what the public interest is in this and other cases. However, I regard that matter as being strictly the province of the CRTC, so long as that institution remains as it is.

It is among the institutions — along with Telefilm Canada, the National Film Board, the CBC and several others — that I was referring to when I talked about a clean sheet of paper, that I think need to be looked at again quite differently. They all exist; they were all designed in a time that is patently different in almost every respect from the present. Therefore, that is a different question.

As regards the CRTC itself, I think that the suggestion of the honourable senator would be a good one to make to the CRTC; but they should not be obliged by anyone — and certainly not by government — to do that.

Senator Fraser: On this matter of public input to the CRTC in connection with broadcasting licences, a few years ago our former colleague Senator Finestone had a bill before this place that struck me as creative. We know that the CRTC subsidizes, to some extent, intervenors before it in the telecommunications branch. It does not do so for intervenors in the case of broadcasting licences. Her bill would have said, basically, give the same fair crack to the public for broadcasters; give them modest subsidies as well to help members of the public and non-profit groups make their case before the CRTC. Do you think that idea is worth pursuing?

Senator Banks: I do, and I did at the time. I supported that bill unequivocally, with the one little codicil that the CRTC would have to be provided funding to do that properly. When it applies for its budget, it does not include that at the moment. It does not have sufficient funding to do that at the moment, but it would be a good idea and would demonstrably represent the public interest better than is now the case.

On motion of Senator Tardif, debate adjourned.

[Senator Munson]

[*Translation*]

CANADA'S COMMITMENT TO DARFUR, SUDAN

INQUIRY—DEBATE CONTINUED

Leave having been given to proceed to Other Business, Other, Inquiry No. 3:

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Dallaire calling the attention of the Senate to the situation in the Darfur region of Sudan and the importance of Canada's commitment to the people of this war-torn country.—(*Honourable Senator Andreychuk*)

Hon. Grant Mitchell: Honourable senators, April 29 was declared a global day of action marking four years of conflict in Darfur. Many senators spoke out to draw attention to what the United Nations is calling the worst humanitarian crisis on the planet.

• (1650)

I am humbled by the commitment and the efforts being made by the All-Party Parliamentary Group for the Prevention of Genocide and Other Crimes Against Humanity to ensure that this devastating crisis does not go unnoticed. Like them, I believe that, as parliamentarians, we must give a voice to those who have been forced into silence.

The humanitarian impact of the crisis has been devastating for the people of Darfur. Furthermore, the prevailing instability in the region is hindering the work of aid organizations and preventing them from even counting exactly how many people are being affected by the conflict. At least 200,000 innocent people have been killed, and at least 2 million have been displaced. We are hearing reports of countless systematic murders, rapes and forced displacements.

Our colleague, Senator Dallaire, a source of inspiration, has called the conflict genocide in slow motion. To do nothing and say nothing is unacceptable.

What does the conflict mean for the people of Darfur? It means hundreds of thousands of people living in fear and suffering, and having to leave their homes. The children become orphaned, they are kidnapped or they are forced into becoming soldiers and engaging in combat. According to UNICEF, it means that a girl living in that troubled region of Sudan has a better chance of dying in childbirth than of going to school. Educating girls and women is essential to development and, if these statistics apply to the girls in Darfur, I fear greatly for their future and that of their country.

As incredible as it may sound, the longer the conflict goes on, the more precarious the situation becomes. It is increasingly difficult for aid agencies to gain access to those in greatest need of humanitarian relief. In Darfur, 4 million people, or half the local population, desperately depend on this assistance to survive. The aid agencies themselves are not safe. In December, while we were celebrating the holiday season, the aid agencies' compound was breached. One staff member was beaten, and another raped. Already four years old, the conflict just keeps worsening. It is now

reaching Chad, a country where hundreds of thousands of people from Darfur have already taken refuge.

The people of Canada are calling for an intervention. I wish to hold up as an example the work of a remarkable group of young people from Alberta. These 30 students from Edmonton walked from Calgary to Edmonton to call attention to the atrocities happening in Darfur. An Albertan myself, I have driven along that road many times and I am totally amazed by their determination. This was a 300 kilometre walk, and it took them eight days, in stretches of up to 30 or 40 kilometres per day. The group would make stops in small town high schools to share their message. They have collected more than $10,000 to help finance relief efforts. This is a truly inspiring group of students.

Canadians believe in their country's ability to help and protect people who are suffering. The needs in Darfur are great, and I believe that our government and our country must do more to defend those who are trying desperately to survive. The Government of Sudan is supporting factions that are killing, raping and terrorizing the Darfurians. They must not be allowed to go on with impunity. The supreme irony of the situation is that, while the suffering in Darfur is continuing, Khartoum, the capital in the north, is drawing praise for its rapid development. Moreover, the country's economy should grow by 11 or 12 per cent this year.

Buoyed by this prosperity and the fact that the world seems indifferent to the violence, the Government of Sudan has no reason to alter its behaviour. The world needs to send a consistent, sincere message and tell the Government of Sudan that it must no longer support the conflict in Darfur.

We all need to remember that we have said, "Never again" and work together on a consistent response to the Government of Sudan.

Hon. Roméo Antonius Dallaire: Would Senator Mitchell entertain a question?

Senator Mitchell: Yes.

Senator Dallaire: Honourable senators, I would first like to say that I have deep respect for Senator Mitchell for having delivered his speech this afternoon in his second language, with dignity, assurance and confidence.

It is an example of the fundamental duality that enables us to build this country and accept all the other new entities that will become part of our great nation.

My second point has to do with the young people who attended last week the meeting of the interparliamentary committee on genocide prevention, which brought together parliamentarians to listen to representatives of Canada's NGOs. There were 55 students in attendance, including a dozen from Alberta who paid their own way to listen to us talk for two hours. Three of those students were part of the team that walked 300 kilometres.

In 1974 in Holland, I took part in the annual Nijmegen walk, where we had to walk 160 kilometres in four days. We trained for weeks before setting out on that adventure. It was no mean feat for these students to walk 300 kilometres in eight days. It is a remarkable sacrifice. I congratulate them.

I recently spoke to the Chief of Staff of the African Union Forces, General Anyidoho, who was my assistant in Rwanda. He told me that the United Nations is moving forward with a very strong program, which has been accepted by Sudan, to transition toward a significant position of strength in order to protect the people of Sudan and Darfur. He wanted to know why Canada was not there. There is already a United Nations mission of 10,000 soldiers in Sudan, including 33 Canadian observers. That is in the south of the country. Some 20 or so soldiers are helping the African Union with the mission in Darfur.

• (1700)

He told me that every Canadian officer or non-commissioned officer is worth easily five to ten officers from other, developing countries, in terms of skills, work ethic, technological expertise and desire to advance the mission.

Do you not think that Canada could send at least 20 or so experts to help with the second phase of the United Nations mission in Darfur?

Senator Mitchell: I want to thank the honourable senator for his question. I will try to answer in French. However, I must say that this is the first time I am speaking French here without any notes.

Thank you for complimenting my efforts to read in French. I appreciate that very much.

As a relatively young senator, I should take this opportunity to learn French. I must do so for Canada, for bilingualism, and also because I am a senator from Alberta. We do not speak much French in Alberta. Nonetheless, it is quite present, as Senator Tardif and other honourable senators can attest.

Let us come back to your question. Canada is a privileged country. We therefore have a moral imperative to provide help to Darfur and Sudan.

Like you, my father was a soldier. He served in the Canadian Forces throughout the world, particularly in Korea. I understand the importance of this effort in Darfur.

In my opinion, we have the resources, and I know, as you do, that our soldiers have the ability to contribute to improving the situation in Darfur.

I completely agree with Senator Dallaire. I hope the Government of Canada will come onside soon.

[*English*]

Hon. A. Raynell Andreychuk: Will Senator Mitchell take a question in English?

I am part of the all-party genocide group. We meet at sometimes difficult times for me, but I am nonetheless very supportive of the initiative of the prevention of genocide. I understand the honourable senator's point about what he believes should be done now in Darfur.

One of the dilemmas is that we could be more effective if we worked in prevention as opposed to in the middle of difficulty. The honourable senator has spoken about Darfur. When would he say the situation in Darfur changed from a civil issue for the Government of Sudan to an issue of genocide that we all should have taken note of?

The Hon. the Speaker: Senator Mitchell's time has expired.

Senator Dallaire: Could he have five minutes to respond?

The Hon. the Speaker: The honourable senator will rise and ask for an extension of his time.

Senator Mitchell: Could I have several more minutes?

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

Hon. Senators: Agreed.

Senator Mitchell: I value the question and I certainly respect the point the honourable senator makes, although to some extent I wonder if it is not a moot point. No matter when the transition was made from a civil conflict to genocide, the fact is that as a civil conflict it was not acceptable. Had the conflict occurred elsewhere in the world, with different strategic implications, it might be that the Western world would have taken a greater interest in the conflict than it has.

Setting that aside, the fact of the matter is that something needs to be done now. Yes, we need to play the role that the honourable senator is suggesting, a more supportive, building role. I believe that if were we able to play that role in Afghanistan, we might be able to deploy more forces from there to Darfur.

My concern is that it may well be that our government, which has limited the scope of its international relations to a strong U.S. support role, I would argue — and I say that as positively as I can — has lost the credibility it needs to negotiate with its NATO allies to reconfigure our commitment in Afghanistan. We are doing the heavy lifting and we have been doing it for a disproportionate amount of time. We could, in fact, deploy the 20 or many more Canadian soldiers to a place like Darfur and we could play a significant role in both places, as a country like Canada should do and has the capability of doing.

Senator Andreychuk: The honourable senator raised the subject of Afghanistan. I did not. My point is that if we are to talk about the duty to protect and about genocide prevention, we have to have lessons learned. In determining what role we can play now, one must look at what role we did play and whether it was the correct role.

In regard to Darfur, it is one thing now to talk about redeployment. If I take the honourable senator's point that we have very few troops and we have to make choices — and there was a choice made to go into Afghanistan and there were reasons why we did not go into Darfur at that time — with that background, what can we constructively do now to support the situation in Darfur? The answer must be based on the fact that our interventions now have to be positive. We cannot go into Darfur so that we feel better, and we do not really make a change for the people of Darfur, which has to be an immediate response and a long-term commitment.

Senator Mitchell: I cannot disagree with the honourable senator, but I would say that we need to have a sense of urgency. We can go on and on having these debates, and I wonder how many people might have died in the few minutes the honourable senator and I have spoken about this. Far too many, I am sure. We need to instill a sense of urgency in the government to do something about this.

Senator Dallaire was not suggesting 2,000 troops. He was saying that given the significant contribution that our soldiers are capable of making, a handful more soldiers would make a significant difference.

However, the bigger issue is, how does Canada play a significant role in places like Darfur and Afghanistan as a foreign policy strategy? Clearly, the emphasis must be on support and on building infrastructure, but there are times, I would expect, that we cannot do that without some defensive military work. I expect that were we to go to Darfur with the honourable senator's vision exclusively in mind — that is, to build infrastructure and to do humanitarian work — we would still have to do some protective military work as well. It is the nature of those circumstances. It is the nature of the 21st century and of the foreign policy issues that face us as a country that we need to play that kind of role in the world, but we have to get after it.

On motion of Senator Andreychuk, debate adjourned.

• (1710)

AGREEMENTS BETWEEN FEDERAL GOVERNMENT AND PROVINCES AND TERRITORIES ON CHILD CARE

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Trenholme Counsell calling the attention of the Senate to concerns regarding the Agreements in Principle signed by the Government of Canada and the Provincial governments between April 29, 2005 and November 25, 2005 entitled "*Moving Forward on Early Learning and Child Care*", as well as the funding agreements with Ontario, Manitoba and Québec, and the Agreements in Principle prepared for the Yukon, the North West Territories and Nunavut.—(*Honourable Senator Mercer*)

Hon. Terry M. Mercer: Honourable senators, I want to speak at length on this inquiry, but I am not prepared to do so today. In my research on this subject, I have been trying to be fair. I have attempted to find one child care space that has been created by the current government in order to compare it to the previous government but I am having difficulty. Therefore, I wish to move adjournment of the debate at this time.

The Hon. the Speaker: It is agreed that this item continue to stand in the name Senator Mercer?

Hon. Senators: Agreed.

On motion of Senator Mercer, debate adjourned.

EFFECTS OF EXPANDED ETHANOL AND BIODIESEL PROGRAM

INQUIRY—DEBATE ADJOURNED

Hon. Mira Spivak rose pursuant to notice of May 8, 2007:

> That she will call the attention of the Senate to the hidden costs and benefits of an expanded ethanol and biodiesel program in Canada.

She said: Honourable senators, the Government of Canada is surging towards expanded production of ethanol and biodiesel. Late last year, it unveiled an aggressive renewable fuels policy and last month the budget proposed $2 billion in spending.

I certainly would not want to discourage the government from taking any steps that benefit the environment — we need all the climate change measures we can devise. However, we also need to be clear and forthright with Canadians about what these measures will really cost and what they can reasonably be expected to achieve. The reason for my speaking here today is that I have read so many articles on this issue that I thought it was important to bring it forward.

In effect, the benefits are being exaggerated. The costs, including the environmental cost of increased smog, are being glossed over. Potential adverse consequences such as rising food costs are simply being ignored. In Canada, there may be hidden costs and diminished benefits. They are not hidden elsewhere, including in the U.S. Federal Register, where all can see the EPA's views.

Compare that EPA analysis, published last September, with the Environment Canada version that appeared in the *Canada Gazette* in December, and we find that the Government of Canada claims that ethanol produced from corn or wheat achieves a 20 to 30 per cent reduction in greenhouse gases. At least, that is the figure presented in the *Canada Gazette* of December 30, 2006. Ten days earlier, the news release from Saskatoon claimed that "grain-based ethanol results in life-cycle greenhouse gas emissions reductions of 30-40 per cent compared to gasoline." It is a miraculous boon, well worth $2 billion in subsidies. Meanwhile, the EPA estimates that the U.S. will see a 0.4 to 0.6 per cent reduction in greenhouse gases in the transportation sector from an ethanol program virtually identical to the program that our government has set out for Canada. How can that be? Is it 30 per cent, 40 per cent or 0.4 per cent? Where does the truth lie?

In the real world, the truth lies closer to the EPA estimates that look not at a rosy theory, but at how ethanol is actually used. In the real world, it is blended with gasoline to produce fuel for today's cars that would be damaged if the blends were richer than 10 per cent ethanol. Even if cars could run on pure ethanol, the vast majority of studies suggest the greenhouse gas savings of ethanol are not nearly as high as the estimates found in two Canadian studies — studies produced by consultants for Natural Resources Canada and Agriculture Canada. The U.S. Library of Congress suggests greenhouse gas reductions from pure ethanol are a more modest 13 to 20 per cent. For grain-based E-10 ethanol, the consensus is that greenhouse gas reductions are minimal, at best.

As for a distinct environmental downside for ethanol, namely increased smog producing emissions, Environment Canada's news release is virtually silent. Ethanol, according to the EPA, means more nitrogen oxides and more volatile organic compounds that combine with sunlight in summer to produce ground-level ozone and particulate matter commonly known as smog.

The current Minister of the Environment appeared before the Standing Senate Committee on Energy, the Environment and Natural Resources only last month to express his concern that the number of smog days in Toronto had risen from one to 27 or 37 in just 12 years.

The EPA estimates that, as a result of the ethanol program in that country, NOx and VOC emissions will increase by up to 97,000 tons. In parts of the country where ethanol is not widely used, VOC emissions would increase 3 to 5 per cent and NOx emissions 4 to 6 per cent. Nationwide, it would translate to a 0.6 per cent increase in smog. However, the Natural Resources Defence Council in the United States, a non-profit advocate of ethanol made from cellulose, suggests that the smog in Los Angeles could be 10 per cent worse. The most recent study by Stanford University Professor Mark Jacobsen projects an additional 200 deaths, most of them in Los Angeles.

The EPA reports on the three ways that ethanol increases smog-causing pollutants: from tailpipe exhausts, from ethanol production and distribution, and from something known as permeation; that is, seepage through fuel tanks and fuel line connections. The report states, and I quote:

> Recent testing has shown that ethanol increases permeation emissions, both by permeating itself and increasing the permeation of other gasoline components.

The National Resources Defence Council's solution is the rapid transit to high blends of ethanol, namely E-85, which contains just 15 per cent gasoline. That blend reduces evaporative emissions and, just as important, the cars built to run on them, called flex-fuel vehicles, have improved fuel systems that minimize permeation. They also have oxygen sensing technology to minimize NOx emissions. There are about five million flex-fuel cars on the road in the U.S., but most run on gasoline because drivers cannot find E-85 at the pump or do not know that their car can use it. Also, corn and soybeans are crops that require large amounts of fertilizer, pesticides and fuel to process. They are also the major source of nitrogen runoff, creating dead zones in rivers and lakes. In the Gulf of New Mexico there is a dead zone the size of New Jersey.

Canada's government has not presented a solution. In fact, we have no acknowledgement that the ethanol program may be creating a problem.

Other harsh realities have begun to emerge about the government's plan to have renewable fuels comprise 5 per cent of all transportation fuels by 2010, two years earlier than the U.S. mandated requirement.

What is missing from government information is presented by the Library of Parliament. A recent research paper makes clear that for Canada to reach its biofuel target of 5 per cent, producers will require 4.6 million tonnes of corn, 2.3 million tonnes of wheat and 0.6 million tonnes of canola.

• (1720)

> If all these feedstocks were grown domestically, they would represent 48-52 per cent of the total corn seeded area, 11-12 per cent of the wheat seeded area and about 8 per cent of the total canola seeded area in Canada.

The question arises, when farmland is used for fuel production, what is the impact for food production and the price of food?

The UN Food and Agriculture Organization already credits the rising demand for ethanol from corn for the decline in world grain stocks during the first half of 2006.

The Chief Executive Officer of Maple Leaf Foods Inc., Michael McCain, expresses the problem from his corporate perspective. It means more job cuts and price hikes for meat, animal feed and possibly bakery products to cover the increased costs of corn and wheat caused by the demand for ethanol. He says the major challenge for the meat industry worldwide is "to transition the ethanol effect into consumer pricing of food products."

Canadians may well pay more for their hamburgers and steaks while they pay $2 billion in subsidies to biofuel producers and receive lower mileage for ethanol-blended gas that is no less expensive than regular gas at the pump.

That is another hidden downside of ethanol: It has about one third less energy intensity than gasoline. Mileage for cars running on E-10 will be down roughly 3 per cent, while E-85 blends will have drivers filling up much more often.

The government's plan, revealed in December, has no cost-benefit analysis from the perspective of the government, from the perspective of industry or from the consumers' perspective.

In the United States, direct corn subsidies are $8.9 billion a year. Actually, in the United States, $92 billion a year is given to industry.

The EPA's economic cost-benefit analysis is extensive. It estimates an overall cost to the U.S. by 2012 of $500,000 — this is not for the producers of corn, but producers of ethanol — to $1.6 billion annually, virtually all of that in tax subsidies. In fact, subsidies exceed production costs when crude oil is $47 a barrel, and when crude reaches $70, the savings to the fuel industry is about $2 billion a year, or $1.34 a gallon, not to mention that Archer Daniels Midland, ADM, the biggest ethanol producer, is also the major recipient of the subsidy.

Small wonder that everyone from farmers' cooperatives to ADM and Tyson Foods are jumping on the biofuels bandwagon, and recently it was announced that Innisfail, Alberta, will be home to North America's largest biofuel refinery, producing 300 million U.S. gallons a year of ethanol, biodiesel and crushed canola. The incentive is not so much environmental incentive, I think, as financial.

Budget 2007 sets out $1.5 billion in subsidies over seven years, subsidies with a cut-off point that arrives when companies realize rates of return in excess of 20 per cent.

The budget, which incidentally says that renewable fuels reduce air pollution, also devotes $500 million for public-private partnerships for next-generation renewable fuels. The Ottawa-based firm, Iogen, receives special mention, as it should, and as it does in virtually every substantial article on the real promise of renewable fuels.

The real hope for growing fuels lies not in diverting corn, wheat and canola into the fuel tanks of sport utility vehicles, SUVs. It lies in using corn stalks, switchgrass and straw to make fuel.

Iogen is the acknowledged leader in this next-generation technology. The U.S. Department of Energy acknowledged it in February when it awarded Iogen Biorefinery Partners, LLC, of Arlington, Virginia, a partnership of Iogen of Ottawa, Goldman Sachs and Royal Dutch Shell some $80 million to build a commercial plant in Shelley, Idaho, to produce 18 million gallons a year of ethanol from 700 tons a day of straw, corn stover and switchgrass.

This cellulosic ethanol could reduce greenhouse gas emissions by about 6 per cent in the E-10 blends and about 65 per cent in E-85 fuels. It need not divert food crops to fuel and, as the Bush administration has acknowledged with a sudden doubling of grants to cellulosic ethanol production, it will be needed to meet mandated objectives for renewable fuels.

Canadians have a rather large stake in Iogen, although it is seldom acknowledged. It began in 1994 when Iogen partnered with the National Research Council to develop biotech enzymes for the pulp and paper industry. In 1999, Iogen received a $10 million loan to help build its ethanol demonstration plant in Ottawa, and this year it received another $7.7 million —

The Hon. the Speaker: Senator Spivak, I regret that your 15 minutes are over.

Senator Spivak: Can I have another seven minutes?

Hon. Claudette Tardif (Deputy Leader of the Opposition): Five minutes.

The Hon. the Speaker: The house unanimously agrees to five minutes.

Senator Spivak: The Minister of the Environment has hinted strongly that an Iogen plant will be built in Western Canada. Meanwhile, we wait for the announcement of specific funding.

If there is a downside to next-generation biofuels, it is not yet apparent. There is, however, some cause for caution — to take care in their development, not to let political pronouncements dictate the pace at which these fuels are developed.

Several years ago, there was considerable controversy in New Zealand when it came to light that a common bacteria genetically engineered to produce ethanol from plant debris killed all the wheat plants tested by a graduate student at Oregon State University. The U.S. Environmental Protection Agency, EPA, had approved it for field testing after it showed no environmental effects during standard pesticide or toxicity study. In the end, it was not released.

There is nothing inherently bad or good about genetic modification, which will be used in these bacteria and fungi in genetic engineering. There is, however, a need to thoroughly test any products that may intentionally or unintentionally be released into the environment with unintended adverse consequences.

Not surprisingly, the cost of producing these next-generation fuels is not yet competitive with grain-based ethanol or with fossil fuels.

• (1730)

In addition, in a May-June edition of *Foreign Affairs*, in an article entitled *How Biofuels Could Starve the Poor*, the author suggested it is unrealistic to expect cellulose-based ethanol to become the solution, or a solution, within the next decade, given logistical problems.

If the price of renewable fuels is higher food costs, or other unintended consequences, what then should we be doing to reduce greenhouse gas emissions from transportation? In a word, re-engineering. Amory Lovins, the pre-eminent guru of energy conservation, has laid out convincingly how Americans can displace all the oil it now uses and see a net economic benefit of $70 billion. His prescription includes revenue and size-neutral "feebates" for cars and a scrap-and-replace program that provides super-efficient cars to low-income Americans. It also includes smart government procurement and federal loan guarantees. By switching to ultralight but strong vehicles made from carbon composites or lightweight steel, with low drag and hybrid technology, drivers could decrease fuel use by up to 72 per cent.

We all should be doing for automakers here in Canada what we did for oil sands developers: Allowing them a 100 per cent one-year write-off for equipment used to produce clean cars and trucks. We should encourage the production of next-generation cars right here in Canada. Fiscal policies could also encourage less travel by rewarding employers and employees who take up telecommuting.

We could encourage more freight transport by rail. Warren Buffet says that as oil prices rise, the advantage of rail over trucks is increased by a factor of four. The "Oracle of Omaha" has invested heavily in rail.

I do believe there is a place for renewable fuels in bringing this country to a soft energy path, a path that will do less harm to the atmosphere. However, it is not good government policy to exaggerate the benefits, minimize the risks and create unrealistic expectations.

On motion of Senator Di Nino, debate adjourned.

THE SENATE

EMPLOYMENT EQUITY—DEBATE SUSPENDED

Hon. Donald H. Oliver rose pursuant to notice of May 8, 2007:

> That he will call the attention of the Senate to employment equity in the Senate of Canada.

He said: Honourable senators I am pleased to rise to comment on the recent Employment Equity report released by the Standing Committee on Internal Economy, Budgets and Administration. Honourable senators, it reveals that the Senate administrative staff is becoming increasingly diverse. This is due to the positive and diligent action of the Senate's managerial and human resource teams. This action is long overdue and it cannot come soon enough.

That is because our world, our country, our communities, where we work and where we live is changing more quickly than ever before. As Thomas L. Friedman writes in his book, *The World Is Flat: A Brief History of the Twenty-First Century*, the dramatic advancements in digital technology over the last 15 years have reverberated across the globe. In essence, the world is flattening. People, things and events are becoming more and more interconnected.

In less than a generation the web, email and cellphones have come to dominate economies and the workplace. These technologies gave birth to open-sourcing, work-flow software and supply change which have enabled companies, groups and individuals, regardless of location, to collaborate as never before.

These technologies spawned outsourcing and offshoring, which have lifted India and China into global economic powerhouses, and these technologies have enabled social networking on an unprecedented scale. Communities today can come together in an instant, marshalling their influence to protest or to applaud, to effect change.

In tandem with the dramatic transformation of the cybersphere, the people of the world have also become more interrelated and more mobile in a physical sense. Immigration now accounts for two thirds of the population growth in the 30 member countries

of the OECD. This is caused by what I would call the inverted age pyramid where low birth rates and an aging work force in the developed countries have accelerated the need for new, young workers.

This trend is particularly evident in Canada. In less than a decade there will be more seniors than children in Canada. By 2025, one in five Canadians will be over the age of 65, yet according to the 2006 Census, the Canadian population grew more rapidly over the last five years than in the previous five. This was precisely due to immigration. Indeed, two thirds of this growth was attributable to net international migration. As a result, according to a report released last year by the Royal Bank of Canada, immigration will account for all of the net increase in Canada's labour force by the end of this decade.

The vast majority of these immigrants are settling in large metropolitan areas like Toronto, Montreal, Vancouver and Ottawa. As the 2006 census also shows, nearly 25 million Canadians today, or more than four fifths of our population, live in urban areas. Most of Canada's immigrants, almost three quarters in 2003, are visible minorities. Consequently, less than 10 years from now, the Conference Board of Canada predicts that the number of visible minorities will jump to roughly 20 per cent of Canada's population.

This is rapidly changing the demographic makeup of Canadian cities. In another 10 years, both Toronto and Vancouver will become majority minority cities. Ottawa is also undergoing a dramatic transformation. One in five Ottawa residents today is an immigrant. Based on the 2004 findings of the international trained worker project in Ottawa, immigrants will contribute 100 per cent of the net new growth for Ottawa's workforce within just four years.

This workforce brings enviable brain power to Canada's capital. According to research spearheaded by the international trained worker project, the people who immigrate to Ottawa are highly educated, highly skilled and highly experienced — more so than the people in Ontario at large. More than half of recent immigrants to Ottawa have university degrees and a further 14 per cent hold other credentials such as trade certificates or diplomas. In 2002, more immigrants with PhDs settled in Ottawa than graduated from the University of Ottawa and Carleton University combined.

Sadly, however, this valuable human capital remains underutilized and underemployed. Forty-seven per cent of people receiving social assistance in Ottawa are immigrants. In Ottawa, immigrants aged 25 to 44 with a university degree are four times more likely than their Canadian-born counterparts to be unemployed. Furthermore, recent immigrants who are university educated are twice as likely to have jobs that do not require post-secondary education as their Canadian-born counterparts. This is not only unfair and unjust but, as my research indicated that I spearheaded at the conference board shows, it is also an unforgivable waste of talent and our most precious resource in today's technologically intensive and increasingly connected world economy.

Honourable senators, the business case for diversity is clear. Diversity cultivates creativity and ignites innovation. It opens up new avenues to reach ethnic groups. It fosters goodwill and enhances reputation. Above all, tolerant, diverse organizations attract and keep talented, highly-skilled people. In the years to come, these organizations will be the most effective.

When I rose in the Senate a year and a half ago, I gave a very negative report of employment equity in the Senate. Before I summarize the essence of the new report released by the Internal Economy Committee, I would like to recap what I said a year and a half ago in this chamber.

• (1740)

Honourable senators, at that time I said that the representation of visible minorities in the Public Service of Canada is appallingly low, but it is even lower within the administrative levels of the Senate of Canada. The Senate Human Resources Directorate Employment Equity Report, released in September of 2004, showed a paltry increase of 0.9 per cent in visible minority representation from 2000 to 2004.

Currently, visible minorities comprise only 6.8 per cent of the Senate's 425 employees, but it is in senior and middle management positions where the Senate's record is especially shameful. Honourable senators, the number of visible minorities employed in senior and middle management positions in the Senate in the year 2000 was zero. In 2001, it was zero. In 2002, it was zero. In 2003, it was zero. In 2004, the number again was zero.

In the five previous years, there had not been a single visible minority candidate promoted to a senior or middle management position in the Senate of Canada, according to its own 2000-to-2004 employment equity report.

Well, honourable senators, happily that has now changed. That is why I am so pleased to note the progress in increasing the overall representation of designated groups in the Senate administration. According to the second employment equity report, 2004-2006, the representation of visible minority employees in the Senate's administration ranks have doubled over the last fiscal year. It now constitutes 9.4 per cent of the overall workforce. This is a remarkable achievement worthy of much praise, especially when you consider that the promotion of visible minorities in the Senate administration remained stagnant over the five previous years, as I just outlined.

Honourable senators, the Senate clerk, Mr. Paul Bélisle, is to be commended for this remarkable turnaround. This is a good first start, but I will still be keeping my eyes on the table.

In addition, the pool of visible minority candidates participating in recruitment processes for Senate positions has also increased significantly to roughly one in five applicants. Furthermore, the number of visible minorities in the professional category has also grown. This is particularly crucial, given that this is the feeder group to the senior and middle management category.

Equally critical, the Senate administration is moving forward decisively to capture the full promise of Canada and Ottawa's growing diversity. For instance, all of its HR policies are being reviewed to ensure that they respect and support diversity. A new learning, training and development policy has been drafted to

include an employment equity component, and a management accountability framework has been established to ensure that employment equity, learning, retention and succession planning are integral to operational plans and financial resources.

Now directors are held personally accountable for employment equity and diversity results in the area of their responsibility. Coaching and support are provided to managers in developing strategies to recruit and retain visible minorities, as well as members of other designated groups. Those other designated groups are women, the disabled and Aboriginal people; the fourth is visible minorities.

More vigorous outreach partnerships with community groups have been established. Throughout the year, awareness sessions or events take place to celebrate Canada's diversity. I am pleased to note that the advisory committee on disability and accessibility has been renamed the advisory committee on diversity, with a new mandate and terms of reference. As well, a new multiyear diversity and accessibility plan will be approved and implemented in the near future.

Honourable senators, this is the momentum that the Senate's administration needs to effect change, to build a truly representative workforce and to meet the challenges of our increasingly interconnected world.

As the honourable senators know full well, I have been an adamant, often loud and invariably lonely voice in calling for this magnitude of action. I am glad that some of the message has been getting through.

I am especially delighted to note that my call for action has been heard outside this place as well. As the second employment equity report further notes, human resources representatives from the three Hill organizations have developed an employment equity, strategy and action plan in pursuit of the vision of a truly representative Parliament Hill. When approved, the strategy and action plan will constitute the foundation of an MOU between the three Hill partners.

This is critical progress that will make a difference; progress that will set new standards for other organizations within both the public and private sectors — and believe me, they need a good example.

Consider the record of Canadian companies. Last December, the Conference Board of Canada released a new report on diversity priorities, practices and performance in Canadian organizations. It was based on a survey of 120 Canadian managers and executives with responsibility for diversity in their organizations. Despite the fact that most respondents said that diversity is a real priority for them, 42 per cent do not have a strategic plan for diversity. Fewer than half the respondents provided diversity training to their managers and employees, and 88 per cent rated their organizations as "average" or "below average" in preparing leaders to manage a diverse workforce. Furthermore, only a minority of Canadian organizations have either met or exceeded the labour force availability rates for members of visible minorities, women, Aboriginals or persons with disabilities.

As our country's largest employer, the Canadian public service is also in dire need of more positive and concrete action on the diversity front. According to a fall 2006 performance report issued by the Public Service Human Resource Management Agency of Canada, only five government departments received an acceptable employment equity rating. Others were described as "opportunity for improvement"; and many more, including four others, had the category "requiring attention" for the four target groups. This is the Government of Canada.

In addition, as Linda Gobeil, senior vice-president of the policy branch of the Public Service Commission, recently reported to the Standing Senate Committee on Human Rights, visible minorities not only remain persistently under-represented in the public service, the majority of those who apply for a job in the federal government are turned down.

From 2000 to 2005, applications for employment from visible minorities averaged over 25 per cent; however, visible minorities received only 10 per cent of appointments. Strikingly, this phenomenon called "drop-off" was specific only to the visible minority groups, not the other three.

In an article in the *Ottawa Citizen* in January of this year, Madam Maria Barrados, the president of the Public Service Commission, launched an investigation into this issue. She wants to find out the cause of drop-off rate and where it occurs in the hiring process. I deeply applaud her efforts and I am looking forward to learning the results of her inquiry.

As Alex Himelfarb, the former Clerk of the Privy Council of Canada — the top public servant in Canada — said when he appeared before the Human Rights Committee when I was a member of that committee:

> . . . we are a closed shop, and that has hurt the public service. We need to open it up and seem more permeable. We need to care more about bringing the outside in.

I would add that we still need to do more. The Senate, the House of Commons and the entire federal public service must become a shining example to other Canadian organizations of the many advantages of diversity. We should be a beacon of leadership to other governments and companies worldwide.

Canada is facing a talent crunch of dangerous proportions, and we are not the only country in this precarious position. Over the past 18 months, I have spoken to groups in Brazil, the U.S., the U.K., Sweden, Denmark, Norway and other countries and each one is aggressively looking for new ways to attract and retain visible minority talent. The already hot competition is heating up even more.

Given our legacy of proactive human rights and employment equity legislation, Canada should be one of the highest performers in the world on the diversity front. Given our history, we should be a global trendsetter.

The Hon. the Speaker: I must advise the honourable senator that his time has expired.

Senator Oliver: Could I have two more minutes, please, to finish?

Hon. Gerald J. Comeau (Deputy Leader of the Government): Five minutes.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Five minutes.

Senator Oliver: Our leadership in building a diverse government would speak volumes to the hundreds of thousands of new immigrants our country strives to attract and retain each year. It would resonate in the hearts and minds of the increasingly diverse peoples of Canada. It would bolster Canada's reputation in world markets and ensure our country's future prosperity. Equally important, it would infuse government with new ideas. It would provide us with a deeper understanding of all the Canadians that we serve. It would enable us to attract and retain the increasingly precious resource of talented people.

• (1750)

Honourable senators, in our flat world, the competition for talent and knowledge is escalating. Given the furious pace of technological innovation, I expect that this trend is just beginning. Thomas Friedman believes that we are in a quiet crisis, and if we do not do something about it, then in 10 to 15 years from now, this quiet crisis could become a huge crisis.

Honourable senators, we cannot be silent. We must speak loudly, clearly and with conviction through our words and, most important, through our deeds. As the Senate's second employment equity report shows, we are starting to do just that. Let us make sure that this important progress continues unabated, and let us make sure that our voices and our actions resonate across the Hill, across our country and around the world.

Hon. Joan Fraser: Would the honourable senator take a question?

Senator Oliver: I would be pleased.

Senator Fraser: Like the honourable senator, I was struck by the statistics on the drop-off rate. Let us not be naïve: It is perfectly possible that part of the reason for that drop-off rate in the case of visible minorities has to do with prejudice, whether conscious or unconscious, on the part of the hiring officer, whoever that may be.

Surely, it is also possible that there might be other reasons. I wonder whether Senator Oliver, having devoted so much study to this matter, has any knowledge of two things that strike me as possible contributing factors. First, is the entire foreign credentials business such that a degree from a university in India is recognized to the same extent as a degree from a university in Canada?

Second, there would be possible language difficulties. I would expect that a fair number of applications come in from relatively new arrivals. Increasingly, in recent years, the visible minorities that have come to us have not necessarily come from English-speaking countries. Does the honourable senator have any knowledge of the degree to which the lack of command of one of the two official languages adequate to the job being done might be a contributing factor? If it is a factor, then it is fairly easy to attack — teach them.

Senator Oliver: I thank Senator Fraser for her excellent question. The honourable senator is right in putting her finger on two of the major problems, apart from discrimination and racism, which are foreign credentials and language skills. A third problem is lack of managerial experience. A person with a Ph.D. from three universities can come to Canada wanting to become a senior manager in the public service but might not know much about managing people. Managerial training is the third problem.

In relation to the first, Canada's new government has made several announcements for new steps that it will take in relation to recognition of foreign credentials. As the honourable senator understands, it is not intrinsically a federal problem but given the Constitution, it is a matter of provincial concern.

I was once a lawyer and I received my qualifications provincially. If I wanted to practice in another province, I would have to qualify in that province before I could practice. That is the problem with credentials. Canada's new government has set up commissions and taken several steps designed to ensure that we do not have trained doctors in waiting or driving taxis in Toronto when they could be working in operating theatres. That has been looked at seriously by the current government.

I have discussed the second problem of language and credentials with the Clerk of the Privy Council. I met with Mr. Rosenberg in my office last week, who is the new champion for the Public Service of Canada. We will meet again soon to try to come up with new ways of ensuring that talented and capable Canadians who want to become part of the public service will be afforded an opportunity to become trained in both of Canada's official languages.

The third problem is managerial skills, which I have discussed with the Clerk of the Privy Council. We are looking at a number of ways to ensure that talented and capable minorities who would like to become managers but lack the requisite managerial training will get that training as well.

Hon. Consiglio Di Nino: Honourable senators, I would like to adjourn the debate but I would also like to raise a question with Senator Oliver.

The Hon. the Speaker: The time for Senator Oliver, as extended, has expired.

Senator Di Nino: After the adjournment of the debate, I have another issue I would like to bring forth.

The Hon. the Speaker: On the matter of Senator Oliver's inquiry, the Honourable Senator Di Nino moves the adjournment of the debate. Are honourable senators ready for the question?

Some Hon. Senators: Question!

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

Senator Comeau: I do not want the debate adjourned.

The Hon. the Speaker: It was moved by the Honourable Senator Di Nino, seconded by the Honourable Senator Andreychuk, that this item be continued at the next sitting of the Senate. Effectively, Senator Di Nino moves adjournment of the debate. Are honourable senators clear on the question? Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators. Do the whips have an agreement on the bell? There being no agreement, the bells will ring for one hour.

Senator Tardif: Thirty minutes.

The Hon. the Speaker: The vote will take place at four minutes before 7 p.m.

Senator Tardif: Your Honour, I do not see a quorum.

The Hon. the Speaker: There is not a quorum. Would the pages go to the adjacent rooms and summon senators. We will wait five minutes.

Honourable senators, five minutes have elapsed, and I still do not see a quorum. Pursuant to rule 9(2)(b), the bells will ring for 15 minutes to summon honourable senators.

• (1920)

The Hon. the Speaker: Honourable senators, I do not see a quorum. Therefore, pursuant to rule 9(3) I declare the Senate adjourned.

The Senate adjourned until Wednesday, May 16, 2007, at 1:30 p.m.

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