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Tuesday, February 26, 2008



THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Tuesday, February 26, 2008

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

Prayers.

BUDGET SPEECH

ACCOMMODATION FOR SENATORS IN COMMONS GALLERY

The Hon. the Speaker: I remind honourable senators that the budget speech will be delivered in the other place at 4 p.m. this afternoon. As has been the practice in the past, the section of the gallery in the House of Commons that is reserved for the Senate will be reserved for senators only on a first-come, first-served basis. As space is limited, it is the only way we can ensure that those senators who wish to attend can do so. Unfortunately, any guests of senators will not be seated.

A copy of the budget will be delivered to your office as soon as it is tabled in the other place.

enjoy in this country are the same freedoms that people across the globe struggle for in the face of tyrants, terrorists, imperialist aggressors and others.

• (1405)

Our soldiers were nothing short of extraordinarily valiant when they took Vimy Ridge on April 9, 1917 and in December 1943, in Ortona. The mission was clear in the Battle of the Atlantic: keep open the lines of supply to allow freedom to be won in Europe. Our young men stormed bravely ashore at Juno Beach in 1944 to begin the long march toward freeing an entire continent.

Honourable senators, Canada's brave soldiers successfully completed difficult missions in Korea in 1951 to defend freedom in the face of communist aggression.

These battles were won because our military, tasked with a dangerous mission, knew they had the full support of our fellow citizens and the leaders of our nation to get the job done. Our resolve as a nation has been strong when called to defend freedom in far-off lands.

Let that resolve remain strong, honourable senators. Let no one play politics with the lives of our brave freedom fighters.

[Translation]

SENATORS' STATEMENTS

NATIONAL DEFENCE

SUPPORT FOR MISSION IN AFGHANISTAN

Hon. Gerry St. Germain: Honourable senators, Canada's soldiers deserve better than to be treated like pawns in the partisan game of political brinksmanship.

The brave men and women in Afghanistan who wear a uniform emblazoned with our nation's flag have earned our unequivocal support by the mere fact they honoured the call to military service. We tasked them with a mission and they have followed our orders by sacrificing those comforts we at home take for granted, and by risking their lives.

No one in this place, honourable senators, or in the other place should be so irresponsible as to suggest that the future of that mission before it is completed should be a matter for political debate. How can we ask the brave men and women of our military to risk their lives as freedom fighters and begin tinkering with how they undertake that mission for no other reason than to score political points and to pander to the pundits?

Let us be clear that men and women who, as we speak, are hunkered in for a cool evening in the desolate countryside of the Panjwahi District or on guard at the Kandahar base know that their mission is a simple one: to fight for the freedom of the Afghan people.

That mission is no different than the countless missions undertaken by our brave Canadian soldiers since August 4, 1914. For the last century, to be Canadian means to be a defender of freedom. Canadians realize that the freedoms we

FRENCH-LANGUAGE HEALTH FORUM

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, the Rendez-vous Santé en français, which brought together over 400 participants from across the country, took place in Edmonton from February 13 to 16.

I would like to offer my hearty congratulations to the organizers for the success of this important event. I would also like to express my appreciation for the exceptional work of the Réseau Santé en français, the Société Santé en français, and the Consortium national de formation en santé. I applaud the members' efforts and their dedication to encouraging minority francophone communities to get involved in finding solutions to the major challenges they face.

I would like to draw to your attention the progress and significant results achieved over the past five years in the French-language health care file. Our communities and governments are more aware of the provision of health services in French. Long-term, innovative partnerships have been created. The provision of French-language health services has increased considerably, and more health care graduates are coming out of francophone colleges and universities in minority situations. Across the country, people have been making a tremendous effort to improve health services in French.

Education was a priority for minority francophone communities in the 1980s and 1990s, and now, in this decade, health has become the priority. Nevertheless, the shortage of

human resources in the health care sector is a serious problem that is having a negative impact on our communities. Several speakers at the forum emphasized this complex problem.

After five years of significant achievements, we have reached a turning point, a new development phase beginning in 2008. I know that the upcoming challenges will relate to strengthening existing networks, developing human resources, and improving the organization of French-language health services. Therefore, I truly hope that the renewed Action Plan for Official Languages will include a justified increase in health care funding.

I hope that all minority francophone communities will soon have access to a full range of quality health services in their own language.

[English]

CANADIAN LANDMINE AWARENESS WEEK

Hon. Elizabeth Hubley: Honourable senators, February 24 to March 1, 2008, is Canadian Landmine Awareness Week. This year marked the ninth annual awareness week and is a time to commemorate and celebrate the achievements Canada and the global community have made in achieving a comprehensive ban on anti-personnel land mines. It provides an opportunity to reinforce Canadian commitment to the human security of people everywhere through events designed to educate, mobilize and raise funds.

• (1410)

One of the most inhumane weapons ever developed, land mines kill and cripple not only combatants but also thousands of innocent civilians long after hostilities have ended. There are still 160 million known land mines in stockpiles around the globe.

People in 58 countries were killed or wounded by land mines last year. Sadly, those countries held hostage to land mines are among the poorest in the world, lacking both the financial and technical resources needed to carry out effective de-mining operations.

On the occasion of Canadian Landmine Awareness Week, we can reflect with pride on the leadership shown by Canada through the Ottawa treaty a decade ago, but we must also resolve to continue the work that was begun at that time and diligently pursue the eradication of this horrible weapon that indiscriminately kills and injures the innocent.

NATIONAL FLAG DAY

Hon. Joseph A. Day: Honourable senators, as you are aware, recently we celebrated National Flag Day. February 15 has been celebrated as National Flag Day since 1996, when Prime Minister Jean Chrétien declared it so. This day commemorates the day in 1965 that the Maple Leaf first flew over Parliament.

Early in 1964, Prime Minister Lester B. Pearson declared the search for a new national flag a priority. For months afterwards, ideas for the new design were submitted to Parliament, and the great flag debate was launched.

The Honourable John Matheson, Member of Parliament for Leeds, Ontario, was instrumental in the decision-making process, acting as Prime Minister Pearson's key adviser and chairing the committee studying the issue.

While many potential flags were pondered, the final decision came down to three designs. The single maple leaf design was submitted by Dr. George Stanley, who was at the time Dean of Arts at the Royal Military College of Canada and later became the Lieutenant Governor of New Brunswick. As they were walking across the parade square at the Royal Military College, Dr. Stanley said to John Matheson, "There is your Canadian flag design." It was the Royal Military College flag, which featured a mailed fist of silver on a white background, with two red bars, one on either side. Dr. Stanley suggested the single maple leaf between the two red bars due to its visibility at a distance.

Although our current flag has a short history, its symbolism and colours are rich in tradition. Red and white have long been used as traditional colours of England and France, and so two of our founding nations are represented in those colours. Red and white were declared our national colours by His Majesty King George V in 1921. The maple leaf is a distinctly Canadian symbol that has been used for centuries to define our citizens.

Our native populations first used the symbol, and since their precedent, it has been used ubiquitously as a symbol of Canadian pride. The maple leaf adorned our early coins and was used by athletes competing for Canada in the Olympic Games in 1904. The maple leaf can still be seen today in cemeteries in France, Belgium and the Netherlands. Indeed, the Canadian flag can be seen on backpackers' knapsacks worldwide — not all of them Canadian.

The Maple Leaf is often cited as one of the world's most beautiful flags due to its simple design and minimum colours. We should all be proud to be represented by this elegant flag and symbol of our Canadian unity and pride.

[Translation]

MANITOBA LOUIS RIEL DAY

Hon. Maria Chaput: Honourable senators, on Monday, February 18, 2008, Manitoba celebrated its first Louis Riel Day holiday.

On this day, thousands of people visited the St. Boniface Museum to celebrate the first Louis Riel Day and to catch a glimpse of Louis Riel's sash, which has returned home.

The Metis Federation recently acquired Louis Riel's sash from a British Columbia resident, after the sash had been passed on from one generation to the next.

The director of the St. Boniface Museum, Dr. Philippe Mailhot, explained that Louis Riel gave his sash to a family that agreed to hide him in their cellar after the Battle of Batoche. Louis Riel gave them the sash a short time before turning himself in to the authorities.

• (1415)

At the opening ceremonies of the first-ever Louis Riel Day in Manitoba, Marion Hockworth presented Louis Riel's arrowhead sash to David Chartrand, the president of the Manitoba Metis Federation.

Ms. Hockworth's family has been passing the sash from one generation to the next. She used Louis Riel Day as an opportunity to present it "to organizations that will show it the respect and admiration it deserves."

I was honoured to attend the ceremony and to be able to say a few words at such an historic occasion. Everyone in attendance felt very moved to be there.

The president of the Union nationale métisse Saint-Joseph, Gabriel Dufault, explained, "The arrowhead sash is a symbol of the Metis people. To receive the sash that belonged to Louis Riel, to have it home with us, means a great deal."

I would like to congratulate the Government of Manitoba for having designated Louis Riel Day as a statutory holiday. I would also like to congratulate, thank and commend the organizations that contributed to this fine initiative.

[English]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I would like to introduce two pages with us from the House of Commons: Robyn Farrow, of Whitehorse, Yukon, is enrolled in the Faculty of Public Affairs at Carleton University. Robyn is majoring in Journalism.

[Translation]

Honourable senators, Paul Taillon, from Saskatoon, Saskatchewan, is pursuing his studies at the Faculty of Health Sciences at the University of Ottawa.

ROUTINE PROCEEDINGS

NATIONAL CHILD BENEFIT

2005 PROGRESS REPORT TABLED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour of tabling, in both official languages, the National Child Benefit Progress Report 2005.

[Senator Chaput]

[English]

STUDY ON IMPACT AND EFFECTS OF SOCIAL DETERMINANTS OF HEALTH

FIRST INTERIM REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

Hon. Wilbert J. Keon: Honourable senators, I have the honour to table, in both official languages, the seventh report (first interim) of the Standing Senate Committee on Social Affairs, Science and Technology entitled *Population Health Policy: International Perspectives*.

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

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

SECOND INTERIM REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

Hon. Wilbert J. Keon: Honourable senators, I have the honour to table, in both official languages, the eighth report (second interim) of the Standing Senate Committee on Social Affairs, Science and Technology entitled *Maternal Health and Early Childhood Development in Cuba*.

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

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

[Translation]

CITIZENSHIP ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-37, An Act to amend the Citizenship Act.

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.

• (1420)

[English]

AGRICULTURAL MARKETING PROGRAMS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-44, An Act to amend the Agricultural Marketing Programs Act.

Bill read first time.

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

[Translation]

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 57(1)(f), I move that the bill be placed on the Orders of the Day for second reading later this day.

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

Some Hon. Senators: No.

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

[English]

CONSTITUTION ACT, 1867

BILL TO AMEND—FIRST READING

Hon. Tommy Banks presented Bill S-229, An Act to amend the Constitution Act, 1867 (Property qualification of Senators).

Bill read first time.

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

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

EXCISE TAX ACT

BILL TO AMEND—FIRST READING

Hon. Lorna Milne presented Bill S-230, An Act to amend the Excise Tax Act (zero-rating of supply of cut fresh fruit).

Bill read first time.

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

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

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

MIDWESTERN LEGISLATIVE CONFERENCE,
AUGUST 26-29, 2007—REPORT TABLED

Hon. Jeremiah S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation to the Sixty-second Annual Meeting of the Midwestern Legislative Conference, held in Traverse City, Michigan, United States of America, from August 26-29, 2007.

BORDER TRADE ALLIANCE CONFERENCE
AND CONGRESSIONAL MEETINGS,
SEPTEMBER 9-12, 2007—REPORT TABLED

Hon. Jeremiah S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation to the Canadian/American Border Trade Alliance Conference and Congressional Meetings, held in Washington, D.C., United States of America, from September 9-12, 2007.

[Translation]

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY AMENDMENTS MADE BY AN ACT
TO AMEND THE CANADA ELECTIONS ACT
AND THE INCOME TAX ACT

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

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to undertake a comprehensive review of the amendments made by *An Act to amend the Canada Elections Act and the Income Tax Act* (S.C. 2004, c.24); and

That the committee submit its final report no later than May 11, 2008.

• (1425)

[English]

MATERNITY AND PARENTAL BENEFITS

NOTICE OF INQUIRY

Hon. Elizabeth Hubley: Honourable senators, pursuant to rule 57(2), I give notice that, two days hence:

I will call the attention of the Senate to the current state of maternity and parental benefits in Canada, to the challenges facing working Canadians who decide to have children, and to the options for improving federal benefit programs to address these challenges.

THE SENATE

CONSTITUTION ACT, 1867—NOTICE OF MOTION TO
AMEND REAL PROPERTY PROVISIONS FOR SENATORS

Leave having been given to revert to Notices of Motions:

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

WHEREAS, in the 2nd Session of the 39th Parliament, a bill has been introduced in the Senate to amend the Constitution of Canada by repealing the

provision that requires that a person, in order to qualify for appointment to the Senate and to maintain their place in the Senate after being appointed, own land with a net worth of at least four thousand dollars within the province for which he or she is appointed;

AND WHEREAS a related provision of the Constitution makes reference, in respect of the province of Quebec, to the real property qualification that is proposed to be repealed;

AND WHEREAS, in respect of a Senator that represents Quebec, the real property qualification must be had in the electoral division for which the Senator is appointed or the Senator must be resident in that division;

AND WHEREAS the division of Quebec into 24 electoral divisions, corresponding to the 24 seats in the former Legislative Council of Quebec, reflects the historic boundaries of Lower Canada and no longer reflects the full territorial limits of the province of Quebec;

AND WHEREAS section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

NOW THEREFORE the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE

AMENDMENT TO THE CONSTITUTION OF CANADA

1. Section 22 of the *Constitution Act, 1867* is amended by striking out the second paragraph of that section, beginning with the words “In the Case of Quebec” and ending with “the Consolidated Statutes of Canada.”.

2. (1) Paragraph (5) of section 23 of the Act is replaced by the following:

(5) He shall be resident in the Province for which he is appointed.

(2) Paragraph (6) of section 23 of the Act is repealed.

Citation

3. This Amendment may be cited as the *Constitution Amendment, [year of proclamation] (Quebec: electoral divisions and real property qualifications of Senators)*.

• (1430)

VOTING AGE

NOTICE OF INQUIRY

Hon. Consiglio Di Nino: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the voting age in Canada for federal elections and referendums.

[Translation]

QUESTION PERIOD

NATURAL RESOURCES

OWNERSHIP OF RESOURCE EXTRACTION COMPANIES—OVERSIGHT LEGISLATION

Hon. Céline Hervieux-Payette (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. This week, the French magazine *L'Express* contains an article on the over-exploitation of the Canadian subsoil. The article refers to oil, uranium, mineral reserves and natural resources.

Some time ago, we learned that Canada was the world's largest producer of uranium and potassium, the second largest producer of nickel and cobalt, the third largest producer of aluminum and diamonds, the fourth largest producer of cadmium, the fifth largest producer of zinc and the seventh largest producer of oil.

In light of this wealth of resources, which belong to all Canadians, when does the Conservative government plan to protect Canadians' interests in their natural heritage and ensure that Canadians own and benefit from these resources?

[English]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question.

I am not aware of the European report that the honourable senator speaks about, but Canada — and this has been the historical case for a long time — is blessed with a great many resources that have been the backbone of the Canadian economy.

• (1435)

It is well known that the largest producer of uranium in the world is in the province of Saskatchewan. Our other resources, including diamonds, nickel and oil, are well known.

With regard to the world market for these resources, I do not have the benefit of knowing what the Europeans may think of this. However, in terms of proper management of our resources, this government, like all previous governments, is especially mindful of the importance of non-renewable resources.

With regard to a specific policy direction of this government, I will have to take that question as notice.

[Translation]

Senator Hervieux-Payette: I think it is very important for her government to look at this issue, especially since the Minister of Industry recently said, “Canada is not for sale.”

However, I would like to remind the Leader of the Government in the Senate that Inco and Falconbridge were purchased by Brazil, then by Switzerland, and that just recently another company, BHP Billiton, made an offer to purchase Rio Tinto Alcan.

It is important to remember that there are no longer any major independent Canadian mining companies. Last year, the foreign acquisition of Canadian resources, both in mining and oil, broke all the records.

Will this government implement measures as soon as possible and pass legislation to protect the interests of Canadians?

[English]

Senator LeBreton: The fact is that we are in a global economy. Canadian-owned companies have been taking over companies in other parts of the world.

With regard to the honourable senator’s specific proposal that legislation be introduced to deal specifically with our resources, I will take that question as notice.

Hon. Hugh Segal: Honourable senators, when the Leader of the Government in the Senate looks into that matter with respect to legislation, could she also look into protection for investors, people who own pension funds and others who have stock in Canadian companies, so that the value of their stock is not diminished by legislation that reduces the market attractiveness of that stock — stock which they, pension fund managers and large pension funds, depend upon for the purpose of sustaining people’s retirement so that, unlike other governments, no measures are proposed that are confiscatory. The National Energy Program was and remains one of the key tenets of that party on the other side.

Senator LeBreton: Honourable senators, that is shades of the Foreign Investment Review Agency. I simply took the question as notice. I am not aware of any particular move by the government. As I said earlier, we are part of a global economy. We are a resource-based economy. Obviously, our various resources are sought after around the world.

Minister Emerson has been doing an outstanding job reaching out to markets other than just the American market for our goods and services. However, Senator Hervieux-Payette feels that the article in this European magazine has raised a serious issue. It is an interesting story in and of itself that the Europeans express such concern about Canadian resources. I simply took the question as notice but, at the moment, I am not aware of any desire by this government to be involved in anything like the National Energy Program or FIRA. It was a Conservative

government that got rid of those particular programs; I doubt that a Conservative government would want to bring anything like them back.

Senator Hervieux-Payette: Honourable senators, I remind the Leader of the Government in the Senate that a task force established by our government made a report that recommended giving protection to Canadians who own these resources.

I remind the leader and my colleague Senator Segal that some of these companies are bought by sovereign governments and are no longer on the market. When China, Kuwait and other countries buy our natural resource companies with sovereign funds, the companies are never on the market and we do not benefit from them. I ask that she look at this aspect of the problem as well.

• (1440)

Senator LeBreton: I thank the honourable senator for the question.

As honourable senators know, the Minister of Industry has specifically expressed a concern over sovereign government-owned enterprises. I will update the Senate as to what he and the government propose to do on this particular matter.

HEALTH

PROPOSED NATIONAL PHARMACEUTICAL STRATEGY

Hon. Catherine S. Callbeck: Honourable senators, my question is to the Leader of the Government in the Senate. The high cost of prescription drugs is a growing concern for Canadians. For people living with cancer and other serious illnesses, the costs of medically necessary medication can be financially devastating.

This issue was of such importance that in September 2004 the first ministers asked the ministers of health to develop a national pharmaceutical strategy.

The resulting task force began its work and released a progress report in June 2006. One month later, provincial and territorial health ministers called upon the federal government to commit to an ongoing partnership with them to finalize the strategy. That was 20 months ago, and it seems that there has been no movement since.

Can the Leader of the Government give any indication of the federal government’s progress on this file?

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): I thank the honourable senator for the question. As she will know, having been a premier of a province, the issue of the cost of pharmaceuticals is a complex one in Canada, given that these matters are administered by the various jurisdictions, the provinces and territories. Of course, we are well aware of many examples from province to province where people living literally 100 miles from the province next door have availability to certain drugs paid for by the provincial health care system, and, 150 miles away in another province, they are not paid for by the provincial health care system.

With regard to the specific recommendations made to the Minister of Health, I will take that question as notice.

Senator Calbeck: I realize that health is a provincial matter, but, as I said, in September 2004, the First Ministers asked the health ministers to come up with a strategy. It has been 20 months since the provincial and territorial ministers of health called on the federal government to commit to an ongoing partnership.

In December 2006, the provincial and territorial ministers of health reiterated their need for leadership, and in a news release stated:

Ministers urged the federal Minister to be an active partner with provinces and territories in moving forward with the National Pharmaceuticals Strategy, including the development and implementation of catastrophic drug coverage, to ensure that no Canadian suffers undue financial hardship in accessing needed drug therapies.

Why has this appeal from the provinces and the territorial ministers gone unanswered for so long? Is the federal government committed to a national pharmaceutical strategy?

Senator LeBreton: The Minister of Health has worked closely with the provincial and territorial ministers of health on a great many fronts. With regard to the national drug strategy for catastrophic drugs and the different availability of pharmaceuticals in the various provinces, the honourable senator claims that they have demanded that. I will be interested to see if, in fact, all of the provinces have demanded it or whether there is some difficulty in the various provinces as to what their role would be.

• (1445)

Suffice it to say, this is a serious question, honourable senators, and I will be happy to find out the results of that meeting and the requests from the provinces and territories.

[Translation]

OFFICIAL LANGUAGES

REINSTATEMENT OF COURT CHALLENGES PROGRAM

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government. By abolishing the Court Challenges Program in September 2006, a program the Prime Minister had bragged about at the UN four months earlier, the government — allow me to quote Mr. Fraser, the Commissioner of Official Languages — “violated the act and did not consider the rights of linguistic minorities when he cut certain services.”

Criticism came from all sides. All the groups agree that it was a mistake and an injustice to abolish this program. In the words of one of your colleagues:

Eliminating the right of linguistic minorities to use a legal avenue of redress violates the very essence of the Constitution Act, 1982, and the Official Languages Act.

[Senator LeBreton]

Can the Leader of the Government tell us whether the government will do its duty and reinstate the program?

[English]

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): Honourable senators, Senator Tardif would know that this particular issue is before the courts this week with the Commissioner of Official Languages, Mr. Fraser. Therefore, it would be imprudent for me to comment on a matter before the courts.

With regard to official languages, I have clearly outlined on a number of occasions the government's commitment to official languages and the development of Canada's minority language rights. We are awaiting the report of the former Premier of New Brunswick, the Honourable Bernard Lord.

Senator Mercer: Oh, oh.

Senator LeBreton: I do not think it is such a laughing matter. I think he is a very serious person, Senator Mercer. I am surprised that the senator would laugh at a serious issue such as official languages. This is a serious matter that the government takes very seriously.

It will be on the record that Senator Mercer thinks it is a laughing matter that the government is committed to official languages.

Senator Segal: Shame, shame!

Senator LeBreton: Because the particular issue of the Court Challenges Program is before the courts, obviously the senator is asking a question that I cannot respond to, as she knows full well.

[Translation]

Senator Tardif: Why did the government not consider the impact the elimination of this program could have on the advancement and development of official language communities? How can you ignore the justified demands of your electors?

[English]

Senator LeBreton: I remind the honourable senator that in Budget 2007, one year ago, the government committed \$30 million in additional funding over two years to support official language minority communities and linguistic duality. On January 22, 2008, Minister Verner announced a nationwide list of projects that will benefit from the funding. I will be happy to provide the honourable senator with that list.

As all honourable senators know, 2008 marks the four-hundredth anniversary of Quebec City, and the government announced \$110 million in funding for the organization and celebration of this wonderful event.

The honourable senator cannot say that this is an area where the government is not taking its responsibilities seriously, as we have a minister and a government very much committed to official languages. The seriousness of the commitment of the

government to official languages was reiterated in the Speech from the Throne, which the party to which the honourable senator belongs supported wholeheartedly.

[Translation]

Hon. Francis Fox: Will the Leader of the Government simply acknowledge that the reason this matter is before the courts right now is that her government abolished the program?

[English]

Senator LeBreton: This matter is before the courts. That is rather obvious. As a Privy Councillor, Senator Fox would know he is asking a question that I cannot answer.

[Translation]

Hon. Maria Chaput: My question is for the Leader of the Government and it concerns this case before the courts. It is worrisome to see that her government has already tabled a public report, and that report uses a very general approach to attempt — I assume — to defend its position. It is very worrisome in light of what has been submitted and the discussions that have been held.

• (1450)

It seems that we are still questioning whether the Court Challenges Program is necessary for the growth and development of official language minority communities, even though it is the only tool we have to assert our rights.

[English]

Senator LeBreton: I thank the honourable senator for the question but, again, she is obviously referring to media reports and matters that have flowed from the court proceedings. She, therefore, also knows that because the matter is before the courts I cannot respond.

[Translation]

TRANSPORT AND COMMUNICATIONS

AIR CANADA—POSSIBLE REVIEW ON QUALITY OF SERVICE

Hon. Pierre Claude Nolin: Honourable senators, my question is for the Chair of the Standing Senate Committee on Transport and Communications.

Honourable senators, in Saturday's edition, *La Presse* wrote at length about the poor service provided by what I believe is still our national airline, Air Canada. The complaints are wide-ranging: delays, seat changes, confusion, not to mention lost baggage and lack of respect for the official languages.

Does the Standing Senate Committee on Transport and Communications intend, in the near future, to examine the case of Air Canada?

Some Hon. Senators: Hear, hear!

Hon. Lise Bacon: Honourable senators, I thank Senator Nolin for his question. As Chair of the Standing Senate Committee on Transport and Communications, I have not received any complaints. To be honest, I have received none.

We are presently conducting, and attempting to bring to a close as quickly as possible, a study on containers. When we have completed this work, I intend to have a discussion with members of the steering committee and the deputy chair and then with the members of the committee. I believe that it is our duty at this time to have a very close look at this matter and to ask representatives with responsibilities in the airline industry to appear before us. Air Canada is not the only airline in Canada. We will have an opportunity to discuss this and to call witnesses to explain the various problems.

Senator Nolin: If I may, honourable senators, from the reply of the committee chair, I gather that Americans have developed performance criteria for their airlines. It is my understanding that, in Canada, we do not have these types of evaluations or evaluation criteria. It would be advisable for us to examine how this works in the United States perhaps in order to adopt best practices, as VIA Rail is doing in Montreal.

Senator Bacon: I believe we can find appropriate recommendations to problems that exist in Canada. I know very well that committee members would definitely agree to examine this matter more closely. I will invite Senator Nolin to attend our meetings.

• (1455)

[English]

Hon. Tommy Banks: Honourable senator, the idea of comparing the performance of American airlines to Air Canada is a specious and odious comparison. Anybody who complains about Air Canada should fly on any United States airline and they will stop complaining.

PRIME MINISTER

CONFORMITY TO CANADA ELECTIONS ACT— FIXED ELECTION DATES

Hon. Tommy Banks: Honourable senators, my question is to the Leader of the Government in the Senate. Last year in this place, we passed a bill of amendment to the Canada Elections Act that brought into force what are colloquially known as fixed election dates. The act goes so far as to name the date for the next election as October 19, 2009.

Most of us understood that unless a government is defeated on a motion of non-confidence in the House of Commons, the government of whatever stripe would govern for a term of four years. Such a term would be followed by an election, the date of which was known to everyone in advance. This provision was to be, as far as elections are concerned, the end of political chicanery. This provision was a change from the Canadian political tradition that saw elections happening about every four years.

The reason for this change to our 800-year-old political tradition, we were told at the time, was that Canadians deserved better than that tradition. The prerogative that would allow the Prime Minister to toddle down to Rideau Hall whenever

the fancy struck, whenever it was politically convenient or whenever things became difficult in Parliament to ask the Governor General for the dissolution of Parliament and for an election writ was wrong. What we had been doing all these 800 years was wrong.

This change was to be part of a different way of doing business, a different way of running government in Canada, a way of running government that emulates in yet another way our great friend and neighbour to the south. It is one more brick in the steady stream of republicanism; one by one transferring our country into a clone. Thus, we were to be freed from the yoke of political tyranny. We were to be led into the broad sunlight uplands of neo-con enlightenment. We were to run government differently.

However, this experimental grafting of the beak of an eagle onto the front of a beaver is not going all that well, and the rejection is not coming from the beaver. It is coming from the doctor who performed the experiment in the first place. It seems that the Prime Minister prefers the old way of doing business.

Every few days, we read in the paper and hear in news reports the Prime Minister saying that if he does not get his way, and if we do not do this, that or the other thing, he will take his little ball and run off down to Rideau Hall and ask for the dissolution of Parliament and an election writ.

My question, leader, is whether this change is one of two things. Is it either a terrible mistake that some of us realized at the time that we can fix easily by repealing that act of amendment, or is it only another thing in the long list of Conservative promises made, promises broken?

Some Hon. Senators: Hear, hear!

Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)): First, as much as the honourable senator and the Liberal Party love to denigrate our neighbour and biggest trading partner to the south, fixed election dates are here in Canada in several provinces. They are in Australia, which is another Commonwealth country.

That change was part of our democratic reform package in the last election to provide stability. We did not want to allow a prime minister like Mr. Chrétien running to the Governor General every two and a half years or three years and calling multiple elections. I think there were three or four elections in the period of what might have been two.

Obviously, in a minority government, a provision must be built in that if the government is defeated in a confidence motion, an election is triggered.

Honourable senators, I am a little tired of this reference to neo-con republicans of the North. I am not used to it. We have a government that provided compensation for the Chinese head tax, launched the Air India inquiry, brought implementation to the Indian residential schools settlement, expanded the New Horizons for Seniors Program and brought in a plan to help the long-term financial security of families of the disabled through a registered disability savings plan. Within the last year, we have

made several announcements on land conservation, including major expansion of our national parks. We are providing \$300 million for a vaccination program for young women and girls, \$30 million for the Rick Hansen Foundation and our government has established the Canadian Mental Health Commission. If that is “neo-con,” I am all for it!

• (1500)

Senator Banks: Actually, honourable senators, my question had to do with the Canada Elections Act. I did not denigrate the United States. I would never do that. It is the most generous nation on earth. My point was that they have a different system than ours. I would no more suggest to an American that they ought to adopt a Westminster parliamentary system and leave everything else the same than the reverse. It is not denigration.

My question remains: Does the government undertake that in the spirit of the bill to amend that we passed that, barring a defeat on a confidence motion in the House of Commons, the Prime Minister will not ask for the dissolution of Parliament and a writ of election to be issued?

Senator LeBreton: I must say that senators opposite are awfully fearful of this writ, are they not?

An Hon. Senator: Bring it on!

Senator LeBreton: Honourable senators, this was part of a commitment we made to the Canadian people on democratic reform. Many provinces in Canada, as well as other Westminster systems of government, have followed this practice. The Prime Minister has consistently said it is the desire of the government to continue governing. There is a fixed election date.

However, if there is a confidence motion and the opposition decides to bring the government down, that is the decision of the opposition.

Senator Banks: Is there any other circumstance other than a defeat on a confidence motion in the House of Commons or the arrival of October 19, 2009 — whichever occurs first — under which the Prime Minister would ask for the dissolution of Parliament?

Senator LeBreton: I will have to take that question as notice. In the Canada Elections Act, I believe it was stipulated if a situation developed where it was impossible for the government to govern, then Parliament could be dissolved. I will confirm the wording of the bill. I believe a remedy exists if there is a situation where the government cannot possibly carry out its agenda.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table four responses to oral questions. The first, to questions raised by the Honourable Senator Grafstein on November 1 and 20, 2007, concerning border crossing wait times; the second, to a question raised by the Honourable Senator Mahovlich on November 28, 2007, concerning public safety — emergency workers — response

from United States Homeland Security Secretary; the third, to a question raised by the Honourable Senator Tardif on December 5, 2007, concerning justice — review of foreign clemency cases; and the fourth, to a question raised by the Honourable Senator Goldstein on December 13, 2007, concerning human resources and social development — millennium scholarship foundation — loan repayments.

PUBLIC SAFETY

BORDER SERVICES AGENCY CROSSING DELAYS—POSSIBLE REFERRAL TO COMMITTEE

(Response to questions raised by Hon. Jerahmiel S. Grafstein on November 1 and 20, 2007)

Public Safety

The Canada Border Services Agency (CBSA) continues to work proactively to alleviate the current wait times and to ensure the timely processing of all travellers entering Canada. It is important to remember that CBSA must balance its mandate of ensuring that the borders are safe and secure while facilitating the flow of legitimate goods and preventing the entry of contraband and inadmissible people.

CBSA is responding to the increased pressure by adjusting employee shift schedules in many locations to ensure that the scheduling of staff aligns with the changing traffic patterns. Additional resources are being deployed, where possible, and local offices are working with bridge and tunnel authorities to manage the traffic flows. In addition, Border Services Officers are working overtime, where required, to address backlog and process travellers in a timely manner.

In order to assist travellers in determining the optimum time to cross the border, CBSA publishes regularly updated estimated wait times at many border crossings on its website.

CBSA invests on average \$23 million per year to renew and improve its ports of entry. For the long term, several measures are underway to assist CBSA to deal with increased volumes and peak periods. These measures include continuing to work with U.S. Customs and Border Protection (CBP) to develop better measures for monitoring border wait times. In addition, a review of technology and processing practices is being undertaken to determine if changes can be made to facilitate the flow of travellers.

CBSA is also looking at expanding alternate inspection programs. The aim of these programs, such as FAST, for commercial importers, carriers and their drivers, as well as NEXUS for travellers, is to support moving pre-approved eligible goods and people across the border quickly and efficiently.

To meet this aim, all applicants are pre-screened and must be assessed as low-risk. It is important to note, however, while participants can expect expedited clearance, even pre-approved travellers and commercial clients remain

subject to random verifications (secondary screenings) at any time when entering Canada. In addition to system-generated random verifications Border Services Officers' discretion may also result in a referral.

These programs are still in their early stages, with national participation representing about 12 percent of the total commercial travel and 1.8 percent of the total land border people processing. It is anticipated that as membership in these programs increases, cross border travel will become more fluid.

With respect to the issue of emergency responders, the Minister of Public Safety wrote to the U.S. Secretary of Homeland Security on November 15, 2007, to express his concern with an event involving a fire truck delayed at the border, when responding to a call for assistance in the United States. The Minister expressed the hope that this was an isolated incident. On December 20, 2007, Secretary Chertoff responded to Minister Day by confirming that these were isolated incidents and that additional guidance has been provided to U.S. CBP to reiterate existing protocol for the expeditious processing of first responders entering the U.S.

The Minister has also directed CBSA to hold direct discussions with the U.S. CBP to make sure that appropriate measures are put into place to ensure the continuance of cooperative procedures in order to assure the safety of the local population. These discussions are ongoing.

Transport Canada

Border-Crossings: Economic and Security Initiatives

In working toward the secure and efficient flow of people and goods, Transport Canada is actively engaged in initiatives that have the goal of making the Canadian transportation system among the most secure in the world. Canada is working domestically, and with the U.S., to establish mechanisms to secure the transportation system and meet U.S. legislated requirements such as those requiring background checks for Canadian drivers transporting dangerous goods to the U.S. Transport Canada is progressing with the review of the potential expansion of transportation security clearance programs for transportation workers, which includes coordination with its partners across all transportation sectors and on related issues such as the Western Hemisphere Travel Initiative. This will contribute to reduce delays at the border.

Transport Canada is implementing the recently passed *International Bridges and Tunnels Act*, which gives the Minister of Transport, Infrastructure and Communities the authority to regulate the safety and security of international bridges and tunnels and issue emergency directions. Preparatory work has commenced to assess security needs and establish future standards and requirements.

As part of the National Policy Framework for Strategic Gateways and Trade Corridors, Transport Canada and the governments of Ontario and Québec announced, on July 30, 2007, the signing of a Memorandum of

Understanding on the development the Ontario-Québec Continental Gateway and Trade Corridor (OQCGTC). The OQCGTC is now moving forward. Over the next two years, Transport Canada, the governments of Ontario and Québec, as well as private sector partners, will share information and gather data to better understand international trade and transportation patterns — in addition to exploring ways to optimize the connections between transportation modes to better meet current and future demands in transportation.

Transport Canada and Border Security

Transport Canada notes that intermodal cargo container security is a major issue. Coordination with CBSA is needed to develop a common approach to the security of cargo containers across modes from origin to destination. This is especially important given the coming into force of new U.S. requirements and the promotion of the Gateway and Corridor Initiatives. Increased focus will help balance the needs of security and economic prosperity.

Transport Canada, with support from CBSA, hopes to make gains towards mutual recognition of Canadian security clearances and associated credentials that involve several government agencies on both sides of the border, which have a stake in transport and border security matters (e.g., Department of Homeland Security, Transportation Security Administration, U.S. Coast Guard, Customs and Border Protection). If mutual recognition is achieved, it will assist in diminishing wait times at the border.

Industry Canada

The Government has been actively engaged with the U.S. on ensuring the efficient movement of people and goods at the Canada — U.S. border, while addressing legitimate security concerns. Through the Security and Prosperity Partnership of North America (SPP), the Prime Minister and the Ministers of Industry, Public Safety, Transport and Foreign Affairs continue to work with their U.S. counterparts to address impediments hindering trade and the movement of people at our shared border crossings. At the North American Leaders' Summit held in Quebec in August, 2007, Leaders identified Smart and Secure Borders as one of their priorities for ongoing collaboration in the coming year. The Leaders' Joint Statement noted that "Canada and the U.S. will maintain a high priority on the development of enhanced capacity of the border crossing infrastructure in the Detroit-Windsor region, the world's busiest land crossing."

The Government of Canada recognizes the importance of a secure and efficient Windsor-Detroit border crossing and is committed to the development of additional border capacity along this critical corridor to support the continued growth of the economies of Canada and the United States. The Government is working closely with the governments of the U.S., Michigan and Ontario in pursuit of a timely resolution of outstanding issues. A bi-national planning process is currently underway and in the final stage of the environmental assessment (EA) process. It is anticipated

that the parties will be in a position to announce the single technically preferred alternative in the Spring of 2008. The EA documentation will be submitted for approval by the end of 2008. Construction is expected to begin in 2010, with the goal of opening a new crossing by the end of 2013.

In addition, the Government is making a historic infrastructure investment of \$33 billion over seven years through to 2014 under the new Building Canada Plan. This includes investing in our transport and trade hubs, like the Windsor-Detroit corridor and the Atlantic and Pacific gateways.

As lead Ministers on the SPP, the Ministers of Industry and Public Safety continue to address border issues in various speeches and meetings in Washington and elsewhere.

On October 30, 2007, Minister Prentice delivered a keynote address at a Washington forum on "Canada — U.S.: Eliminating the Impediments to Competitiveness," an event jointly hosted by the Canadian and U.S. Chambers of Commerce. In his speech, Minister Prentice noted that "[S]ecurity needs must be balanced with the fluid movement of goods and people across Canada—U.S. borders, because the quality of life of too many Americans and Canadians depends on it. . . . Security should be trade's partner, and vice versa." The Minister highlighted the Ambassador Bridge as the world's busiest commercial crossing, a vital link between Michigan and Ontario — "the two most important contributors to the North American auto industry."

Minister Prentice also held a number of meetings that day with Administration and Congressional officials including: Carlos Gutierrez, Secretary of Commerce; Daniel Price, Deputy National Security Advisor; and Rep. John Dingell, Chairman of the House Energy and Commerce Committee. During these meetings, Minister Prentice stressed the importance of progress on the Windsor-Detroit crossing as a high priority for Canada.

BORDER SERVICES AGENCY—CROSSING DELAYS— RESPONSE FROM UNITED STATES HOMELAND SECURITY SECRETARY

(Response to question raised by Hon. Francis William Mahovlich on November 28, 2007)

On November 15, 2007, Minister Stockwell Day sent a letter to his U.S. counterpart, Homeland Security Secretary Michael Chertoff, communicating concerns about border security policies following two incidents in which Canadian emergency workers, en-route to the U.S. to assist in life-threatening situations, were delayed by American customs officials.

On December 20, 2007, Secretary Chertoff responded to Minister Day by confirming that these were isolated incidents and that additional guidance has been provided to U.S. Customs and Border Protection (CBP) to reiterate existing protocol for the expeditious processing of first responders entering the U.S.

In addition, the Minister of Public Safety has also instructed all CBSA offices to initiate discussions at the local level with CBP counterparts, to ensure that appropriate measures are understood and put into place to facilitate the entry of emergency responders into the U.S. during a crisis situation.

Secretary Chertoff and officials of the Department of Homeland Security have assured Canada that the Western Hemisphere Travel Initiative will not affect the ability for first responders to respond to emergencies in the U.S.

JUSTICE

REVIEW OF FOREIGN CLEMENCY CASES

(Response to question raised by Hon. Claudette Tardif on December 5, 2007)

The Government of Canada has repeatedly stated that it will examine whether to seek clemency on a case by case basis.

This Government stands for the rule of law, justice, and the protection of human rights. This context will guide the Government when considering whether or not to seek clemency for Canadians sentenced to death in a foreign state.

For those states that retain the death penalty, the Government will continue to advocate at the international level for full respect of international law, including the international legal restrictions respecting its application.

HUMAN RESOURCES AND SOCIAL DEVELOPMENT

MILLENNIUM SCHOLARSHIP FOUNDATION— LOAN REPAYMENTS

(Response to question raised by Hon. Yoine Goldstein on December 13, 2007)

This Government is concerned about helping students pay off their student loan debt and is listening to Canadian students, families and borrowers. That is why in Budget 2007 we formally launched a review of the Canada Student Loans Program. The consultation phase of the Canada Student Loans Program review is now complete. Our Government is expecting to make announcements on improvements to federal student financial assistance in the upcoming Budget.

At present, during full-time studies, when students may have little or no income, student loans are interest free and no payment is required.

With regard to debt management measures, student loan borrowers who have begun repayment of their loan receive a tax credit for interest paid on student loans. Borrowers experiencing financial difficulty can take advantage of debt management measures available through the Canada

Student Loans Program which include no interest, deferred repayment periods and forgiveness of student loan debt.

Concerning the future of the Canada Millennium Scholarship Foundation, a number of reviews have been undertaken to assess its performance, effectiveness and success in achieving its mandate. The results of these reviews have been examined and will inform this Government's decision in this regard.

As to defaulted loans, the Chief Actuary's most recent report estimated that 60 per cent are ultimately recovered.

[English]

ORDERS OF THE DAY

MUSEUMS ACT

BILL TO AMEND—SECOND READING

Hon. Consiglio Di Nino moved second reading of Bill C-42, An Act to amend the Museums Act and to make consequential amendments to other Acts.

He said: Honourable senators, I am pleased to launch the debate on Bill C-42, an Act amending the Museums Act. As you may know, the bill was tabled by the Minister of Canadian Heritage, Status of Women and Official Languages, the Honourable Josée Verner, on February 11, 2008. That day, honourable senators, marked the eighteenth anniversary of a historic occasion in the fight for justice and human rights. It was on that day in 1990 when Nelson Mandela regained his freedom after spending 27 years in prison for his role in leading the anti-apartheid campaign in South Africa.

Mr. Mandela, an honorary Canadian citizen, exemplifies the values underlying the creation of this unique museum, values demonstrated in Canada's long-standing commitment to justice, human rights, democracy, freedom and the rule of law for all the peoples of the world. On Wednesday, February 13, 2008, the other place unanimously passed this bill, an acknowledgment that the issue of human rights is truly non-partisan.

The Canadian Museum for Human Rights will be only the fifth such institution, joining the ranks of our other national and acclaimed museums: the National Gallery of Canada, the Canadian Museum of Nature, the Canada Science and Technology Museum and the Canadian Museum of Civilization.

Passage of this bill is a key step in the creation of this new, national institution.

[Translation]

National museums are the only establishments in Canada with an explicit mandate to preserve and present the heritage of the entire country. Therefore, they must be relevant and accessible to

all Canadians. These museums play a leadership role in the Canadian museum community, and they collect, preserve and present Canadian heritage in a national context.

The Canadian Museum for Human Rights will be a valuable asset among this country's national museums. This museum will be a place where we can explore the theme of human rights, in order to learn and understand more, promote respect for others, and encourage reflection and dialogue.

[English]

Honourable senators, Canadians are strong defenders of human rights and we are global leaders in their practice and promotion. In one poll, 78 per cent of respondents said that protecting rights and freedoms was very important to their sense of being Canadian. In 2003, Canadians said that the enactment of the Canadian Charter of Rights and Freedoms was the third most significant event in Canadian history after the creation of our health care system and the extension of voting rights to women.

The struggle for human rights is a story of humanity's journey towards freedom, dignity and respect. Today, we live in a world where we are more aware than ever of the gulf between what we have achieved at home and what many of our fellow human beings are still struggling to achieve.

The creation of a museum of human rights is not only timely, it is also a significant step forward in our ability to shine a light on and remind Canadians, and indeed the world, of what still needs to be done.

[Translation]

In collaboration with other levels of government and the private sector, the government is preparing to provide Canada with a new national museum in Winnipeg, in a brand-new building.

This museum will enhance Canada's reputation throughout the world, strengthen our national museum network and give all Canadians the opportunity to celebrate our nation's successes in the field of human rights as well as to learn from our past mistakes.

• (1510)

The Canadian Museum for Human Rights will not only remind us of the frightening consequences of indifference, but it will also teach us about great moments in history when courageous individuals or groups, at times through great sacrifices, overcame adversity to achieve dignity and justice.

[English]

Canadians will look to this museum as a valued resource to better understand our own historical role in this area. Canadians will also want the museum to be free of bias, to interpret and present global and local issues in ways that allow more than one view to be shared and to contemplate not only historical perspective but personal perspective as well.

By establishing this museum as a Crown corporation under the Museums Act, the government is guaranteeing its autonomy in developing content that will properly fulfill its mandate. The

[Senator Di Nino]

museum will undoubtedly look at historical situations such as the creation of Canada's first bill of rights under the leadership of Prime Minister Diefenbaker, which explored rights to equality, freedom of religion, speech, assembly, association and freedom of the press, as well as rights in the legal system such as the right to counsel and the right to a fair hearing.

I personally hope the board will see fit to explore pressing contemporary issues from the world around us. For example, this museum might consider the situation in Afghanistan and the important contributions Canadians are making there years after the oppressive Taliban rule in which human rights were virtually extinguished.

There are many examples — I am sure honourable senators can think of more — where Canadians are working hard all over the world to establish and strengthen the rule of law, good governance and other pillars of human rights.

In addition to helping Canadians explore their past and look ahead to a better future, the museum will be a resource for all of those who wish to advance the study and promotion of human rights.

The bill sets out the powers of the museum to play its important role, including to organize, sponsor, arrange for and participate in travelling exhibitions in Canada and internationally; undertake and sponsor research related to its purpose and to museology; provide facilities to permit qualified individuals to use and study its collection; promote knowledge and disseminate information related to its purpose; establish and foster liaison with other organizations with a purpose similar to its own; and share the expertise of its staff.

Honourable senators, considering the scope of these powers, I have no doubt that the Canadian human rights museum will become a respected centre of learning in an area that is increasingly important in the difficult age in which we live.

[Translation]

Youth growing up in the world today are facing a very different reality than many members in this chamber experienced. Democracy is expanding throughout the world and human rights are on the agenda in many countries.

The world today is decidedly a much better place for young people. And yet, they are more involved in and more aware of the entire world around them. The media, the Internet in particular, allow them to learn about and witness the atrocities that occur in the world and, in some cases, close to their homes.

The youth of the 21st century are aware of these disparities and are more involved in activism than we were. They look for change on a larger scale. I hope they will turn to the Canadian Museum for Human Rights as a place to gather and learn from each other in order to work together to make the world they live in a better place.

I urge my honourable colleagues to support this bill to make this institution a reality.

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Will the Honourable Senator Di Nino entertain some questions?

[English]

Hon. Serge Joyal: I have a number of questions. I listened carefully to the honourable senator and I want to commend him for his presentation on this bill.

However, it seems odd to me that the study of this bill started without mentioning that the idea of a human rights museum started with the Asper family. According to my information, it was the late Izzy Asper who first promoted the idea of establishing this museum. From what I have read in the media, Mr. Asper raised money in support of this project, and when he passed away, his daughter, Gail Asper, continued the work of her father.

My question is the following: What will happen to the money that was raised by the Asper family, to which many Canadians contributed, toward the establishment of that museum? I have read the bill, and there is nothing in there that mentions that the Asper Foundation is associated in any way with the realization of the building or the operation of this museum.

Senator Di Nino: Honourable senators, the truth of the matter is that the honourable senator is right. I should have commented on the inspiration behind this museum, which was Mr. Izzy Asper. It is absolutely true that it was a dream developed by him and his family, together with a number of associates and friends. For that, we should express our thanks. I apologize for not having done that in my presentation.

Also, Ms. Gail Asper is very much involved. Not only has she, like her dad, raised a great deal of money, but also the foundation is still doing so. In running an institution such as a museum, I do not think raising money will ever cease, as we know from the requests we receive from the arts community on an ongoing basis. We should recognize her as well.

As to the money that was collected — and I do not have the information here — it is my understanding that the money the federal government is providing will be added to the funds raised from the capital component. Together with funds provided by other orders of government, provincial, particularly Manitoba, and probably some municipal contribution as well, along with the private sector, as I said in my speech — I hope I did not skip over that — the federal government's contribution will be added to the other funds that will be raised on a continuous basis from a variety of sources to cover the ongoing costs. Those funds are commingled and used for this purpose.

Senator Joyal: If the honourable senator will accept another question, I am puzzled by the federal government's decision to step in at this time to make this museum a national institution. It seems difficult to understand that while there was a promoter, a private group, the Asper Foundation, driving the initiative to have that museum established — which I think is totally commendable and Canadians should be grateful to the Asper family for that — the moment the Asper family raised multi-millions of dollars to realize the museum, the government stepped in. At the same time, the government decided to withdraw from the national portrait museum when, at that stage, no

private-sector groups were interested in that museum. The government moved in while the private sector was actively involved. The Asper family had already achieved good results in their fundraising drive while at the same time, the government decided to turn the national portrait gallery over to the private sector.

• (1520)

This approach seems to be illogical. I would prefer the government to support the Asper family and continue to support a portrait gallery. We have seen a total reversal of direction, and the explanation we have been given is not clear. Can the honourable senator inform the house of the rationale behind those two decisions?

Senator Di Nino: I have been asked two questions by the honourable senator. I will answer them to the degree that I have information.

The honourable senator is puzzled as to why the Government of Canada would take this step to create a new national institution under the Museums Act. It is not difficult to understand that this museum is fundamentally in recognition of the role that our country has played day in and day out over the last 50 to 70 years, and continues to play, in respect of the value of human rights and the principles of dignity and freedom. If there is to be a beacon in the world that says, "human rights are, above all, about people and their dignity, freedom and ability to live free," it should be in Canada. I believe that is the motivating factor behind the Government of Canada deciding to undertake this project, and to make it a national institution like the other four that I mentioned. In that way, the museum will have stability and presence and will achieve the things that I outlined and more, as I am sure the board of directors of the institution will find.

With respect to the second question, I am a businessman. The most successful institutions that serve our communities have been partnerships between the various levels of government and the private sector. I have been involved with several of them in the city of Toronto. Organizations that are purely government struggle with all kinds of problems, while those that have a solid partnership with the private sector do not struggle. The private sector takes ownership and contributes incredible sums of money, as well as time, effort and energy. Some of the most successful business people in the country donate their time, expertise and offices to help manage these organizations that are for public benefit.

That system is truly the best one for creating these kinds of institutions. I am happy to provide the names of the ones in which I have been involved over the years, but I do not think that is necessary. Senator Grafstein is involved in a number of them as well.

That partnership is forming with the portrait gallery as well, although I am not as well versed on that project. I hope that at the end of the day, the portrait gallery will be the kind of partnership between various levels of government and the private sector that ensures its success.

Senator Joyal: I will raise another issue, which is the collection. At page 2, the bill states that the Canadian museum of human rights will manage the collection. My question to

Senator Di Nino is: Where is the collection? In the case of the portrait gallery, we know where the collection is. There are 20,000 portraits and a million photos housed in the National Archives of Canada. Where is the collection for this proposed museum housed? Can the honourable senator end the debate that will take place in the study of this bill? Will we have a list of the items in the collection? Are these items perhaps located in another museum that I am not aware of or in a private collection? What collection will this museum manage? Will the museum be built from scratch because the only artifact at this time is the Canadian Charter of Rights and Freedoms? What collection will this museum be asked to manage and to present to Canadians?

Senator Di Nino: First, I admit that I cannot answer that question fully, but I will undertake during the next little while to obtain the information for the honourable senator.

I mentioned the Bill of Rights and the honourable senator mentioned the Charter of Rights and Freedoms. I understand from discussions, although I cannot verify, that items have been set aside by the Asper family and others that have an interest in such a museum. This information will be presented to the board or to the administration for consideration.

It is important to understand that a human rights museum will not be like a portrait gallery. Rather, it will be more of an ongoing process to encourage, establish and gather information from the past and present, to create educational material that could help to eliminate future human rights atrocities and denials.

The collection will be a combination of many things. Obviously, I have read the bill and understand it reasonably well. It will not be like having only paintings or sculptures on display. For example, a dish donated by a survivor of a concentration camp during the Second World War might be displayed. The collection will be valuable for its stories, lessons and ideas.

Honourable senators, that is my understanding of this proposed museum, and I will try to obtain additional information for the honourable senator.

Hon. Hugh Segal: Reflecting on Senator Joyal's thoughtful questions with respect to the two museums, can Senator Di Nino reflect on the fact that there appears to be a unifying principle. With respect to the proposed museum in Winnipeg, the government affirmed that not all museums of national importance must be in Ottawa. That principle appears to be the same principle here, in my view, but I defer to the honourable senator's judgment with respect to the disposition of the portrait gallery.

Senator Di Nino: I could not have said it better myself. I agree with the honourable senator. This has been a discussion about the portrait gallery.

• (1530)

Honourable senators, I am not speaking on behalf of the government. My personal opinion is that not every national museum needs be in the National Capital Region. I think there is value to strategically placing certain museums and certain institutions in other parts of the country.

[Senator Joyal]

Senator Comeau: It is all Canada.

Senator Di Nino: Exactly. It is all part of our country.

Hon. Percy E. Downe: I have a supplementary. How does the honourable senator explain the situation to Canadians who lack the financial resources to bid on these museums? The Aspers have been very generous to Winnipeg and Manitoba. They have contributed in many ways. In Prince Edward Island, however, we do not have that kind of private sector. Are we left out of all future considerations for museums?

Senator Di Nino: I certainly hope not. I would be very concerned if that was the case. I think it would depend on the institution that would be created. Not all museums have to have hundreds of millions of dollars; not all national institutions have to be built on hundreds of millions of dollars. National institutions can be just as important without the huge costs that are necessarily associated with such bodies.

I am sure that the good people of P.E.I. will be just as generous in their own way in creating institutions that would be appropriate for that province.

Senator Downe: The good people of Prince Edward Island are very generous. Unfortunately, we do not have the financial base to contribute at the level required. We currently have the Confederation Centre of the Arts. In addition, we have the National Memorial to the Fathers of Confederation, which institution is grossly underfunded. Over the last number of years, the Government of Canada, all governments, have not kept up with the required funding. If there is a new policy to depend on the private sector, let it be understood that regions like Charlottetown and Prince Edward Island will be left out of the equation.

Senator Di Nino: I will give the honourable senator the same answer that I gave Senator Segal: I could not have said it better myself.

Hon. Bill Rompkey: Honourable senators, on the topic of whether museums and national institutions should be located within or outside the national capital, has Senator Di Nino given any thought as to how many such bodies should be outside the national capital and how many should be within the National Capital Region? Should 10 per cent be within the national capital and 90 per cent outside, or should 90 per cent be within the national capital and 10 per cent outside? Has he given any thought to what the policy, strategy or guidelines might be? Are there any guidelines behind this strategy of moving national institutions, national museums and heritage sites outside the National Capital Region? Is there any specific strategy that we could understand?

Honourable senators, choices are being made. The choice is whether or not to have all national institutions or national museums within the National Capital Region, which includes both sides of the Ottawa River. Has any thought been given to that?

Senator Campbell: I could not have said it better.

Senator Di Nino: I have heard bits of information — I should say wisdom — from all sides. Simply because the honourable senator is sitting here does not mean anything; he is part of your organization, not ours. If he actually asked to be included, we would have to have a vote, and I am not sure it would be unanimous. Just kidding; I love the guy.

I do not have the answer, obviously, but I think that there are institutions that are very important for national pride. Signal Hill was mentioned, as was P.E.I. with its National Memorial to the Father of Confederation. Those are all important components of our history and culture that we should cherish and ensure that such institutions exist throughout the country.

To give you a silly answer, no, I do not have the answer, but I know who I will ask the first time I think about it: you.

Hon. Rod A. A. Zimmer: Honourable senators, I rise today as critic of Bill C-42, an Act to Amend the Museums Act. The purpose of this bill is to explore the subject of human rights, with special, but not exclusive, reference to Canada in order to enhance the public's understanding of human rights, to promote respect for others and to encourage reflection and dialogue.

The proposed legislation also defines the capacity and powers the museum may exercise in carrying out its mission. It will be innovative, a community-partnership approach for a national institution, a visionary pilot project demonstrating how Canadian cultural institutions can be located at the grassroots, where Canadians live, and make critical contributions to the development of Western Canadian economy. It will be a world-class architectural icon designed by world-renowned Antoine Predock, clearly distinguishable as a world symbol for human rights, an innovative learning centre for Canadians and a long-awaited home for the stories of Canada's Aboriginal peoples, as well as a place for Canada's varied multicultural communities to document their histories, from which all Canadians can learn and gain a greater knowledge of their past and use that knowledge to chart a brighter future.

Manitoba has been called the keystone province, described as, "... holding together the arch of the Canadian provinces. As the land in the middle, they marry the East to the West and in doing so enjoy the best of both territories, the agriculture of one, the manufacturing and processing of the other. It is a land of pleasant contrasts, where a sophisticated major urban population still practices the neighbourliness of the frontier past."

Honourable senators, as the critic of this bill, I totally support it. All the parties in the other place support it and no amendments are proposed. I ask for your total support.

Honourable senators, this bill, and especially this museum, has a very special meaning to me because it was the vision and the dream of my hero, Izzy Asper — a man who I knew for over 30 years and worked with at CanWest. He was a man who dreamed in technicolour, and he made those dreams come true. He always told me that there was no dream he could not realize — he just ran out of time. When his eyes sparkled and he dreamed about the museum, he said:

I want you to humanize the planet. You have to start with what is a social contract. What are the rights with which I was born? We want to celebrate and teach the human rights story of Canada, warts and all, because our children aren't taught human rights at school.

Women did not have the vote, they were not legal persons, Aboriginals were sent to separate schools, Ukrainians in World War I were interned citizens, Japanese were interned in World War II. Refugee ships, both Jews and Sikhs, were turned away from this country for people to die.

The Acadians were expelled from their homes in New Brunswick by the British, Canadians dispersed all over the world. We have some stories to tell about the Mennonite community ... about the Dukhobor community, and other ongoing atrocities today — Rwanda, Darfur, Afghanistan ...

Izzy Asper said those words in the summer of 2003, just a couple of months before he died.

Honourable senators, human rights violations continue all around the world to this day. This symbol in Winnipeg would be a beacon not only to Canada but also to the world. When you see the opera house, you know you are in Sydney. When you see the Eiffel Tower, you know you are in Paris. When you hear Big Ben, you know you are in London. Hopefully, soon, when you see the Human Rights Museum, you will know you are in Winnipeg. It will have a profound impact on our city and our country and it will change the lives and the outlooks of those who have come to witness this symbol.

Honourable senators, this museum will face squarely the blemishes on our record of human rights but also celebrate our contribution to the enlightened Charter of Rights.

• (1540)

One of the true architects of that cornerstone of human rights was Pierre Elliott Trudeau, who is no longer with us. He is with Izzy, and they would be thrilled.

The other architect, the Right Honourable Jean Chrétien, also encouraged and supported this proposal from the beginning, on the first day that Izzy approached him, as many other government representatives have done along the way.

When Izzy's passed, he handed this torch to his family, wife Babs and their children David, Leonard and Gail. Gail, with Izzy's passion in her heart and fire in her eyes, forged ahead undeterred with the other family members to make sure that Izzy's dream would become a reality.

Honourable senators, I ask for your total support for this bill. The other place supported it totally, with no amendments.

Honourable senators, if you were to glance up in the gallery today, you might be able to picture Izzy smiling proudly down upon us, because I hope his dream is about to come true.

Hon. Mira Spivak: Honourable senators, Izzy Asper would raise a glass — a very dry martini, I am sure — to this legislation, which fulfills his dream, and he would be very proud, as Senator Zimmer has said, that it is his children who carry forward this legacy.

This dream has gained the support of many fine Canadians, including many of those in this Senate chamber. On its national advisory board you will find Senators Grafstein, Kinsella and Poy, alongside such prominent Canadians as former Prime Ministers Brian Mulroney and John Turner. Its patrons are the Governor General and the Lieutenant Governor of Manitoba. On its supporter list you will find the names of four current senators from Manitoba, including mine, and one former Manitoba senator, Senator Kroft.

This is a venture that has gained the support of current and past federal governments, of the Manitoba government, of the City of Winnipeg, of the Forks North Portage Partnership, in addition to the Asper Foundation, and it has the support of countless organizations through the country and many more private donors.

We support the creation of a new institution dedicated to promoting the understanding of, and respect for, human rights, including women's equality, the rights of the disabled, labour rights, and respect for ethnic, religious and racial diversity.

We support a centre where young people in particular will come to learn our history and gain a better understanding of those rights we need to protect, now and in the future.

By the second year of its operation, more than 20,000 grade nine students from all walks of life will have attended its educational and travel programs and no doubt some will become our next generation of human rights leaders.

We support a centre in the heart of our country, in the heart of the city, and at the crossroads of two rivers, that will be the world's largest human rights museum, drawing international visitors and conference delegates to this meeting place for a meeting of minds. We support this concrete and glass demonstration of Canada's unwavering commitment to human rights.

We understand that the museum will teach tolerance in a society that is increasingly fearful; that it will promote understanding among young people, who are increasingly isolated and segregated; that through its education and travel programs it will help to break down the walls of prejudice based on language, religion and culture, by helping young people to learn together that all peoples have rights.

As Manitoba senators, we understand almost instinctively how fitting it is that the museum will be built at the historic junction of the Red and the Assiniboine Rivers. The riverfront is shared with St. Boniface, our country's largest francophone community outside Quebec. Winnipeg is home to one of the largest populations of First Nations peoples in Canada. The city was formed by wave upon wave of new immigrants and celebrates its cultural diversity with 40 international pavilions in a two-week festival every summer.

Winnipeg has also produced more than its share of champions of human rights — among them not a few national voices for the rights of Hong Kong veterans, of Japanese-Canadians interned during the war, and of First Nations people.

In supporting this bill, we help further a cause for human rights. In supporting this bill, we help to create another institution dedicated to the proposition that all people enjoy basic rights.

The museum can help open the hearts and minds of Canadians. It can help our friends to the south and in the global community, and hopefully its enduring effect will certainly be felt beyond its walls.

I am more than pleased to support this legislation and urge honourable senators to do likewise.

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

Senator Segal: 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 Di Nino, bill referred to the Standing Senate Committee on Human Rights.

**CANADA LABOUR CODE
CANADA STUDENT FINANCIAL ASSISTANCE ACT
CANADA STUDENT LOANS ACT
PUBLIC SERVICE EMPLOYMENT ACT**

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Hugh Segal moved second reading of Bill C-40, An Act to amend the Canada Labour Code, the Canada Student Financial Assistance Act, the Canada Student Loans Act and the Public Service Employment Act.

He said: Honourable senators, I rise today to speak in support of Bill C-40, an Act to Amend the Canada Labour Code, the Canada Student Financial Assistance Act, the Canada Student Loans Act and the Public Service Employment Act, which will in effect provide job protection for members of the Canadian Armed Forces reserves and protection for students who are reserve force members.

This is a subject close to our hearts in this place. I am pleased that the Canadian government has seen fit to move expeditiously on this most important matter as it promised to do so in October's Throne Speech.

[Translation]

The Minister of Labour, Mr. Blackburn, did extraordinary work travelling across Canada to seek different perspectives on the legislation before us. He visited reserve members of the Canadian Forces to get their perspectives and points of view.

[English]

I am particularly pleased that in the minister's travel across the country to listen to the views of the members of our reserve forces he was able to visit my hometown of Kingston, where he was hosted by the senior service of the Armed Forces, the navy at HMCS *Cataraqui* a few weeks ago.

I should also like to mention former Minister O'Connor, under whom this issue was moved ahead, and to thank the Reserves 2000 organization who encourage a special kind of dedication and commitment required of reserve force members.

Most important, I wish to thank and recognize each and every one of the 34,000 Canadian citizens who serve as members of the Canadian Armed Forces reserve, for their commitment to augment, sustain and support the regular force, more than 4,700 of whom have already served actively at great risk in Afghanistan, Bosnia, Croatia, Haiti and other international hot spots.

I also want to take this moment, if I may, as a relative newcomer to this place, to pay tribute to members on both sides of the aisle in the upper house. Since the introduction of the motion introduced in this place in 2006 and its unanimous passage through this chamber, the job situation of reservists has remained stoutly in the public domain. The challenge was generously recognized by the Government of Canada and addressed in the Throne Speech in October 2007.

• (1550)

Bill C-40 will now afford the kind of peace of mind and security needed by reserve force members who previously found themselves in the unenviable position of choosing between job security at home and a desire to serve and train in times of need right here and abroad.

Bill C-40 will amend the Canada Labour Code. These amendments will allow reservists who have completed at least six months of continuous employment with their employer to take a leave of absence without pay to participate in annual training or volunteer for designated domestic or international operations, such as Operation Athena in Afghanistan, peacekeeping missions, disaster relief and search and rescue operations. Reservists will also be entitled to reinstatement in the position they held prior to the leave or in an equivalent position, with exceptions in case of a workplace reorganization or where accommodating an employee can be done only by offering a different position.

In addition, new provisions of the Canada Labour Code will prohibit employers from penalizing employees who are reservists, or who apply for or take leave. Reservists will also be able to defer taking vacations while they are on leave. The leave will be unpaid and employers will not have to provide benefits or make pension contributions during an employee's leave.

Reservists receive pay and benefits from the Canadian Forces during their periods of service. However, seniority will continue to accrue under this legislation, and the periods of service with the employer immediately before and after the leave will be considered continuous service. Employees need to provide advance notice of the start and end dates of their leave to their employer. Regulation-making powers in this bill will allow the government, if necessary, to clarify certain terms or prescribe circumstances in which an employer may be exempted from one or more obligations related to these provisions.

Amendments to the Public Service Employment Act and to Treasury Board policies will provide equivalent protection to reservists who are employed in the federal public service. Activities that fall within federal jurisdiction include: air and marine transportation; interprovincial and international rail, road and pipeline transportation; banking; broadcasting; telecommunications; and Crown corporations.

Students in the reserves — and currently, 12,000 of our Canadian students are in the reserves — risk losing their active-student status when they volunteer for operations, and if the period of leave is longer than six months, they are required to start paying back their student loan and accrued interest. For the purposes of the Canada Student Loans Program, under Bill C-40, reservists attending a post-secondary institution full time will retain their active-student status; and reservists who have student loans will not accrue interest on their loans and will not be required to make payments while serving this country abroad or at home in our Armed Forces.

Bill C-40 will provide legal protection for the 2,000 reservists working in the federally regulated private sector and the federal public service, and the 12,000 student reservists. The strategy, therefore, entails amendments to the Canada Labour Code, the Canada Student Financial Assistance Act and the Canada Student Loans Act for that reason.

This job-protected leave will apply to federally regulated employees who are members of the reserve force participating in a domestic or international operation designated by the Minister of National Defence. It will also cover participation in various training activities. Finally, reservists called upon to participate in other duties under the National Defence Act will be covered as well. The government will continue to work with the provinces and territories regarding best practices and uniform application of integration policies.

The Department of National Defence and the Canadian Forces Liaison Council, who have done amazing work as mediators between reservists and employers, were consulted to identify any current gaps in the legislation and determine the real needs of the reservists.

I am proud to inform this upper chamber, which cares so much about the provinces, that six provinces have shown immense leadership in this issue. They are Manitoba, Saskatchewan, Ontario, New Brunswick, Nova Scotia and the great and historic cradle of Confederation, Prince Edward Island.

Newfoundland and Labrador plans to provide this type of protection in the near future. Alberta's Minister of Employment recently indicated that he is prepared to look at protecting the jobs of reservists who serve overseas.

Let me point out that Ontario passed their provincial bill in one day, and the great and historic sovereign province of Prince Edward Island went through all three readings in five minutes. Finally, our colleagues in the other place, who rarely agree on anything, passed this bill through all three stages in one afternoon. There seems to be little doubt as to the importance and urgency of this type of legislation.

I not only commend this bill to the consideration of colleagues, but I ask honourable colleagues to recognize the merits of the bill, move quickly to protect our reservists, and allow it to progress through this chamber as quickly as possible to put the framework of support for our reservists in place as soon as we possibly can.

Some Hon. Senators: Hear, hear!

On motion of Senator Callbeck, debate adjourned.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING— POINT OF ORDER—SPEAKER'S RULING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Banks, for the second reading of Bill S-224, An Act to amend the Parliament of Canada Act (vacancies).
—(*Speaker's Ruling*)

The Hon. the Speaker: Honourable senators, on Thursday, February 14, 2008, Senator Comeau raised a point of order with respect to proceedings on Bill S-224, an Act to Amend the Parliament of Canada Act (vacancies). He argued that by imposing a time constraint on the Prime Minister to give advice to the Governor General, the bill would affect the prerogative powers of the Crown and therefore requires Royal Consent.

The issue of Royal Consent has been raised on a number of occasions in the Senate in the recent past. It is noted by Marleau and Montpetit in *House of Commons Procedure in Practice*, at page 643:

Royal Consent . . . is taken from British practices and is part of the unwritten rules and customs of the House of Commons of Canada. Any legislation that affects the prerogatives, hereditary revenues, property or interests of the Crown requires Royal Consent, that is, the consent of the Governor General in his or her capacity as representative of the sovereign.

[*Translation*]

In the U.K., Royal Consent is signified in both Houses at some point before third reading. The Consent is usually given whether the government approves of a bill or not. In Canada, practice as to when the Royal Consent is given has not been the same. In the past, here in Canada, it has been signified in only one House.

[*English*]

The central issue in the current point of order is whether Bill S-224 requires Royal Consent. Clause 1 contains the proposal

[Senator Segal]

that has led to the issue being raised. The clause stipulates that a Prime Minister would have to give advice to the Governor General to fill a Senate vacancy within 180 days of its occurrence.

The only element of the Senate appointment process affected by the bill would be the time allowed to the Prime Minister to give advice to the Governor General. Nothing else would change. Whether this is a desirable change is for Parliament to decide. All that must be noted here is that the bill in no way affects the powers of the Governor General with respect to actually making Senate appointments. Simply put, no prerogative powers would be affected by the bill and the Royal Consent is not required.

As a final issue, I would like to address when a point of order can be raised. This was a matter on which clarification was requested on February 14, in light of an earlier ruling. I wish to make it clear that there is no obligation that a point of order be raised at the earliest opportunity, although it is always preferable. A point of order — that is to say, a complaint or a question raised by a senator who believes that the rules, practices or customary procedures of the Senate have been incorrectly applied or overlooked — can be raised at any point during debate.

[*Translation*]

In the Ruling of February 14 on the motion for a Message, I had sought to describe the process followed to that point: proper notice had been given, the motion was correctly moved, and debate had started. The point of order had, as I understood it, questioned the content of the motion. I wish to be clear that the timing for raising the point of order was not an issue. Instead, based on the content and plain language of the motion, the Chair found that there was nothing defective about the motion itself, and so there was no point of order.

• (1600)

[*English*]

In conclusion, the objection raised with respect to Bill S-224 that it requires Royal Consent is not well founded and debate, therefore, can continue.

On motion of Senator Comeau, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Callbeck, for the second reading of Bill S-210, An Act to amend the Criminal Code (suicide bombings).
—(*Honourable Senator Prud'homme, P.C.*)

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

Some Hon. Senators: Question!

Hon. David Tkachuk: Honourable senators, this item stands adjourned in Senator Prud'homme's name. He said before the break that he would deal with it this week. Since Senator Prud'homme is not here today, and I think we should allow him to speak on the issue, I move the adjournment of the debate in his name.

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

Hon. Jeremiah S. Grafstein: Honourable senators, I just want to put on the record —

The Hon. the Speaker: This is a motion to adjourn the debate and is not debatable.

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?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: The motion is carried on division.

Senator Grafstein: I rise on a brief point of order.

I asked for a vote on Senator Tkachuk's adjournment. Am I correct that the matter was adjourned on division?

The Hon. the Speaker: The motion to adjourn the debate, which is not a debatable motion, was duly put to the house. It was carried, but not unanimously; it was carried on division.

The record will indicate that there were some honourable senators opposed to that motion. The item stands adjourned and will be on the Order Paper for tomorrow.

On motion of Senator Tkachuk, for Senator Prud'homme, debate adjourned.

NATIONAL CAPITAL ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Mira Spivak moved second reading of Bill S-227, An Act to amend the National Capital Act (establishment and protection of Gatineau Park).—(*Honourable Senator Spivak*)

She said: Honourable senators, this bill is essentially the same as its predecessor, Bill S-210, in the last session of Parliament. Its purpose is to give Gatineau Park, the magnificent park that is only a few minutes from Parliament Hill, much of the same protection that we grant our national parks. Specifically, it would fix the park boundaries in law and provide parliamentary oversight of any future boundary changes.

Gatineau Park is not a national park. The National Capital Commission is its guardian and, by and large, the commission has done a good job of preserving its integrity. The pressures of

development on the other side of the river, however, have also tempted the commission to sell off or trade portions of the park. I think honourable senators will agree that that should stop and that Parliament should be the final arbiter of any future boundary changes, as it is for our national parks.

Mr. Andrew McDermott, Chair of the New Woodlands Preservation League, appeared before the Standing Senate Committee on Energy, the Environment and Natural Resources when Bill S-210 was examined by the committee in the last session. As Mr. McDermott said, many decades ago, the first park agency in the world, Canada's park agency, advocated that Gatineau Park be the first national park for Quebec. In fact, it was to be the first national park outside the Rocky Mountains. Unfortunately, that never came to pass.

He said:

... Gatineau Park never acquired that status and remains the only large federal park lacking adequate legislative protection and beyond the direct purview of Parliament.

While many would prefer that Gatineau Park be declared a national park, a view that I share, we all recognize the significant impediments. First among them is the fact that Parks Canada has no interest in assuming responsibility for the park. It would run counter to the agency's rational plan for establishing parks that represent very specific ecosystems and regions of our country. Gatineau Park would duplicate another national park from that perspective and add another burden to the already strained resources of the national park agency.

A second major impediment is the presence of private properties inside the park. Some 2 per cent of its 36,000 hectares is neither owned by the government nor subject to a management agreement. By policy and law, that rules out the creation of a national park until these private properties are acquired.

As Mr. Murray, President of the New Woodlands Preservation League, said succinctly:

This bill takes the spirit of the National Parks Act, puts it within the National Capital Act, and allows the NCC to continue managing it with parliamentary oversight.

Without this bill, as Mr. Stephen Hazell, Executive Director of the Sierra Club of Canada, told your committee, Gatineau Park has essentially the same legal protection as the tulip beds on Confederation Square. In short, there is no protection except by virtue of the fact that the NCC owns or controls much of the land.

• (1610)

Development is encroaching on the park. The McConnell-Laramée highway is slashing through its southern end, the third such four-lane urban roadway in the last several decades. An extension of the four-lane 105 could impact its northeastern sector. There is also the potential for Autoroute 50 to run through it.

Subdivisions are developing. There is increasing tourism and recreational use, including rock climbers, on very sensitive ecosystems. As a result of the boundary rationalization and road building over the last decade, the NCC removed some 1,842 acres of land, almost three square miles, from the park. Mr. Doug Anions, Vice-President of the Ottawa Valley Chapter of Canadian Parks and Wilderness Society, said this to the committee:

We support Bill S-210.

At that time, it was Bill S-210.

Gatineau Park is in urgent need of protection. . . . Urban encroachment is occurring at an alarming rate.

Not only do these witnesses support the bill, but during the review of the NCC mandate, some 15 groups that came together as the Coalition for NCC Renewal endorsed Bill S-210 at that time as a practical solution to many threats to the park.

When Parliament passes this bill, land deals will no longer be conducted behind closed doors. The boundaries will be fixed in law. No further sale of government land would be sanctioned. If park expansion is deemed desirable in future years, parliamentarians would have the final say on when and how, and they would receive annual reports of the park, including details of progress on the gradual acquisition of private property.

Your committee also heard very encouraging testimony from the National Capital Commission officials. Micheline Dubé, former executive vice-president and chief operating officer of the NCC, describes Gatineau Park as the most important asset within Canada's capital region. She said the following about the bill:

We are pleased that the Senate has proposed a bill that recognizes what an essential role Gatineau Park plays in Canada's capital by clearly enshrining the park within the National Capital Act.

She informed the committee that the NCC had conveyed its support of the proposal put forth to the minister responsible for the National Capital Commission, the Honourable Lawrence Cannon, who, incidentally, represents the riding that contains much of the park.

Officials also said clearly that acquisition of private property within these boundaries is a priority for the National Capital Commission. It has been affirmed in successive master plans for the park. The bill reflects that fact in its preamble and its specific clauses.

In 1988, all properties in Gatineau Park were, in fact, classified by Treasury Board as part of the national interest land mass, which means the NCC must manage those lands for future generations and acquire those it does not own. This bill simply encourages the National Capital Commission to fulfill its obligation to acquire land, prevent subdivisions and complete the park.

On the precise mechanism proposed in this legislation requiring willing vendors to give the NCC a right of first refusal, officials appear to prefer it to any alternative. The National Capital Act gives the commission the authority to expropriate property, but it has chosen not to do so for some time.

On a suggestion that a matching bid provision be included in this bill, that is, that vendors must present the NCC with a bona fide purchase agreement from a third party, the commission's general counsel said that it may make matters easier for the NCC to establish true market value. However, it would be onerous on the vendors, "very much constraining their ability to divest themselves of the property," to quote the general counsel.

I also suggest it could be open to abuse if third party offers were made at inflated prices on the assumption the NCC would then match the bid. If legitimate reasonable purchase agreements were matched by the NCC, would vendors not then be at risk for legal action for breach of contract?

It is not an easy matter to solve, but I believe this bill has found the best solution.

The question was also raised about this bill's financial impact and whether it would be deemed a money bill that would require a Royal Recommendation. That is clearly not the case. As Micheline Dubé stated in her March 29, 2007, appearance before the committee:

The bill proposes to set a legal boundary for the park. The NCC has a boundary under which we operate so that provision would not have a monetary impact. The bill proposes that the NCC acquire properties and it is the objective of the commission to do so.

It is already in their mission statements.

She suggested that a financial impact would be created only if this bill placed an obligation on the NCC to acquire those properties within a defined period of time, five or ten years, for example. However, the bill does not do that. In fact, it does not obligate the NCC to acquire any specific property or to do anything other than respond to property owners who want to sell and to report its decision on property acquisitions to Parliament.

As Ms. Dubé outlined for the committee, the commission has a well-established acquisition and disposal fund in which it has deposited \$1.7 million from the sale of Gatineau properties since 1990 and from which it has withdrawn \$16.5 million for purchases. Therefore, there is no reason for that.

NCC officials and other groups I have named not only supported this legislation but they also asked it to be made stronger from an environmental perspective, and again I quote Ms. Dubé:

In conclusion, the stewardship of Gatineau Park is an integral part of the fabric of Canada's capital region, and of our mandate to foster pride and unity among Canadians. We want to ensure that the park remains a strong symbol of Canadian values in Canada's capital with regard to the protection and enjoyment of the natural environment, healthy living and quality of life.

With our focus first on conservation of the park's natural and cultural resources, and then on the pursuit of respectful recreational activities and experiences, Gatineau Park will remain the capital's conservation park. The appropriate legislative authority would provide the NCC with the necessary tools to pursue its long-term planning for the park.

The New Woodlands Preservation League suggested amendments that make clear that Gatineau Park is dedicated to the people of Canada today and for future generations. They also require that maintenance or restoration of ecological integrity be the first priority of the commission in its management of the park.

Other groups and your committee members supported these amendments that instill the spirit of the National Parks Act in this legislation. They are excellent additions.

Your committee also made one technical amendment to clarify the wording in the clause that gives the NCC the right of first refusal in the purchase of private property offered for sale within the park. As it was worded, it was feared that property owners would be affected badly, and the amendment corrects that situation.

There is one substantive difference between this bill and the amended Bill S-210 that stood at report stage when the first session of this Parliament came to an end. At that time, the “metes and bounds” description of the park — that is, the technical description according to surveyors — was not available. For that reason, Bill S-210 set out a mechanism for the addition of this description in a schedule to the bill. Over the summer, the NCC completed that “metes and bounds” description and it is now incorporated into the bill before honourable senators and those clauses relating to future “metes and bounds” have been deleted.

• (1620)

Honourable senators, it would be false to leave the impression that everyone was in favour of the bill. Your committee heard from the Mayor of Chelsea and resident associations who would prefer the status quo. They contend that they are stewards of the park in which they reside and that may well be the case. However, in recent years a new road has been constructed to service the area, despite a good deal of opposition from conservation groups.

Also, they hold the NCC’s ability to expropriate them as preferable to requiring them to give the NCC first option when and if they want to sell their property. It is puzzling, but that is their position. Maybe it is not so puzzling.

I am pleased that your committee, while not insensitive to the concerns of property owners inside the park, weighed those concerns against the benefits to all Canadians and preserved those features of the bill. It is always a balancing act.

Again, I want to stress that this legislation requires no one to move from their home or cottage. Through trust arrangements, I am told, the families could continue to pass down their property through successive generations. The bill requires only one thing of them: When the decision is made to place their property on the open market, they must give the NCC an opportunity to say yes or no.

There are some interested parties that your committee did not hear from. There was no representation from the Government of Quebec, despite the fact that we twice suggested that we hear from them; nor was there any testimony from the government that declined to send witnesses.

As honourable senators vote on this bill, I hope you will consider the great value of this park, both for its history and its biodiversity. As Ms. Dubé testified:

Not only is Gatineau Park part of our natural heritage, but it is home to a number of other heritage resources. Mackenzie King Estate, comprised of its historical gardens and buildings, is the most important cultural attraction to Gatineau Park, attracting some 60,000 visitors a year. Two of the six official residences managed by the NCC are also situated within Gatineau Park. These are the residence of the Speaker of the House of Commons and the Mousseau Lake residence, known as Harrington Lake, the country residence of the Prime Minister. Both contribute to the park’s national and political symbolism.

Not long ago, the NCC conducted a study leading to a biodiversity monitoring program, not only for Gatineau Park but for all NCC lands on both sides of the Ottawa River. The results, published in September 2006, found that Gatineau Park contains some 2,800 species, including 53 mammals, 234 birds, 52 species of fish and 1,100 distinct forms of plant life. It is by far the most diverse of all NCC properties that in total contain approximately 60 per cent of the species found in Canada.

Populations of mammals in Gatineau Park, for example, include cougars, once native to all of North America but hunted to near extinction and widely thought to remain only in British Columbia and Alberta. A cougar sighting was reported last spring by a park conservation officer and there have been seven other sightings in the last 11 years.

Also, there are white-tailed deer and wolves. To quote Mr. Hazell of the Sierra Club, in relation to Gatineau Park:

That place is only 40 kilometres from where we are sitting now. . . . Gatineau Park is an incredible place. Perhaps most people in Ottawa do not truly appreciate how incredible it is.

Therefore, if we can come together to grant this very special place the basic protection it deserves, we will be sending an enduring message about this Parliament. I urge honourable senators to support the bill and I thank you for listening.

On motion of Senator Tkachuk, debate adjourned.

MEDICAL DEVICES REGISTRY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Mac Harb moved second reading of Bill S-222, An Act to establish and maintain a national registry of medical devices.
—(*Honourable Senator Harb*)

He said: Honourable senators, I rise today to ask for your support for Bill S-222, to establish and maintain a national registry of medical devices. This registry will contain the names and contact information of people who depend upon certain medical devices in their daily lives. The bill will also require manufacturers and distributors of these devices to notify the registrar if a medical device could pose a risk to the health or safety of someone using the device.

Honourable senators, thousands of Canadians have implants, or use other medical devices, and that number is growing. Unfortunately, the reported deaths linked to medical devices have increased as well. In the United States, for example, the Food and Drug Administration has a database of adverse events involving all types of medical devices. A September 2007 report, for fiscal year 2006, in the United States, showed a 25 per cent increase in adverse effect events linked to medical devices over the previous year, including 2,830 deaths, 116,086 injuries and 96,485 device malfunctions.

Honourable senators, I suggest the situation in Canada is no different.

[Translation]

More advanced medical devices are appearing on the market, and consequently, the government must ensure that Canadians have access to safe and effective products and that they are informed when defects are discovered or when a manufacturer goes bankrupt.

Ironically, consumers are informed immediately when an automobile has a defect, but there is no reliable system to inform people whose health could be in jeopardy because of a defective medical device.

Honourable senators, Canadians currently have two ways to know whether their implant or artificial limb is subject to a recall. First, Canadian law requires manufacturers to keep a list of patients and to contact them if their device could malfunction.

• (1630)

But what happens if this information is lost or destroyed or if the company shuts down?

Second, Health Canada posts reminders on its website. But what happens if, as may be the case with many seniors, a transplant patient does not know how to use the Internet or forgets to check?

[English]

We will pay the cost of maintaining the status quo in terms of lives and money, plain and simple. There are many devastating examples of individuals who were not notified and have suffered terribly. Others have died as a result. This number will rise along with the number of medical devices used in our country. The number of class-action lawsuits and the cost to our health care system as we try to repair the damage caused by faulty devices will continue to increase.

My colleague, Senator Keon, was the original seconder of this bill and is an expert in the field of medical devices and implants. As he stated in the earlier debate, and I quote:

We already have mandatory reporting of high-risk devices and it is working well. We have not had many problems. There have been a few, such as with breast implants and so forth, but not many. The question was raised by Senator Harb of whether we should look at the

alternative of a broad-based voluntary registration system. We have to be careful and open-minded and look at other options. That is the reason I seconded the bill.

I agree with Senator Keon that perhaps it is time for us to look at other options because the status quo is not working.

One big concern, I believe, is that the present system puts the onus on busy, often over-worked medical practitioners to notify patients about failures. We need to take the responsibility for this notification out of the hands of these busy doctors and other health professionals and place it in the hands of a third-party registry.

Honourable senators, concerns have been expressed about the number of medical devices that may be included in this legislation. Obviously, it would be possible to limit the spectrum of medical devices to prevent the clogging up of the registry with devices that are low risk — such as dental crowns — and focus, in fact, on those that are high risk, such as pacemakers.

As I have stated in the past, Health Canada has done many positive things to help protect Canadians who depend upon medical devices, partly in response to the Auditor General's call for improvements.

It has developed a third-party registration system to ensure manufactures meet quality standards. It has done work on the regulatory requirements for testing medical devices. It has also worked to ensure Canadians have timely access to devices that are properly evaluated for safety and effectiveness.

However, honourable senators, the focus for the department has been on the safety of the device prior to implementation rather than on notification, should something go wrong during the device's lifetime of use. The mandate of Health Canada's medical device program underlines this fact.

[Translation]

The mandate of the Medical Devices Program is to evaluate and monitor the safety, efficacy and quality of diagnostic and therapeutic medical devices, so that consumers and health care professionals can use them with confidence.

In my opinion, it would be advisable for Health Canada to put in place a complementary system for reporting faulty devices. This voluntary registry would contain, with their approval, the names and addresses of individuals who use implantable medical devices or devices for home use, as well as a description of these devices. The personal information in the registry could not be made available to other parties without the written, informed consent of the interested parties.

[English]

I believe that establishment of a voluntary medical device registry is an essential step in Health Canada's ongoing effort to review and revamp the current regulatory recall system. Health Canada's stated mission is to protect the health and safety of Canadians. A voluntary national medical device registry would take this responsibility to "the last mile." Let us ensure we have a system in place with personnel whose primary focus will be to register contact information and maintain up-to-date communication channels.

[Senator Harb]

Honourable senators, I ask you to support this legislation. Move it on to committee where we can examine the system in detail and ensure that the registry meets the increasingly urgent critical needs of Canadians. I believe, honourable senators, that this bill can make a real difference in the health and well-being of Canadians who depend upon medical devices.

On motion of Senator Comeau, for Senator Keon, debate adjourned.

NATIONAL PEACEKEEPERS' DAY BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Eggleton, P.C., seconded by the Honourable Senator Fox, P.C., for the second reading of Bill C-287, An Act respecting a National Peacekeepers' Day.
—(*Honourable Senator Nancy Ruth*)

Hon. Nancy Ruth: Honourable senators, I rise to speak in support of Bill C-287, an act respecting a national peacekeepers' day. This bill makes August 9 a day to remember all peacekeepers and peace builders. This day is not a legal holiday. It is a day to celebrate the work of women and men who work to build civil society and create the conditions for lasting peace.

Professor Ursula Franklin, Companion of the Order of Canada, asks:

Why is it so difficult for the powerful to understand that peace is the presence of justice, and that "peace and justice" are indivisible?

Peace is also the absence of fear. It is the daily reminder of the Biblical promise of "fear not."

If we look at peace as the absence of fear, we find we are linked not only to those who, like us, fear nuclear expansion and explosion, and environmental destruction, but also to those who have reasons to fear a knock at the door, the disappearance of their loved ones, their children being kidnapped to become child soldiers, their women — young and old — being raped by United Nations peacekeepers and soldiers, their crops burned and the resulting famine that follows.

We are linked to those who have no prospect of jobs, to those who are born in refugee camps, to those who must sell their bodies, as well as their knowledge, to survive.

And we are linked to all peace builders and peacekeepers, those wearing civilian clothes and those in uniform — who work to end fear as an instrument of policy.

It is good that Canada will celebrate those who create the conditions for peace and keep the peace. It is good that Canada will encourage all those women and men, those teachers, nurses, veterans, veterinarians, doctors, well diggers, midwives, justice

workers, animators, activists, human rights workers, politicians and even some missionaries who work for peace and justice.

Honourable senators, salam, shalom, paix, peace, he ping and tung a sue ite.

The Hon. the Acting Speaker: Continuing debate?

Senator Comeau: Question!

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

Motion agreed to and bill read second time.

• (1640)

REFERRED TO COMMITTEE

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

On motion of Senator Eggleton, bill referred to the Standing Senate Committee on National Security and Defence.

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Gerald J. Comeau (Deputy Leader of the Government) moved second reading of Bill C-299, An Act to amend the Criminal Code (identification information obtained by fraud or false pretence), be read the second time.—(*Honourable Senator Comeau*)

He said: Honourable senators, Bill C-299 deals with identity theft. As we all know, this problem has become much more serious in recent years. In the other place, James Rajotte, the member for Edmonton—Leduc riding in Alberta, saw that something had to be done. Accordingly, he introduced Bill C-299 during the First Session of the Thirty-ninth Parliament.

As you know, this bill has been before the Senate for quite some time. Moving private members' bills forward in the Senate presents a number of challenges, in particular, finding the time needed to study them. Last week, Senator Carstairs commented on the growing number of bills that are sent to us. In this case, it is not the number of bills that concerns us; other factors have delayed the progress of debate on this bill.

The government recognizes the seriousness of the problem of identity theft. It introduced a comprehensive bill designed to fill in the gaps in the Criminal Code that allow criminals to usurp the identity of innocent people. Bill C-27 is currently before the Justice Committee of the other place.

If the current Parliament continues for a few more weeks, we should see that government measure come before us in the spring.

I do intend to speak on Bill C-299. However, I feel we must take into account any comments on Bill C-27, which we should receive shortly. If that bill is passed, it could replace or repeal the provisions of this private member's bill, Bill C-299. Accordingly, I move the adjournment of the debate, for the remainder of my time.

On motion of Senator Comeau, debate adjourned.

[English]

CONFLICT OF INTEREST FOR SENATORS

SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Committee on Conflict of Interest for Senators, (budget—mandate pursuant to rule 86(1)(t)—power to hire staff), presented in the Senate on February 13, 2008.—(*Honourable Senator Joyal, P.C.*)

Hon. Serge Joyal: Honourable senators, I move the report appearing under my name.

Motion agreed to and report adopted.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SECOND REPORT OF COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Keon, seconded by the Honourable Senator Segal, for the adoption of the second report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*amendments to the Rules of the Senate—reinstatement of bills from the previous session of the same Parliament*), presented in the Senate on November 20, 2007.—(*Honourable Senator Corbin*)

Hon. Anne C. Cools: Honourable senators, I was waiting for Senator Corbin to speak to this item so that I may speak after him.

Hon. Eymard G. Corbin: I have no intention of speaking, honourable senators. I am ready for the question. If Senator Cools wishes to speak, that is fine.

On motion of Senator Cools, debate adjourned.

[Translation]

THIRD REPORT OF COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Keon, seconded by the Honourable Senator Eyton, for the adoption of the third report of the Standing Committee on Rules, Procedures and the Rights

of Parliament (*amendments to the Rules of the Senate—questions of privilege and points of order*), presented in the Senate on November 20, 2007.—(*Honourable Senator Tardif*)

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, some senators have told me that they would like to speak to this very important issue. Consequently, I ask that the debate continue to stand in my name.

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

Hon. Senators: Agreed.

On motion of Senator Tardif, debate adjourned.

[English]

THE SENATE

MOTION TO RECOGNIZE CONTRIBUTIONS OF BLACK CANADIANS AND FEBRUARY AS BLACK HISTORY MONTH—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Di Nino:

That the Senate take note of the important contribution of black Canadians to the settlement, growth and development of Canada, the diversity of the Black community in Canada and its importance to the history of this country, and recognize February as Black History Month.—(*Honourable Senator Kinsella*)

Hon. Noël A. Kinsella: Honourable senators, it is only from time to time that the Speaker takes his or her place in the Senate Chamber in order to rise and participate in a given debate. Indeed, it is no doubt wise that a given Speaker be normally guided by the virtue: “custody of the tongue.”

However, honourable senators, the motion of Senator Oliver concerning Black History Month constitutes for me one of those exceptional cases when I seek to rise in my place in order to speak in favour and support of a motion.

Given that 2008 marks the four hundredth anniversary of Samuel de Champlain in Quebec, it is noteworthy that some early ancestors of Canada's Black community were present in 1608. Historical records confirm that there were Black members of Champlain's company in his earlier attempt to form a settlement on St. Croix Island in what is New Brunswick today. We also know of the funeral of a Black member of the Port Royal settlement in 1606, and of the presence of Mathieu Da Costa, a Black translator who signed in late 1608 a contract with Pierre Dugua, Sieur de Monts.

• (1650)

Honourable senators, historians are exploring the early days of the Black experience during the pre-Loyalist period in Atlantic Canada. In his work, *History of the River St. John 1604-1784*, W.O. Raymond gives an account of Black presence in the 1690s.

[Senator Comeau]

Many believe that the first Black Canadians, came to the New Brunswick of the day as slaves brought by the Loyalists at the conclusion of the American Revolution. This is incorrect. As indicated, there was a Black presence prior to New Brunswick being established as a province in 1784. While many did come with the Loyalists as slaves or servants, many others came as free Blacks and were given Loyalist land grants, such as that in the Elm Hill area of Fredericton.

One notes that the Department of Canadian Heritage has chosen for its 2008 Black history theme the linkage with the one hundred and seventy-fifth anniversary of the British Imperial Act of 1833, which abolished slavery throughout the British Empire. Honourable senators, we also know this enactment was predated in 1793 by the Legislature for Upper Canada, which adopted the Anti-Slavery Act.

Prior to the establishment of my province of New Brunswick in 1784, there were those who resisted slavery. Members of the Quaker faith founded the settlement at Beaver Harbour, New Brunswick, in 1783, and agreed that no slave owner would be allowed to join the settlement. It is interesting that the Quakers, with others, formed an alliance which struggled successfully for the end of slavery. A member of this movement was John Newton, the author of the hymn "Amazing Grace," which he wrote while aboard the slave ship the *Greyhound*.

Honourable senators, Senator Oliver has provided an impressive list of contributions made by many Black Canadians. Senator Trenholme Counsell has given excellent examples of outstanding contributions being made by some contemporary Black New Brunswickers.

I would like to place on the record of this important debate the work of Professor William Spray, who authored the book *The Blacks in New Brunswick*. Professor Spray has examined some of the archival data relating to the history of our Black community, including:

. . . questions of identity, origins, frustrations and attempts to obtain equality.

In the preface to this book, Joseph Drummond, an outstanding member of the Saint John, New Brunswick, Black community and a pioneer of the contemporary or modern human rights movement in Canada, stated:

White people have been in complete ignorance of the contributions of their fellow Black Citizens and of their strivings and heart-breaks and soul-searching frustrations; also, some Black people are in complete ignorance of their origin, identity, and the problems connected with the struggle for complete equality.

Joe Drummond's observation on the importance of Black history was an echo of the efforts of the American historian Carter G. Woodson, who in 1926 proposed a Black history week. Woodson is believed to have chosen February for this observance

because the birthdays of the renowned abolitionist Fredrick Douglass and also President Abraham Lincoln fall in this month.

Fifty years later, in 1976, the organization entitled Afro-Americans for the Study of Afro-American Life and History declared the first Black History Month. This year, the theme of Black History Month in the United States is "Carter G. Woodson and the origins of multiculturalism."

Honourable senators, given that multiculturalism is a constitutional value in Canada, having received specific articulation in section 27 of the Canadian Charter of Rights and Freedoms as well as having received direct statutory recognition when Parliament adopted the Canadian Multiculturalism Act in 1988, I believe that we should embrace Senator Oliver's motion and encourage all Canadians to explore and celebrate the contributions of the Black community in growing Canada's rich and dynamic multicultural society.

On motion of Senator Tkachuk, debate adjourned.

THE SENATE

MOTION TO URGE GOVERNMENT TO RECONSIDER DECISION NOT TO APPEAL DEATH SENTENCE OF RONALD SMITH—DEBATE ADJOURNED

Hon. Serge Joyal, pursuant to notice of November 29, 2007, moved:

That this House urge the Government to reconsider its decision not to appeal the death sentence of Ronald Smith, a Canadian citizen, who is on death row in a prison in Montana, and seek from the American authorities a commutation to life imprisonment; and

That the Government abide by the basic principle of the sanctity of life and commit itself to supporting, at all international forums, the abolition of the death penalty in the full knowledge that this country abolished capital punishment more than 30 years ago.

He said: Honourable senators, in rising to speak to this motion, there are three questions I wish to pose for your reflection: First, is it inherent to the existence of a state to have the right to impose death penalty; second, once the state has adopted or abolished the death penalty, what is the internal and external obligation of the state; and third, in relation to the case of Mr. Ronald Smith, what is the proper conduct for Canada pursuant to signed international treaties and the national law that has been adopted through the years?

Honourable senators, it is already late and I know that there are preoccupations in relation to the budget that has been moved in the other place. With the concurrence of this chamber, I propose to continue my speech at another time.

On motion of Senator Joyal, debate adjourned.

• (1700)

**STUDY ON INCLUDING IN LEGISLATION
NON-DEROGATION CLAUSES RELATING
TO ABORIGINAL AND TREATY RIGHTS**

**MOTION REQUESTING GOVERNMENT
RESPONSE ADOPTED**

Hon. Joan Fraser, pursuant to notice of February 13, 2008, moved:

That, pursuant to rule 131(2), the Senate request a complete and detailed response from the Government to the fifth report of the Standing Senate Committee on Legal and Constitutional Affairs, adopted by the Senate on February 12, 2008, with the Minister of Justice and Attorney General of Canada being identified as Minister responsible for responding to the report.

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

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion agreed to.

**ENERGY, THE ENVIRONMENT
AND NATURAL RESOURCES**

**COMMITTEE AUTHORIZED TO EXTEND DATE
OF FINAL REPORT ON STUDY OF CANADIAN
ENVIRONMENTAL PROTECTION ACT**

Hon. Tommy Banks, pursuant to notice of February 14, 2008, moved:

That, notwithstanding the Order of the Senate adopted on December 12, 2007, the date for the presentation of the final report by the Standing Senate Committee on Energy, the Environment and Natural Resources on the review of the *Canadian Environmental Protection Act* (1999, c. 33) pursuant to Section 343(1) of the said Act be extended from February 29, 2008 to March 31, 2008.

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

Hon. Terry Stratton: Could you please explain?

Senator Banks: I am trying to avoid being inundated by the news and comment about the events of today. The report will be printed on Friday, and I expect it will be tabled on March 4 and announced to the public on March 5. The reason, as I explained when I introduced the motion, is simply to not introduce this motion in the midst of the discussion, publicly and otherwise, about the budget.

Senator Stratton: That is the budget being presented by the Minister of Finance as we speak, is it?

Senator Banks: Yes.

Senator Stratton: Is the honourable senator worried that he will not get enough coverage?

Senator Banks: I do not want to overshadow the importance of the budget, which this report will.

The fact of the matter is that the report will be printed and delivered to us from the printer on Friday coming. That is the reason for the request for this extension. I used the date of the end of March just in case, because at the time I gave the notice of motion, I did not know when that would happen. In fact, I am informed by the clerk that the report will be delivered to us on Friday.

The Hon. the Speaker: Questions?

Hon. Consiglio Di Nino: I do not think this is an unusual request.

My colleague behind me was asking a question, and I am sure the honourable senator knows the answer. Has the French translation been completed?

Senator Banks: I am informed by the clerk, since it has been sent to the printer for printing, that all is in order, yes.

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

Hon. Senators: Agreed.

Motion agreed to.

CANADIAN WHEAT BOARD ACT

**BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED**

Leave having been given to revert to Other Business, Senate Public Bills, Item No. 4:

Hon. Grant Mitchell moved second reading of Bill S-228, An Act to amend the Canadian Wheat Board Act (board of directors).—(*Honourable Senator Mitchell*)

He said: Honourable senators, Bill S-228 affects the autonomy and the democratic processes surrounding the Canadian Wheat Board. There has been a great deal of political debate among political parties in the other place and in the Senate concerning the state of the Canadian Wheat Board, what it should be doing and how decisions about its jurisdiction should be made.

The fundamental principle of Bill S-228 is that what politicians think of the Canadian Wheat Board and the political debate at that level is not really what is important. What is important is what Western Canadian grain farmers think about the Canadian Wheat Board. What is also important is that they have the democratic right and processes supporting that right to make decisions about what the Canadian Wheat Board should and should not do and what its fate and future should be.

This legislation strengthens democracy and producer control of the Canadian Wheat Board and makes it less vulnerable to the ideological whim of one government or another. The Canadian Wheat Board legislation has been structured in the past to ensure that Canadian farmers have had the say in what the Canadian Wheat Board would do. Recent events over the last two years of this government in dealing with the Canadian Wheat Board have undermined and threatened that fundamentally important principle of the Canadian Wheat Board.

I should like to list a series of events and circumstances in which the government has been involved that raises questions about how the Canadian Wheat Board is being dealt with by this government.

It has been said, certainly by my party often, that the government has a hidden agenda on many issues. On this issue, in fact, their agenda is not hidden at all; it is very clear. What is less obvious and transparent is the manner in which they have approached the implementation of that agenda.

It is very clear that this government wants to do away with the Canadian Wheat Board. They can say they would be happy with a dual marketing system, but, in fact, without the extra capital investment that would allow them to compete, it means the Canadian Wheat Board will not survive a dual marketing system structure.

The agenda is certainly not hidden, but the methods and the mechanism by which this government has tried to promote this agenda are not particularly transparent. In many ways, they are dishonest and they are certainly corrosive of the democratic process that has underlined the existence and operation of the Canadian Wheat Board until about two years ago.

I wish to list a number of events that underline my point. In July 2006, the Minister of Agriculture convened in Regina not an open and transparent meeting, but a closed-door meeting by invitation only to discuss the implementation of marketing choice. What was quite offensive to many Western Canadian farmers, and to many Canadians more generally, was that the Government of Alberta was allowed to attend as a full participant — that was acceptable — but the governments of Manitoba, Saskatchewan and British Columbia were invited only as observers. They were invited only as observers because, of course, their governments disagree with the federal government on this issue. The intent of the meeting was to profile specifically those who were opposed to the Canadian Wheat Board. Supporters of the Canadian Wheat Board were simply excluded — not particularly democratic.

In September 2006, the minister released a summary of that July meeting, which called for marketing choice for wheat and barley. There was no reference at that time to the holding of a plebiscite for farmers. In October 2006, the minister's own hand-picked task force on marketing choice issued its report in which it pointed out that a dual market option is not possible. It cannot work, as I have explained moments ago.

The Minister of Agriculture told the Standing Senate Committee on Agriculture and Forestry shortly after that, "I have not had a plebiscite and do not have plans for a plebiscite." The minister imposed a gag order by issuing an

Order-in-Council to the Canadian Wheat Board instructing that the board, its board of directors and employees cease any advocacy function. In an effort to manipulate the election of members to the board of directors of the Canadian Wheat Board later in the fall of 2006, the minister issued instructions that disqualified 16,000 permit book holders from receiving ballots.

• (1710)

In November 2006, the minister issued a letter to the CEO and President of the Canadian Wheat Board indicating his intention to fire the CEO and President of the CWB. A spokesperson for the minister stated that "The government needs to be confident that its appointees will actively support its position on marketing choice." Yet, the legislation is structured so that the position that the Canadian Wheat Board will take on marketing choice will be a democratically driven position that is driven by Canadian wheat farmers and not by the ideology of some specific government.

In January 2007, the credit rating agency, Standard and Poor's, downgraded the Canadian Wheat Board's long-term credit rating. The reasons cited were the actions and statements of the federal government called into question the efficacy of the Canadian Wheat Board.

Later that January, the minister called for a plebiscite on barley, which had a dual marketing option as one of the three questions. The questions were structured in a way that emphasized and drove an outcome consistent with the government's position and diminished the possibility of support for the Canadian Wheat Board.

In March 2007, the results of the barley plebiscite were released. Only 13.8 per cent of the voters supported undermining the Canadian Wheat Board in any way, and the remaining 87 per cent of voters supported the Canadian Wheat Board in the way that it is currently structured.

In June 2007, the Minister of Agriculture and Agri-Food Canada issued regulations to remove barley from the single-desk authority of the Canadian Wheat Board, even though it is not possible to do so legally without legislation. That point was established definitively by the Federal Court of Canada in August 2007, which said that deregulating barley through regulations was beyond the legal authority of the government, and that it was necessary to have that deregulation authorized by Parliament. The government's appeal of the Federal Court's decision will be heard by the Federal Court of Appeal in February 2008.

On three occasions — December 12, 2006; February 28, 2007; and April 18, 2007 — a majority of the members of the House of Commons supported reports from the House Standing Committee on Agriculture and Agri-Food calling for a fair and honest plebiscite of western grain farmers on the future of the Canadian Wheat Board. The government has ignored the will of Parliament on each of these occasions; and that has driven the need for Bill S-228. Bill S-228 puts in place amendments that establish three important elements:

First, government will be required to consult with the Canadian Wheat Board's board of directors before making any significant policy decisions affecting the Canadian Wheat Board.

Second, the number of government appointees to the board of the Canadian Wheat Board will be reduced from the current five to three. Of those three, one will be the president, and the government will remain the appointer of the president. The remaining 10 members, duly and openly elected by the grain growers of Western Canada, will choose two of those five other board members. It is important to have some discretion in appointing board members and that is why five members were always set aside for appointment. Often, highly specialized technical knowledge is required of the appointee, and if that were not adequately reflected in the elected representatives, then the five who were appointed could compensate. That important principle will still be upheld by the appointment of five board members. However, the government's direction in appointing those members will be reduced, and the elected members will have more power with authority to appoint two of the five board members.

Third, the current legislation's provisions stating that changes to the Canadian Wheat Board's jurisdiction must be made by legislation after consultations with the board and with a legitimate question will be strengthened. It is important to note that question. The previous question put on barley was in three parts, and voters were to choose one part, although the three choices were clearly skewed. The first choice was that the Canadian Wheat Board would retain single jurisdiction, which it has currently. The second choice was that farmers would have the option to market barley directly. The third one was a variation on the second choice whereby the Canadian Wheat Board would not be allowed to have a role in the marketing of barley. Two of the three possibilities were the same possibility, thus skewing greatly the results. Even with that bias, few people opted for eliminating the Canadian Wheat Board dual marketing authority.

The new question provided for in this bill is specified so that we can debate its fairness and ensure that it is fair. The question would read as follows:

Attention eligible producers:

Please select ONE of the following options:

Option 1—OPEN MARKET OPTION:

All domestic and export sales of _____ should be removed entirely from the single desk marketing system of the Canadian Wheat Board and placed on the open market.

Option 2—SINGLE DESK OPTION:

The Canadian Wheat Board should remain the single desk seller of all _____, with the continuing exception of feed grain sold domestically.

That choice would be the Canadian Wheat Board equivalent of the Quebec Clarity Act in that it would provide and drive clarity on the Canadian Wheat Board question.

Much is at stake in Bill S-228 and at the Canadian Wheat Board. The livelihoods and lives of Canadian grain farmers are at stake. No one is saying they will not have a choice. Rather, we are saying they should have a choice to run that Canadian Wheat Board democratically through their elected representatives, and have a clear question so they can have certainty about how that question is answered.

Bill S-228 says that when a government is ideologically driven and disrespectful of institutions and democratic processes, and some might argue, abusive of the interests of farmers to make their own decisions about something that is fundamentally important to their way of life, economy and livelihood and the economy of this country, then it should be left to the farmers who live that process and who know how to make that decision. Bill S-228 strengthens democracy, democratic institutions and the ability of Western Canadian farmers to make decisions about their own futures, and takes that decision away from this ideologically driven government that, for whatever reason, seems bent on destroying the Canadian Wheat Board.

On motion of Senator Brown, debate adjourned.

The Senate adjourned until Wednesday, February 27, 2008, at 1:30 p.m.

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