



CANADA

# Debates of the Senate

---

2nd SESSION

• 39th PARLIAMENT

• VOLUME 144

• NUMBER 5

---

OFFICIAL REPORT  
(HANSARD)

**Wednesday, October 24, 2007**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

## CONTENTS

(Daily index of proceedings appears at back of this issue).

---

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

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



## THE SENATE

Wednesday, October 24, 2007

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

Prayers.

### SENATORS' STATEMENTS

#### THE TERM "REPUBLIC OF MACEDONIA"

**Hon. Pana Merchant:** Honourable senators, this Saturday on Parliament Hill, 20,000 Hellenic Canadians will gather to decry the grievous wrong imposed upon them by the recent actions of Prime Minister Harper. Symbols are crucial. Symbols of nationhood have profound resonance for every nation, and particularly for the nation of Greece, Canada's ally and the cradle of democracy.

The region of Macedonia and its name have belonged to Greece since antiquity. In naming a new sovereign state carved out of the former Yugoslavia since its breakup 16 years ago, the Government of Canada, until now, has deemed it appropriate to refrain from meddling in this symbolic issue.

The territory in question was recognized in 1993 by the United Nations as the Former Yugoslav Republic of Macedonia. The term, Former Yugoslav Republic of Macedonia, FYROM, was based on historical fact, an acknowledgement of the differences in a region characterized by centuries of turmoil.

In conformity with international practice, our Department of Foreign Affairs has referred to that territory as "FYROM." Suddenly, in Canada, we find the Prime Minister using the disputed term, "Republic of Macedonia" to describe the territory north of the Greek border. This meddling in European politics by a Canadian prime minister is unprecedented.

Many Canadians demand that the Prime Minister recognize, as the 27-member European Union recognizes, that the use of the name "Former Yugoslav Republic of Macedonia," or a new name that distinguishes that country from the Greek Province of Macedonia as a geographical entity, is the appropriate way to acknowledge the harmful challenges to Greek sovereignty.

Tens of thousands of Canadians are not only perplexed, but also infuriated with this Prime Minister's insensitive twisting and distortion of historical fact by sanctioning the use of a disputed name for that country. The Prime Minister's action not only shows disrespect for the position taken by the UN and the EU, but is also an insult and a provocation toward Canadians of Greek origin.

I call on the Prime Minister to cease this provocation and to respect the Greek diaspora in Canada.

#### AUTISM MONTH

**Hon. Wilbert J. Keon:** Honourable senators, October is Autism Month, a time to raise awareness about Autism Spectrum Disorders. ASDs include five pervasive development disorders,

the most commonly known of which are classic autism and Asperger's syndrome. As a spectrum disorder, the symptoms range from mild to severe but generally include difficulty with social skills; communication problems; behavioural issues, such as repetitive movements and restrictive interests; as well as difficulty with audio and visual processing. The ASD rate often cited for Canada is one in 166 and is found about four times more often in boys than in girls. This translates into 48,000 autistic children up to age 19 and 144,000 adults.

These individuals face many difficulties while still children. Those who are able to take part in the regular school stream are often victims of bullying. Combined with other social and academic struggles, it can be hard for them to do well in areas of strength. As adults they have a tendency toward impulsive and addictive behaviour resulting in strained relationships at home and in the workplace.

As honourable senators are aware, the Standing Senate Committee on Social Affairs, Science and Technology recently completed a study on autism entitled *Pay Now or Pay Later*. We learned how difficult life can be for families whose lives are touched by autism in some way. Senator Munson has devoted a great deal of time to the families of autistic children and has done a great deal during the summer to heighten awareness.

The Government of Canada has been supportive of efforts to overcome ASD in a number of ways with a research chair focusing on the study of treatments and interventions. As well, the Canadian Research Chair Program has 10 chairs working on related research. There is ongoing research through the Canadian Institutes for Health Research, CIHR, where \$26 million has been spent since 2000. An ASD research symposium was held November 8 to 9, 2007, to provide up-to-date information and a website has been provided to the general public.

• (1340)

Indirectly, a number of programs are also supportive, such as the Pan-Canadian Health Human Resource Strategy and tax measures through the Department of Finance. As well, Human Resources and Social Development Canada has provided supportive efforts through the Social Development Partnerships Program. However, there are tremendous problems with the situation, a number of questions to be answered and a tremendous need for more research.

[Translation]

#### THE DOCUMENTARY *NOMAD'S LAND*

**Hon. Lucie Pépin:** Honourable senators, this summer, a documentary film entitled *Nomad's Land* got a lot of attention. When RDI broadcasts it on television for the first time, the film is sure to stir up controversy.

This film gives a voice to military wives. These women remind us that, even though they are not members of the military, the army runs their lives, forcing them to move repeatedly and subjecting them to trying separations. These circumstances often leave them feeling isolated and vulnerable.

This is not the first time I have spoken to this chamber about the challenges that military spouses and their children grapple with. I have always admired their courage. Every time I meet one of them, I find their desire to empower themselves, despite the magnitude of the task, reassuring.

The Canadian Forces recognize the importance of stable families. Consequently, they do a lot to support the women and children living in these unique conditions. The Chief of Defence Staff Military Families Fund was created to do just that. I am sure that more initiatives will be forthcoming.

Still, any organization always has room for improvement. I believe that *Nomad's Land* will galvanize the energies needed to achieve the common goal of providing better support to military families.

It is heart-wrenching to hear these wives talk about how they suddenly found themselves alone with a baby, with neither friends nor family nearby. Staying at home makes them feel unimportant. People only pay attention to their partners in the military who are on missions. In fact, such is their discretion that people tend to forget that they exist and that they play an essential role.

As I have said before in this chamber and in other forums, we should make a greater effort to let them know how much we appreciate them and value their contributions. The other day, I heard someone say that there are four branches in the Canadian Forces: army, navy, air force, and military wives. That is so true, despite the fact that they do not wear uniforms.

By taking care of their households and supporting their husbands in the military, these wives are making their own contribution to the success of our troops. We should highlight that more often. Members of our military are able to do such excellent work because of the women who stand behind them.

Honourable senators, I encourage you to express your appreciation and support for military wives every chance you get. Do not forget that they are the fourth branch of the Canadian Forces.

---

[English]

## ROUTINE PROCEEDINGS

### INCOME TAX ACT EXCISE TAX ACT

#### BILL TO AMEND—FIRST READING

**Hon. Charlie Watt** presented Bill S-214, an Act to amend the Income Tax Act and the Excise Tax Act (tax relief for Nunavik).

Bill read first time.

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

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

---

• (1345)

[Translation]

## QUESTION PERIOD

### PUBLIC WORKS AND GOVERNMENT SERVICES

#### SALE OF FEDERAL OFFICE BUILDINGS

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, the Minister of Public Works and Government Services will not be surprised by my question. We learned today that two buildings in British Columbia have been removed from a sales transaction involving nine federal buildings, among the 30 buildings that will be sold off in the coming weeks. This is certainly not in the best interest of Canadians.

These two buildings were removed from the sales transaction because of a Federal Court ruling handed down on September 28, 2007, putting a halt to the transaction, because of unresolved Aboriginal land claims concerning the land on which the buildings were built.

During hearings of the Standing Committee on Aboriginal Peoples that considered leasebacks for federal buildings, it would appear that you disrupted those hearings by refusing to disclose the details of the sale of those nine buildings.

It would appear that the sale, valued at more than \$1.5 billion, was concluded without the necessary preliminary analyses — such as the standard title search — and without knowing all the ins and outs of that particular transaction.

After such a blunder on the part of the government — perhaps not the minister, but people who work with him — how can we be sure that Canadians will benefit from this transaction?

**Hon. Michael Fortier (Minister of Public Works and Government Services):** I thank the honourable senator for having shielded me somewhat from this barrage of criticism, but I do not need her protection, because I fully support the government's actions.

First of all, as a matter of information, there are not 30 buildings involved in the sale, but rather, nine. A few weeks ago, a First Nations group in Vancouver, the Musqueam, obtained a court injunction forcing us to remove two buildings from the sales process.

All government responsibilities with regard to this sale were fulfilled, including consultation with the First Nations. It was precisely because we consulted the First Nations about these two buildings in Vancouver that they decided to exercise their rights, which, in their view, would prevent us from selling the buildings.

Therefore, we decided to withdraw these two buildings from the sales process and we will proceed with the sale of the other seven buildings.

I will also tell the honourable senator, before she asks a supplementary question, that this sale will benefit taxpayers because the government is transferring the risks of ownership to the private sector.

As honourable senators know, very few businesses in Canada own their own buildings. They have entrusted them to companies specializing in building management.

The Government of Canada is transferring seven buildings but still owns more than 45. Thus, ownership of a tiny minority of these buildings will be transferred. It is advantageous for taxpayers, and there should be no doubt about that.

**Senator Hervieux-Payette:** Honourable senators, I still do not understand why these buildings are being sold. The minister spoke of the transfer of risk, but I have never seen many risks associated with a building.

As far as I am concerned, proper maintenance of a building ensures its longevity. We have all noted the significant budget surpluses of the federal government. If it were 1993, when his government had a deficit of \$43 billion or \$45 billion, we might understand that the buildings were being sold to help balance the budget and ensure that obligations pertaining to the payment of salaries or other expenses were met, or to decrease debt and borrowing.

• (1350)

In the present case, thanks to good Liberal administration, the government has been running a surplus for a number of years, a surplus the opposition has criticized and which is now even greater.

What is the real reason the government wants to sell these buildings? I am being told it was not 30 buildings for sale, but nine. I am also being told that other buildings will probably be put up for sale. What is the reason for this?

As far as the real estate risk is concerned, having been a part of the business world, I believe the government knows how to manage its buildings and has always known how to do so. That is why I am asking the minister to tell us why he wants to proceed with the sale of these buildings.

**Senator Fortier:** I have to take exception to that because the government, unfortunately, has been a very bad building administrator, all across the country. I would be pleased to give the honourable senator the list of buildings that no longer have running water and others where general maintenance work was not done. The total bill for the entire real estate portfolio has now reached nearly \$4.5 billion.

Look at the private sector. The honourable senator probably knows that every major private corporation has sold its buildings. The banks have done that, but they have maintained ownership of the branches for strategic purposes. But the huge office towers in downtown Montreal, Toronto, Calgary and Vancouver have all been sold to corporations that specialize in building management.

[ Senator Fortier ]

This is not a partisan issue. Before I assumed my duties, the honourable senator's colleague Scott Brison wanted to create an income trust with 370 buildings, including museums, prisons and laboratories. None of that made any sense.

I am only talking about office buildings where expertise exists in the private sector. We are talking about selling nine buildings. I have to say, the transaction came at a good time, just before the credit crisis we witnessed this summer. Taxpayers are going to get a big cheque. More importantly, honourable senators, we are transferring the real estate risk to the private sector.

By not selling these buildings, we would be keeping this real estate risk. After 25 years of mismanaging the buildings, we would end up with a structure whose only value would be in the land it was built on.

[English]

**Hon. Larry W. Campbell:** I do not wish to take issue with the minister but the Vancouver buildings he is speaking about have certainly been maintained and are, in fact, heritage buildings. The Sinclair Centre, for one, is probably one of the premier buildings in the city.

Honourable senators, I am not taking issue with the government selling the buildings. I am taking issue with the fact that the buildings were probably sold for \$600 million less than they were worth, according to a study from Informetrica.

Since the minister says his ministry is in debt some \$3 billion with regard to buildings, I wonder how he can afford to let buildings go for \$600 million less than their worth. The buildings were sold for \$1.64 billion; the assessed value of those buildings by Informetrica was \$2.3 billion.

**Senator Fortier:** I welcome that question, honourable senators. I would invite the honourable senator to review the public materials on the website. There are two studies, one jointly by the Bank of Montreal and the Royal Bank of Canada, and one by Deutsche Bank. The honourable senator will conclude, as I and the government did, that we had a tremendous auction. The price we got for the buildings in question is far higher than the valuation to which the honourable senator refers.

The buildings under question were listed at \$400 million or \$500 million on the government books. In January, an independent appraiser valued these buildings at \$1.15 billion.

Any way you peel the onion, we exceeded by far any valuation of these assets.

• (1355)

When we launched the auction, more than 11 bids came in for the assets, and I had included a condition that we wanted control to be Canadian. Had I opened it up to anyone, we could have had far more bids, and we probably would have had a better offer. We wanted the landlord to be Canadian because this landlord becomes the single most important landlord of the federal government in terms of office buildings.

Despite putting that condition in there, we exceeded everyone's high range in terms of the estimate. The honourable senator can ask experts; everyone will tell him that the government did very well with respect to its auction.

## VETERANS AFFAIRS

### EXTENSION OF VETERANS INDEPENDENCE PROGRAM

**Hon. Catherine S. Callbeck:** Honourable senators, my question is to the Leader of the Government in the Senate. The Veterans Independence Program does not currently provide services to all surviving spouses of veterans.

The Prime Minister, when he was Leader of the Opposition, made a clear promise to extend this program. On June 28, 2005, he promised in writing that, upon forming a government, and I quote from his letter to Ms. Joyce Carter of Nova Scotia:

The Conservative government would immediately extend the Veterans Independence Program services to widows of the Second World War and Korean War veterans regardless of when the veterans passed away.

The current government was sworn into office more than 20 months ago. To date, there are no signs that this government has any plans to extend the Veterans Independence Program.

Can the Leader of the Government in the Senate confirm that the government has now abandoned its promise to extend the Veterans Independence Program?

**Senator Robichaud:** Someone said there is no greater fraud than a promise not kept.

**Senator Tkachuk:** You should know.

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, in view of the interjection of Senator Robichaud, so as not to give information that could be misinterpreted, I will take Senator Callbeck's question as notice.

**Senator Corbin:** Very wise.

**Senator Callbeck:** I have a supplementary question to the leader.

Over four months ago, I asked the minister roughly the same question, and it was taken as notice. Now, I would like an answer. The spouses of these veterans would also like an answer. The Prime Minister said that when he formed a government he would immediately extend these programs. This promise is in writing. I would like an answer.

**Senator Grafstein:** That was the new, new government.

**Senator LeBreton:** As the honourable senator knows, Greg Thompson, the Minister of Veterans Affairs, has undertaken many programs in support of our veterans. I remember the question vividly, and I will attempt to ascertain where the answer is to the honourable senator's specific question.

## THE SENATE

### FEMALE REPRESENTATION

**Hon. Marcel Prud'homme:** Honourable senators, I have a lot of time to read and supervise the House of Commons and the Senate. I now see that some senators would like a national referendum to abolish the Senate.

**Some Hon. Senators:** What senators?

**Senator Prud'homme:** I know that some senators would like to elect the Senate.

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

**Senator Angus:** Senator Fortier can conduct an auction.

**Senator Prud'homme:** I know that some senators would like to have an equal Senate. Some senators are reform-minded people, although, as you know, I believe strongly that if there is an institution that needs to be reformed to start with, it is the House of Commons.

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

**Senator Angus:** You will bundle them.

**Senator Prud'homme:** Having said that, will the minister again consider asking the Prime Minister of Canada to appoint immediately, in the spirit of equality, due to the fact it is difficult to elect women, due to the fact there is a lack of women in the House of Commons —

• (1400)

**Senator Mitchell:** Question!

**Senator Prud'homme:** Thank you, Senator Mitchell. I am trying to imitate you.

It was Senator Mitchell who interrupted me. He is a bad influence because when he has the floor he speaks for so long. Even I, who am very attentive, lose track of what he is saying.

The Prime Minister has the option. Perhaps honourable senators will remember the famous phrase, "You had an option." He has the option to put one house ahead of every other house in the world. Even before the next election in October 2009, if that is when it will be, we can have 53 women and 52 men in the Senate.

Will the Prime Minister consider asking women across Canada to submit names of potential appointees, maintaining his ability to choose from among them? In the meantime, we will have a debate in Calgary or Edmonton on reform of the Senate. I hope and pray that I will return in good health. I love debating, and I am back to shake up the debate.

Senator Mercer, whom we wish good luck, has presented a very good proposal to appoint more women to the Senate. Continuing in the spirit of our new colleague, Senator Brown, and his efforts to reform the Senate, I suggest that in the meantime something must be done.

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

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank Senator Prud'homme for the question. He said that he is imitating Senator Mitchell. Senator Mitchell is a very pale imitation of Senator Prud'homme.

The honourable senator referred to the motion placed on the Order Paper yesterday by Senator Segal. I look forward to debate on the matter from all sides of the chamber. If passed, Senator Segal's motion would serve as advice to the government, and we look forward to whatever advice the chamber decides to give us in this regard.

On the subject of filling vacancies in the Senate, I am glad that Senator Prud'homme used the word "again," because he knows that I have apprised the Prime Minister of his admonitions in this regard in the past. I can only promise Senator Prud'homme that I will again raise his concerns with the Prime Minister.

## FINANCE

### SASKATCHEWAN—EQUALIZATION PAYMENTS

**Hon. Robert W. Peterson:** Honourable senators, my question is directed to the Leader of the Government in the Senate. Saskatchewan voters will be going to the polls on November 7. With talk of the federal government falling on a non-confidence vote following the Throne Speech, the matter of the equalization commitment has emerged as a major issue in this campaign.

Prior to the 2006 federal election, the Prime Minister stated emphatically that 100 per cent of non-renewable resource revenues would be excluded in determining the equalization calculation. The Prime Minister has now reached a side deal with Nova Scotia.

Will he do the right thing and give Saskatchewan the same consideration? Are we not an equal partner in Confederation?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, I thank the honourable senator for the question. My answer today will be no different than my answer in the last session of Parliament. Budget 2007 was a great budget for Saskatchewan. I do not know the extent to which this is an issue in the Saskatchewan election. I would have to consult my Saskatchewan colleagues on that.

Under Budget 2007, Saskatchewan is receiving the largest per capita gain of any province under the fiscal balance package. Restoring fiscal balance brings federal support to the province up to \$1.4 billion in 2007-08. There is \$878 million in new spending, and this funding will directly improve the lives of the people of Saskatchewan, including funding for equalization, health care and infrastructure.

• (1405)

If this is an issue in the Saskatchewan election, I hope that people who are making it an issue will point out all the benefits that have been sent Saskatchewan's way by the federal government.

**Senator Peterson:** Would it be possible for the government to table these calculations in this chamber so that honourable senators might be able to determine how it arrived at this number? There seems to be a significant amount of controversy as to exactly how this is being achieved.

**Senator LeBreton:** Honourable senators, these numbers are contained in Budget 2007.

[Translation]

## PARLIAMENT

### INTELLECTUAL SURVEY OF SENATORS AND MEMBERS OF PARLIAMENT

**Hon. Jean Lapointe:** Honourable senators, I have a supplementary question that follows on Senator Prud'homme's question. My question is for the Leader of the Government in the Senate, a charming woman, whom — as she knows — I hold in high esteem, and a very good skater, among other talents I ascribed to her last year. She skates very well. Many an NHL player should skate as fast as she does. She has been very adept at handling certain situations.

That said, honourable senators are aware that I object to Senate reform and an elected Senate. I therefore would like to ask her today whether it would be possible to administer a test to determine the IQ of the members of this chamber and the other place.

Let me just say in advance that the results in the other place would be pitiful, because the people there are a bunch of idiots. Some have talent, of course. When I was appointed by Jean Chrétien, who was then Prime Minister, I asked him whether there were as many idiots in the Senate as in Parliament, and he said, "No," fortunately. A prime minister told me that.

I ask the Leader of the Government to suggest, if she could, that we be tested. We would all pass. Senator Keon alone would put us 1,500 points ahead. Thank you.

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank Senator Lapointe for the question. I believe in the last session of Parliament the honourable senator said that I was a good tap dancer and now I am a good skater. This could become quite interesting as we go along. I take note of his comments and suggestion that there be a survey. However, a survey was conducted with regard to the members in the other place and that was the general election. Therefore, far be it from me or any of us to question the wisdom of the electorate.

• (1410)

I do take Senator Lapointe's interesting suggestions, and his point. I thank him for his supplementary question.



## UNITED NATIONS

DECLARATION ON THE RIGHTS  
OF INDIGENOUS PEOPLE

**Hon. Elizabeth Hubley:** My question is for the Leader of the Government in the Senate. The present government has turned its back on the Kelowna Accord. This agreement was an historical and landmark agreement for the Aboriginal peoples of this country. It promised access to adequate infrastructure, quality health care and worthwhile education. These essential elements of the agreement were meant to enable Aboriginal peoples to overcome finally the vicious circle of poverty they face. The agreement was signed by the vast majority of Aboriginal leaders. Recently, the government has taken a solo, cavalier approach to Aboriginal issues. Against the will of the provincial premiers, the present government refused to support the United Nations Declaration on the Rights of Indigenous Peoples. The UN High Commissioner for Human Rights, Louise Arbour, has confirmed that this government's position towards the resolution has been a disgrace for Canada on the international stage.

Does Canada's decision to reject this UN declaration signal an alignment of Canadian foreign policy with the Bush administration or a simple complete disregard for Canadian Aboriginal people on the part of the Prime Minister?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the senator for the question. As I have said many times in the last session, there is no such document as the Kelowna Accord; it is the Kelowna press release.

With regard to the question on the text of the declaration, as the honourable senator knows, and as was the case with the previous government, the text in its current form is inconsistent with our Constitution, Supreme Court rulings, the National Defence Act and policies under which we negotiate treaties. It does not recognize our need to balance indigenous rights to lands and resources with the rights of others. It lacks clear guidance for implementation. While some say the document is aspirational and not legally binding, there could be attempts to use it in the courts and in negotiations. Its wording therefore is extremely important. No previous Canadian government, as I mentioned at the beginning, has supported the current text of the declaration.

With regard to Aboriginal peoples, our government has placed great importance on delivering tangible, concrete results for Aboriginal peoples, such as speeding up land claims. We launched a national consultation process on matrimonial real property rights for women on the reserve. The Throne Speech stated that our government remains committed to repealing section 67 of the Canadian Human Rights Act, which I would hope everyone on all sides would support, to give First Nations on reserve the same access to human rights protection as other Canadians.

I hope all opposition parties support this initiative. I am proud that our government was the one that brought a resolution to the residential schools issue; and as was stated in the Speech from the Throne, the Prime Minister will apologize on behalf of the Government of Canada.

## INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

## KELOWNA ACCORD

**Hon. Elizabeth Hubley:** Honourable senators, I can applaud any government's actions to promote and address the needs of our Aboriginal people, but the Kelowna Accord was a rare occasion in the history of this country that gave Canadians, parliamentarians, an opportunity to move forward on issues that affected our Aboriginal people. It was an agreement endorsed by so many of those people that I feel it was a lost opportunity.

Do you plan to revive the Kelowna Accord in any form? This historical and landmark agreement with the Aboriginal people of this country can help them achieve real development. Will this government continue its cavalier approach to First Nations leaders by forcing made-in-Ottawa solutions on them?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, we do not intend to re-release a press release of the previous government. The government of which I am a member, the previous Minister of Indian Affairs and Northern Development, Jim Prentice, and now Minister Chuck Strahl have worked hard to address the ongoing issues with regard to our Aboriginal peoples. In our short period of time in government, a few of the things we have done for Canada's Aboriginal people include finalizing Indian residential schools agreements; announcing an action plan to change the way specific land claims are resolved; making progress in our action plan for safe drinking water on reserves; providing \$33 million over three years to the National Association of Friendship Centres for urban Aboriginal youth programs; launching consultation on matrimonial property rights for women; and establishing on-reserve pilot projects for patient wait-time guarantees in prenatal care and diabetic care.

• (1415)

In Budget 2007, we provided funding for the Aboriginal Justice Strategy and for First Nations fisheries management on the East Coast. In addition, the Aboriginal Skills and Employment Partnership was more than doubled, and \$300 million was set aside to develop individual property ownership on reserve.

## ELECTIONS CANADA

## CONSERVATIVE CAMPAIGN EXPENSES

**Hon. Grant Mitchell:** Honourable senators, I find myself compelled to stand tall here and correct the record. I am not short, but I will confide in my colleagues that people of my size, five feet six and nine-sixteenths inches tall, will often find people of Senator Prud'homme's height to be freakishly tall. It is a pleasure to sit beside him, provided honourable senators can see me over his head and recognize me. Thank you for doing that today.

The Chief Electoral Officer has established that the Conservative Party of Canada broke the law in what has now been described widely as the in-and-out Conservative election expenses scandal. Since someone lied about \$1.2 million in national Conservative campaign expenses by putting those funds into Conservative constituency campaigns, the Conservative

Party stood to gain \$720,000 in election rebates from the taxpayers of Canada that they would not otherwise have received. I am not a lawyer, but that, honourable senators, is fraud.

My question is to the Leader of the Government in the Senate: Why is it that the Prime Minister seems hardly to be able to wait to get to his feet to talk about crime, but when it is his party that broke the law, he sits quietly on his hands and says absolutely nothing? Is it not time to get tough on Conservative crime?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I hate to disappoint the honourable senator, but the Prime Minister did respond to this yesterday. I will say much the same thing today: I dare Senator Mitchell to utter the words he used in here outside of this chamber.

**Senator Comeau:** Do it!

**Senator LeBreton:** This from a Liberal.

**Senator Comeau:** Sponsorship!

**Senator LeBreton:** Canadian taxpayers are still waiting to see, hear about or have some proof as to the \$40 million —

**The Hon. the Speaker:** Order! Honourable senators, the time for Question Period has expired.

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** I wish to draw the attention of honourable senators to the presence in the gallery of participants in the Sixth Canadian Parliamentary Seminar of the Commonwealth Parliamentary Association.

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

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

---

[Translation]

#### ORDERS OF THE DAY

##### CANADA-UNITED STATES TAX CONVENTION ACT, 1984

BILL TO AMEND—SECOND READING—  
DEBATE ADJOURNED

**Hon. David Angus** moved second reading of Bill S-2, to amend the Canada-United States Tax Convention Act, 1984.

He said: Honourable senators, I rise today to move second reading of Bill S-2, An Act to amend the Canada-United States Tax Convention Act, 1984.

[English]

I have often had the opportunity in this chamber to speak on various conventions or treaties that Canada has entered into over

[ Senator Mitchell ]

the years with its major trading partners, all with a view to avoiding double taxation, aiding tax enforcement and enhancing economic cooperation between the contracting parties.

• (1420)

I believe Canada is party to some 89 such conventions. Just over a year ago, I spoke at second reading and acted as sponsor of Bill S-5, An Act to Implement Conventions and Protocols concluded between Canada and Ireland, Mexico and Korea for the avoidance of double tax and the prevention of fiscal evasion with respect to taxes on income. In my remarks at that time, I explained that conventions such as these are an essential element of Canada's overall comprehensive taxation system and that the Conservative government of Prime Minister Stephen Harper is committed to maintaining a well-functioning tax system and in a modern, up-to-date state. This includes ensuring that our network of international tax treaties, conventions and protocols are up-to-date and comply as fully as possible with the accepted norms presently applicable to such instruments, such as conforming to the OECD model convention.

As a result, it is not my intention today to offer repetitive details respecting the roles and the whys and wherefores of these conventions in contributing to a competitive and modern tax system for Canada. Rather, I wish to focus on the key elements of Bill S-2 and explain how it represents yet a further positive step in the upgrading, modernizing and improving of our existing international tax conventions.

Honourable senators, are well aware that our neighbour to the south is our most important and longest standing trading partner and that our economies and socioeconomic relationships are profoundly and I believe inextricably intertwined. It follows that the Canada-United States tax treaty is one of the most extensive and important of those on our books. Our first comprehensive tax convention with the U.S. was concluded in 1942, expanding on a more summary agreement first entered into in 1928.

The 1942 agreement was overhauled, modernized and replaced with a new comprehensive convention in 1980. The 1980 convention has since been amended, upgraded and fine-tuned by protocols on four occasions since its original ratification, namely, in 1983, 1984, 1995 and 1997.

Bill S-2 is the fifth amending protocol. Its purpose is to implement in Canada the fifth such protocol together with two exchanges of diplomatic notes which deal with very technical issues.

The fifth protocol was signed and the diplomatic notes exchanged in an impressive ceremony at Meech Lake just over a month ago, on September 21. At that ceremony, the Honourable Jim Flaherty, Minister of Finance, represented Canada and Henry Paulson, Secretary of the Treasury, represented the United States. This signing ceremony concluded nearly 10 years of negotiations aimed at modernizing and improving the 1980 convention for the betterment of individuals, families and business on both sides of the border.

The fifth protocol has, in the interim, been scrutinized by Canadian stakeholders, such as the Canadian Tax Foundation, and I understand no opposition whatsoever has been forthcoming. Finance Department officials have assured me that the bill is not controversial and will be positively received by all interested partners and parties.

Honourable senators, I am comfortable in asserting that this legislation, which resolves a number of critical and outstanding bilateral tax issues, will also stimulate increased Canada-U.S. trade and investment and, at the same time, will make both countries' tax systems more efficient.

Honourable senators, Bill S-2 will have the effect of delivering significant benefits to Canadian individuals, families and businesses in a number of ways.

First, Bill S-2 will eliminate source-country withholding tax on cross-border interest payments. For example, a resident of Canada who borrows money from a U.S. lender will no longer have to withhold and remit Canadian tax on the interest payments.

Second, Bill S-2 will allow taxpayers to require that otherwise insoluble double tax issues be settled through arbitration. This arbitration rule is an important element of the bill because it will increase taxpayers' confidence that the tax treaty will resolve potential double taxation situations.

Third, Bill S-2 will ensure that there is no double taxation of the gains or deemed gains of emigrants from Canada. I asked the officials what that was all about. There is a law in Canada that when people leave the country and emigrate to the U.S., there is a deemed realization of their property, and there is a big tax situation, and there is also tax in their new place of residence. This bill fixes an anomaly whereby double taxation occurs in a number of circumstances.

Fourth, this bill will extend treaty benefits to limited liability companies by removing a potential impediment to cross-border investment, and this arises from private equity funds and their comings and goings.

Fifth, this bill will give mutual tax recognition to pension contributors. In other words, provided certain conditions are met, cross border commuters may deduct, for residence country tax purposes, the pension contributions they make to a plan or arrangement in the country where they work. Someone who moves temporarily from one country to the other for work reasons can, subject to certain conditions, get tax recognition in their temporary new home country for pension contributions they continue to make to their original employer's pension plan. This proposal will facilitate movement of personnel between Canada and the U.S. by removing a possible disincentive for commuters in temporary work assignments.

Sixth, this bill will clarify how stock options are taxed, or, in other words, harmonize the rules in both countries. These are complicated rules, and often there is double taxation. This area has been worked on and clarified in this bill and in this latest protocol.

Seventh, Bill S-2 will implement many technical improvements and updates.

Honourable senators, as I said a moment ago, the U.S. is Canada's closest neighbour and largest trading partner. It is only natural that we would want and do have a special relationship. The new tax convention protocol contained in Bill S-2 will enhance this relationship by proposing to update the long-standing tax agreement between Canada and the U.S. I am convinced that its benefits are clear.

In today's highly competitive global economy, we need to continually explore ways to grow, expand and compete in the global marketplace. Further, improving and refining our relationship with our friends and neighbours to the south is essential. This new protocol will do just that, by providing individuals, families and businesses on both sides of the border with predictable and equitable tax results in their cross-border dealings.

More than that, honourable senators, this protocol will strengthen the bonds of economic cooperation between our two great countries. In the spirit of such cooperation, I would encourage all honourable senators to give this proposed legislation the consideration it deserves and pass it with due dispatch. I hope this bill will be referred without delay to the Standing Senate Committee on Banking, Trade and Commerce. In order to come into effect January 1, 2008 and its benefits not be delayed for a year, the bill needs to pass through the House of Commons after third reading in the Senate and receive Royal Assent by December 31, 2007.

On motion of Senator Tardif, debate adjourned.

[*Translation*]

### SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Comeau, seconded by the Honourable Senator Brown:

That the following Address be presented to Her Excellency the Governor General of Canada:

To Her Excellency the Right Honourable Michaëlle Jean, Chancellor and Principal Companion of the Order of Canada, Chancellor and Commander of the Order of Military Merit, Chancellor and Commander of the Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.

MAY IT PLEASE YOUR EXCELLENCY:

We, Her Majesty's most loyal and dutiful subjects, the Senate of Canada in Parliament assembled, beg leave to offer our humble thanks to Your Excellency for the gracious Speech which Your Excellency has addressed to both Houses of Parliament.

**Hon. Dennis Dawson:** Honourable senators, as we say in Quebec, first the flowers, then the flowerpot. This is why, in my speech today, I will highlight the tiny bouquet — the few positives for Canadians in the Speech from the Throne — before I begin tossing brickbats — and there are many.

As a proud citizen of Quebec's national capital, I am pleased to see that the Throne Speech specifically mentioned the celebrations for Quebec City's 400th anniversary. I can assure the Senate that

preparations are coming along nicely. I would like to take this opportunity to invite my fellow parliamentarians to visit Quebec City in 2008.

• (1430)

I would also like to suggest that the Prime Minister take advantage of his meetings with dignitaries from various countries to invite them to come celebrate the French fact in North America with us. I would also note that this year, Quebec City will host the annual meeting of the Association des parlementaires francophones and the Francophone Summit. The former Liberal government worked closely with the organizers of the 400th anniversary celebrations, and I hope that the Conservative government will meet the expectations of Quebecers, francophones outside Quebec, and all Canadians for this great event.

I also welcome the government's intention to monitor the federal spending power. I would point out that, like my colleague, Senator Segal, I was a strong supporter of the Meech Lake Accord. The government's current proposal, though less ambitious than what was put forward at the time of the Meech Lake Accord, seems to be a step in the right direction. I am very much looking forward to its bill on this subject, and I will pass judgment later on the specific measures it contains. I would emphasize that the Liberal Party will make sure that the government has the decency to consult the provinces on this issue, which affects them directly, rather than force changes on them that they did not agree to.

I also wish to welcome the government's intention to follow through with what is known as the Dion Plan for official languages, but I would point out that intentions mean nothing unless they are accompanied by real action. The Throne Speech reference to an official languages strategy was extremely vague. It remains to be seen whether it meant a light version of the Dion Plan or an improved one. Unfortunately, the following statement made in 2001 by the very conservative current Prime Minister leaves considerable room for doubt:

Make no mistake. Canada is not a bilingual country. In fact it is less bilingual today than it has ever been. As a religion, bilingualism is the god that failed. It has led to no fairness, produced no unity, and cost Canadian taxpayers untold millions.

This is a quote from Stephen Harper, honourable senators. I admit that he has improved on this issue, but we cannot ignore what was said in the past.

I want every linguistic minority community in Canada to know that the Liberal Party has never hesitated to defend them, and it will never stop fighting the enemies of official languages.

Now that I have handed out the bouquets, here come the brickbats.

The government should be ashamed of telling Canadians they are not well served by the Senate in its current form. I wonder whether the Prime Minister recognizes the extraordinary work the Conservative senators do in this place. I would hate to be in the shoes of my Conservative colleagues, for whom their leader seems to have no regard or recognition. I would like to remind the

Prime Minister that the senators in this chamber, from every party, do incredible work and produce studies on matters of great importance, matters such as Canadian aid in Africa, mental health, assisted suicide, and airport security, to name a few.

What about the hundreds of amendments that are moved every year by the Senate in order to improve the bills passed in the other place? We play a very positive role. And what about the hundreds of hours of hearings held by parliamentary committees to give people a chance to express their views on bills?

Although I am in favour of modernizing the Senate, I sincerely believe that it would be in the Prime Minister's interest to consult his provincial counterparts before moving forward with any reform. Rather than hold consultations, the Prime Minister imposes his vision and tries to slip his ideological reforms in through the back door. Quebec's Intergovernmental Affairs Minister has always said that the provinces should be consulted on this. Furthermore, when he appeared before the Special Committee on Senate Reform, he was very clear on the fact that the federal government cannot make unilateral changes to parliamentary institutions.

[English]

My friend Senator Segal has suggested a new approach — a referendum on the issue. In his speech, Senator Segal spoke to the suggested number of years for length of tenure. Last year, for example, a bill tabled in the Senate limited the tenure of senators; another bill was tabled in the House of Commons. That approach indicates a failure because, if the Prime Minister had been serious about the issue, he would have consulted with the provinces and tabled one bill with the cooperation of everyone. If that was considered an unsuccessful attempt, it was an unsuccessful attempt by the government, not this place.

[Translation]

In the Speech from the Throne, the government promised another GST cut. But who will benefit the most from this measure? As we all know, 1 per cent less on bread and milk does not add up to much, but 1 per cent less on a luxury car or on a construction project would make quite a difference. I would remind the Senate that, while the government cut the GST by 1 per cent, it increased income tax for the poorest families.

Several points in this Speech from the Throne left me disappointed, but it was definitely what was missing, — what should have been there — that upset me the most. If I may, honourable senators, I would like to give you a few examples of what is not in the Speech from the Throne. It is missing measures for women's equality, the reinstatement of the Court Challenges program, measures to ensure that the French language is once again given its rightful status in the Canadian army, a firm commitment concerning the Kyoto Protocol and measures to effectively fight poverty and social exclusion.

I am very disappointed with the absence from the Throne Speech of any measures for, and nothing more than a mention of, the issue of women's equality. I am well aware that the Conservatives have never been the most ardent defenders of women's rights, but there must be a limit.

[ Senator Dawson ]

During the previous Parliament, this government cut the operating budget of Status of Women Canada by nearly 40 per cent and removed the word “equality” from the program’s mandate. How can Canadian women place their trust in a government that does nothing to improve their situation?

Not only did this government cut funding to groups that defend women’s rights, but it also refused to pass federal legislation on pay equity, for which many women’s groups have been calling. I would like to remind all Canadians, particularly the Conservatives, that women earn only 71 cents for every dollar earned by men for the same work. Honourable senators, this reality is unacceptable in 2007. What is this government waiting for to take action and finally introduce proactive pay-equity legislation and restore funding to groups that defend women’s rights? The Prime Minister must know that equality before the law is not synonymous with equality in reality and that women in this country deserve the support of their government to fully achieve real equality.

Honourable senators, eliminating the Court Challenges Program for ideological reasons was a very bad idea on the part of this Conservative government. I would have thought that with the frustration and the protests coming from many groups that defend the interests of women, linguistic minorities, religious minorities, sexual minorities and others, this Conservative government would eventually realize what a monumental mistake it had made and would revive this program, which Canada badly needs.

The saving of the Montfort Hospital in Ottawa is the perfect example of why this program is needed. I do not have to go into detail about what happened, because everyone in this chamber knows the story of the Montfort Hospital. The important thing to remember is that Franco-Ontarians fought hard to keep the only francophone hospital in Ottawa and that funding from the Court Challenges Program was vital to their struggle. Without that funding, Franco-Ontarians likely would not have access to the same quality of service in their mother tongue, here in the nation’s capital.

Not only does this program serve people’s interests, but it also enhances jurisprudence and law in Canada. This government should be ashamed of letting down a segment of the population. I would again remind the Prime Minister that equality in law does not always mean equality in fact.

I would like to say a word about bilingualism in the army. I was astounded that this government tried to undermine French in Canadian public institutions during the last session. The new language policy of the Department of National Defence takes the Canadian Forces back 40 years. Under this policy, senior officers of only half the units will be required to be bilingual, whereas the former policy required that all high-ranking officers be bilingual. In practice, this means that our soldiers can communicate in French in francophone and bilingual units only and no longer in all units, as they could previously.

I hope that the government will reverse its decision and give French back its rightful place in the Canadian Forces. Canada is a bilingual country, honourable senators, and my francophone compatriots have the right to be treated with dignity and respect by the country they are risking their lives for.

With regard to the environment, I certainly have no reason to congratulate this government. Since it came to power, it has eliminated programs to fight climate change and has undermined Canada’s credibility and leadership on the world stage, something the previous Liberal government and my leader, the member for Saint-Laurent—Cartier, had established.

Of course, this government, which is more concerned about partisan polls than the interests of Canadians, had to rethink its ideological cuts and bring those programs back a few months later with new names, less stringent targets and much lower budgets.

• (1440)

Canadians are not fools. They know the importance of effectively fighting climate change and they know that this government is not doing enough to protect the environment. While the Conservatives are wasting Canadians’ time in the fight against climate change, the Liberal opposition has not given up.

My colleague, the member for Honoré-Mercier, introduced Bill C-288, to force Canada to meet its commitments under the Kyoto Protocol.

[English]

Our colleague, Senator Mitchell, did a wonderful job on the bill here in the house, and I want to congratulate him on that.

[Translation]

I gave him my full support in his attempt to serve the interests of my fellow citizens, who rightfully want the Government of Canada to take action to protect the living conditions of future generations.

The residents of Quebec City regularly ask me to take action and to be proactive in the matter of climate change. But the government takes no notice.

Although Bill C-288 was passed by the three opposition parties, the government continues to refuse to put in place effective measures that will enable Canada to attain the Kyoto Protocol targets and thus regain its credibility in the international community in this regard. How can citizens trust a government that does not even respect the laws democratically adopted by Parliament? That is shameful!

I have kept for last a subject that deeply touches me as a human being and a father, and that is poverty. Every day on my way to work I see with my own eyes the poverty of certain individuals. Many people of all ages, who do not have a roof over their heads or food to eat, have to beg. It is not acceptable that a society as prosperous as ours allows individuals to live in such miserable circumstances.

It is true that Canada’s economy is doing well, but not everyone benefits. For example, in many large cities, the cost of living has increased considerably in the past few years and these increases have outstripped many families’ resources. The federal government has a number of tools available to fight poverty. Why is it not using them?

I am very sad that this was mentioned only briefly in the Speech from the Throne, and that no specific commitment was made. The fight against poverty should be a priority for all parties. Canadians are full citizens. None of them should be overlooked by their government.

In conclusion, I would once again like to remind Canadians that I am not concerned about what is in the Throne Speech, but what is not in it. The Liberal Party will work very hard to make the current government take action to ensure full equality for women, to reinstate the Court Challenges program, to ensure that French has its rightful place in all spheres of Canadian society, to fight climate change, and to implement effective measures to considerably improve the living conditions of the less fortunate.

[English]

**Hon. Hugh Segal:** Would my honourable friend take a question?

**Senator Dawson:** I would be surprised if the honourable senator did not ask one.

[Translation]

**Senator Segal:** My question relates to what my colleague from Quebec said about public consultations via a referendum on the future of the Senate. Let us take for granted the established principle that any constitutional change affecting the Senate of Canada requires dialogue among provincial premiers, governments and legislatures. Does the honourable senator support the idea of public dialogue, or is he opposed to it — on the basis of principles that I am sure I can understand?

**Senator Dawson:** I am sure that I will have an opportunity to comment on the honourable senator's motion. However, I think it is worth noting that, in his analysis of the situation, he mentioned failures.

I think that the government and the political parties can make a renewed attempt at dialogue through consultations with the provinces. We were just days away from reaching an agreement on the Meech Lake Accord. Although it would not have settled the matter of an equal, elected Senate, the accord would have resolved a number of issues for the long term. The provinces would have been satisfied with that kind of progress.

I am asking the government to do what it has avoided doing for a year and a half: convene the provincial premiers and initiate talks. They are our partners and we owe our existence to them. As such, we should work with them, with or without a referendum.

Quebec has held a number of referendums, all of which have produced divided results. We cannot create unity by polarizing people's opinions.

Should a referendum be held, would 50 per cent plus one choose an elected Senate? Perhaps. But would we have made any progress on the issue? I do not think so. We would still come up against a major obstacle: Canada's Constitution.

**Hon. Serge Joyal:** Would the honourable senator take one question?

[ Senator Dawson ]

**Senator Dawson:** Of course.

**The Hon. the Speaker:** Unfortunately, I must inform Senator Dawson that his time is up. Would he like to ask for five more minutes?

**Senator Dawson:** Yes, please.

**Senator Joyal:** Honourable senators, my question is on the introductory part of Senator Dawson's speech, when he made reference to the celebrations to commemorate the 400th anniversary of the founding of Quebec City. In that regard, I would like to quote from the Speech from the Throne:

Next year we mark important anniversaries spanning our country and its history. We will celebrate the 400th anniversary of the founding of Quebec City. Canada was born in French.

I was listening to what the honourable senator had to say. Is the Speech from the Throne not ambiguous as to what we are celebrating in 2008?

On October 8, two weeks ago, the French foreign affairs minister said during a press conference in Paris:

In 2008, we will celebrate the founding of Quebec City and the creation of Canada.

I get the impression that in public speeches we are dissociating these two elements and making this simply a celebration of the founding of Quebec City. Obviously, when Samuel de Champlain settled in Quebec City in 1608, it was not to found a city; it was to stake a claim on the continent in the name of the king of France, and the French colonial empire covered three quarters of North America and the United States. Furthermore, Prime Minister Harper was very clear, when it came to the Canadian government taking part in the 400th anniversary activities, that this should also be done from a Canadian perspective.

Does the senator realize that his comments perpetuate the ambiguity I see in the Speech from the Throne and that, in fact, we will not be celebrating the 400th anniversary of Canada at this time?

**Senator Dawson:** The senator is probably right. I could take another look at that part of the speech.

There is a conflict. When the previous Canadian government negotiated with its municipal and provincial partners on the structure of the 400th anniversary celebrations, it was the federal government's idea to say that we would also be celebrating Canada's anniversary.

It is my understanding from certain members of the Conservative Party in the other place that there may be some ambiguity. Indeed, we are celebrating Quebec City, New France and the arrival of the French in North America.

In the eyes of the Canadian government, the biggest partner in this event, this occasion has always also been a celebration of Canada. However, I could have corrected my remarks and I will certainly ask the Prime Minister to correct his.

**Hon. Fernand Robichaud:** I would like to remind honourable senators that the French had arrived in Acadia a few years earlier. The Acadians already celebrated their 400th anniversary in 2004.

On motion of Senator Fraser, debate adjourned.

• (1450)

[English]

## BILL TO PROVIDE JOB PROTECTION FOR MEMBERS OF THE RESERVE FORCE

SECOND READING—DEBATE ADJOURNED

**Hon. Hugh Segal** moved second reading of Bill S-202, An Act to amend certain Acts to provide job protection for members of the reserve force.—(*Honourable Senator Segal*)

He said: Honourable senators, a little more than one year ago I introduced a motion in this chamber urging the government to bring into force a section of the Public Safety Act that would provide some level of job protection for the Canadian women and men who volunteer to train and serve with the Canadian Forces Reserve. A little less than one year ago, that motion was passed unanimously by both sides of this chamber. On behalf of all members of the Canadian Forces Reserve, I want to express our appreciation for the vote that took place at that time.

Since that time, the Government of Canada has made attempts to mitigate the inequity suffered by those who choose to train and serve alongside regular Canadian Forces but in some situations are fearful of doing so because they might return to the civilian unemployment line after their service. Jean-Pierre Blackburn, Minister of Labour, and Rona Ambrose, Minister of Intergovernmental Affairs, are meeting with provincial counterparts to look at ways to legislate job protection for reserve force members at the provincial level. Currently, three Canadian provinces — Nova Scotia, Manitoba and Saskatchewan — have such protection. The Prime Minister personally made the request to Premier Robert Ghiz in Prince Edward Island. That province, as well as Newfoundland and Labrador, have committed to making these legislative changes as well. This consultation is welcome and necessary because something must be done quickly considering the nature of our current NATO commitments. The consultation is also coming after the highly publicized case of a reserve forces major in Newfoundland and Labrador who returned from Afghanistan to civilian unemployment. This issue was also addressed in the Throne Speech being debated by this chamber, proof that the government recognizes the inequities and intends to address the situation.

No one is naive, and we know that legislating such protection will require coordination among many government departments, as well as the provinces. However, I believe it is incumbent upon the federal government to lead by example. It is for this reason that I introduced Bill S-202, to ensure that a quick first step is taken for those serving with the Canadian Reserve Forces and that they are supported at the federal level when they return to their civilian working lives in the federal public service, in Crown corporations and in corporations regulated by the federal Crown. As their representatives and legislators, it is the least all of us can

do. We can ask them to serve this country, but if they are to be separated from family and if they put their lives on the line, how can we do so without providing them with some peace of mind with respect to their jobs? Honourable senators, it is the right thing to do.

There are currently more than 33,000 reservists across Canada; 2,500 of them are on active duty and more than 300 are working and fighting alongside our regular forces in Afghanistan. Here in Canada, they have on many occasions come to the aid of Canadians in times of homegrown crises — the Winnipeg and Saguenay floods and the ice storm of 1998, to name a few. As one who experienced first-hand the six days of darkness and cold in the 1998 ice storm, I was thankful, as was my wife, daughter and our neighbours, of the assistance provided by the reserve forces in Kingston, Trenton and Brockville in our defence.

The reality of a reservist's situation is that training and active-duty deployment can keep him or her away from a civilian job for up to one year. The Canadian Forces readily admits that their jobs would be more difficult, if not impossible in some situations, without the backing and supplementing provided by the reserves, Afghanistan being the most obvious. However, how many reservists are, or were, unable or unwilling to volunteer for this mission for fear of unemployment upon their return — the inability to provide for themselves or their families? The federal government departments and agencies should be the leaders in facilitating such a guarantee. However, honourable senators, this is not the current case. Bill S-202 would make it the case.

One would think that federal government departments would be the first to understand and attempt to accommodate reservists in training or deployment situations. I thought so as well, until I was told of a young man who was informed by his superior that should he volunteer for active duty in Afghanistan, something for which he had planned and trained, his civilian position would need to be filled, not only during his absence but permanently. He would lose his seniority, his benefits and would need to reapply for a position upon his return. His superior did promise him, however, a favourable reference upon reapplication. Honourable senators, this young man worked in a clerical capacity on a Canadian Forces base in this country.

The arguments against legislated job protection for reservists are exactly the same arguments put forward when legislation was introduced regarding maternity leave and, more recently, parental leave and compassionate leave. Will employers even consider hiring a woman of child-bearing age? Will employers even consider hiring a reservist who may volunteer for active duty? How can an employer provide job protection for a parent wanting to stay home with a newborn for up to one year? How can an employer provide job protection for an individual who may require a leave of absence to train and serve for up to one year? In today's world, the notion that it would be acceptable to tell a woman that, unfortunately, if she is unable to return to her position within a week or two of giving birth, she will be replaced, would be utterly unthinkable. In today's world, the notion that it would be acceptable to tell employees that they will be replaced if they take six weeks off to care for a dying parent is unthinkable. In my world, in the world I think we all want to share, I would like these same improbable reactions to apply to a Canadian Forces Reservist who has volunteered to serve his or her country. Based on this chamber's response to the first motion, I would like to think that all sides would concur for the rapid passage of Bill S-202.

Canadian Forces Reservists are standing alongside regular force members. To do this, they must request leaves of absence and rely on the goodwill and understanding of employers to hold their positions during training and service in overseas missions — for months, if necessary. Unfortunately, some employers, including federal government employers, are less than enthusiastic about their employees' requests for unpaid leaves. Unfortunately, some of these same members are falling alongside regular forces when the casualty count comes in. Little enthusiasm for job protection by some employers pales against the reality of the situation for some reserve force members.

Bill S-202 will eliminate the need for goodwill at the federal level and will amend the Canada Labour Code to provide job protection for reserve force members who have been employed for six consecutive months and then request a leave of absence to a maximum of 12 months. Bill S-202 will also amend the Public Service Labour Relations Act and mandate job protection for reservists in every department, Crown corporation or entity covered by this act.

Finally, Bill S-202 will amend the Department of Public Works and Government Services Act to mandate that every contract for the supply of goods or services to the federal government include the amendment to the Canada Labour Code provision directly in the contract. In short, by this legislation, any company or corporation wanting to do business with the federal government will be required to provide the same job protection for reservists as is required by the federal government itself. We cannot mandate requirements of job protection for reservists at the federal level without making this protection a statutory requirement for those wishing to do business with the Crown.

Some naysayers will argue that some applicants will be deprived of employment opportunities because companies will cease hiring people who are of an age and capacity to join our reserves. However, as with maternity or parental leave and a host of other important labour standards, we have a long list of legislative changes made in the interest of a humane and caring society. Yes, there is always some resistance in the beginning, but as with previous legislative changes, that legislation tends to effect a cultural shift. It will become apparent that leaving people out of an employment option because those people might be loyal enough to want to join the reserves will become socially and economically unacceptable. National security and national defence are public goods to be protected by all of us in this chamber.

Many industrialized nations have passed legislation to protect reservists.

• (1500)

The United States, Great Britain, France, Belgium, Spain and Australia have all taken a principled stand on this issue. These countries provide reservists a right to return to their civilian jobs after their military service without a loss of benefits or a break in seniority, and they provide reservists with protection against discrimination or retaliation in their workplace. The methods and legislation they use to achieve this end can be studied at length in committee, should this chamber see fit to move Bill S-202 forward.

[ Senator Segal ]

The issue of job protection for reservists has been the subject of discussion for many years. It was supported at length in the 1995 Special Commission on the Restructuring of the Reserves and the 2005 Commission on the Restructuring of the Reserves. With our commitments now overstretching our Armed Forces and the need for even more reservists to enter active duty, it should be our mandate as parliamentarians to provide incentives and do whatever is possible to support those who wish to volunteer. This discussion has gone on for more than 20 years, honourable senators. How many times must we reach the same conclusions? Members of Canada's reserve forces, who serve this country bravely at home and abroad, deserve meaningful job protection. This chamber has the capacity to advance this cause.

The work done by the Canadian Forces Liaison Council in support of the Department of National Defence in the absence of job protection legislation by educating employers, promoting support of reservists and outlining the advantage of hiring reservists is welcome and admirable. When necessary, the council also attempts to mediate employment situations to allow for job security or unpaid leave — all worthwhile efforts — and I am grateful that such an organization exists, but in a civil and civilized Canadian society, we should not have to “negotiate” and “educate” employers regarding the right thing to do where their employees, who are willing to serve their country and their communities and co-workers, are concerned. I would rather begin with the premise that we have legislation in place establishing a clear obligation on the matter, and if corporations and others want to engage on how to manage some of these issues, whether there are tax or other considerations that must be put in place, that would be a fair discussion. However, it is fundamental, certainly in those areas governed by federal legislation, that we have a clear and precise statutory position.

I ask honourable senators to consider the merits of Bill S-202 and through discussion and amendment in committee, if necessary, to enact this bill into law and send it to the other place so that the Government of Canada can become a leader by example.

**Hon. Roméo Antonius Dallaire:** Would the honourable senator accept a question?

**Senator Segal:** Certainly.

**Senator Dallaire:** I have three children, all in the reserves, one of whom is off to Sierra Leone on call-out for six months. I am most interested in this subject. I know the honourable senator is an honorary captain in the naval reserve. As many reservists are students, their academic studies will be affected by this bill, as well as those who are working. Has the honourable senator had an opportunity to speak to the troops in this regard? If so, could he offer us an indication as to the sentiments of the troops in regard to this initiative?

**Senator Segal:** I thank the honourable senator for the question.

In order that honourable senators are comfortable with regard to the issue of conflict of interest, I am an unpaid honorary captain of the Canadian navy and not associated particularly with the reserves. I would not qualify for the primary reserves, based on physical fitness requirements alone. Thank goodness our Armed Forces have minimal standards, and I respect those.



I have had a chance to meet with various heads of different reserve organizations across the country on this issue. They all take the position that when a young person has trained and is prepared to serve abroad and volunteers, then the local commanding officer must make a recommendation as to whether the soldier, airman or seaman is able to serve and should be allowed to serve. One of the things they take into consideration is the economic circumstance of the young woman or man who has so volunteered. While it is understandable that in the private sector small companies and others may have difficulties with long absences, it would be incomprehensible if a federal government department had a capricious response.

Some local bank managers may say, “By all means, go forward and serve; God bless you,” and others will say, “I cannot have a vacant spot here. I do not have a lot of staff. We will have to fill the position and when you come back, who knows, there may or may not be work.” That would affect the young person’s capacity to make that volunteering decision.

While we all respect the difficulties of small business, and we do not wish them to be unduly pressured in the circumstance, and while we are not in the circumstance of a national emergency, which is another option the government has — God forbid if we ever get to that point — we can set an example as the federal government.

If the federal government offices were to have a policy in places such as Kingston, Moncton or Windsor, this would also become a competitive factor for other offices that compete for employees to adopt. Most to whom I have spoken believe that this proposed legislation would aid them immensely in recruiting and facilitating young people who wish to volunteer for service, and not only with respect to a foreign theatre of war. For example, the navy has sent people from the Maritimes to B.C. to assist with flood coordination activities that may be necessary on Vancouver Island. These are young men and women who volunteered from within their reserve units to be so dispatched.

They happened to be all right in terms of employment, but that is a willy-nilly circumstance for which there is no guarantee. Bill S-202 is asking that the federal government set an example by creating a policy that if the reservist has been employed for six months, and he or she volunteers for Afghanistan or any other long assignment, their job or a job equivalent to what they are leaving will be protected until their return. The cost of that, in my judgment, with respect to the federal government, would be almost inconsequential.

**Senator Dallaire:** The federal government has historically been one of the worst employers in terms of protecting and supporting the reserves. I am an honorary colonel also, but I have a medical reason for not necessarily serving in a higher authority.

On motion of Senator Dallaire, debate adjourned.

## CRIMINAL CODE

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

**Hon. Jeremiah S. Grafstein** moved second reading of Bill S-210, An Act to amend the Criminal Code (suicide bombings).—(*Honourable Senator Grafstein*)

He said: Honourable senators, once again I will reiterate what I have said in the Senate in the past and I say to the new senator from Alberta: Things take a long time here. We can repeat things until we get a measure of water through this complicated dike called the Senate. It will be beneficial for the honourable senator to learn about the difficulties of getting a good idea approved by the Senate chamber.

Bill S-43 was placed on the Order Paper in October 2005. The bill died on the Order Paper when the Thirty-eighth Parliament was dissolved on November 29, 2005. Bill S-206 died again after I had reintroduced it during First Session of the Thirty-ninth Parliament on April 5, 2006. It has been on the Order Paper for some years and it has now been introduced three times.

The last time I was able to get the bill to the Standing Senate Committee on Legal and Constitutional Affairs there was support from both sides of this chamber. Here we are, back at it again. For the purposes of the record, I will reiterate some of the arguments.

Honourable senators will recall that this proposed legislation began as Bill S-43, then Bill S-206, and is now Bill S-210. This simple amendment clarifies the explicit gap in the language of section 83.01 of the Criminal Code. The proposal is to amend that section, after subsection (1.1), by the following small amendment:

For greater certainty, a suicide bombing comes within paragraphs (a) and (b) of the definition “terrorist activity” in subsection (1).

This is a definitional clause to include suicide bombing explicitly in the Criminal Code.

• (1510)

It will establish suicide bombing, per se, the very words, as a criminal offence.

This bill, honourable senators, goes to the very nature and the purpose of the criminal law. This will be a rather lengthy exposé about, in my view, the purposes of the criminal law and the purposes of the role of senators, because we are lawmakers.

Law and Canada, honourable senators, are inseparable. This bill goes to the very purpose of criminal law, and Honourable Senator Brown, the purpose of this chamber is to create laws. That is the heart of our business.

In 1908, the great English author Rudyard Kipling, on a visit to Canada, wrote to his family his impressions of Canada and Canadians. Here is a quotation from that letter:

The law in Canada exists and is administered, not as a surprise, a joke, a favour or a bribe . . . but as an integral part of the national character — no more to be forgotten or talked about than trousers.

Earlier, in 1861, John Anderson, a fugitive slave being discharged for murder by the Court of the Common Pleas in Upper Canada, said — and I quote: “I have never known that there was so much law in the world as I find in Canada.”

The late Robertson Davies, in his 1954 masterpiece, *Leaven of Malice*, wrote these words: “Never go to the law for simple vengeance, that is not what the law is for. Redress, yes; vengeance, no.”

In 1960, the Right Honourable Lester Bowles Pearson, a mentor of this senator and some others in this chamber, spoke these words in the House of Commons Debates:

Incorruptible and respected Courts, enforcing laws made by free men in Parliament assembled and dealing with specific matters and, with specific sanctions to enforce their observance; these are the best guarantees of our rights and liberties. This is the tried and tested British way, and is the better course to follow than the mere pious affirmation of general principles to which some political societies are addicted.

The paramount purpose of our working Parliament is no more and no less than to make laws. That is what Parliament does. Parliament transforms experience into principles, and these principles into explicit laws. We make laws and we administer the execution of those laws, especially criminal laws. Parliament has exclusive oversight of the criminal law power, and this power is tied to the question of freedom, liberty and security, which are the organizing principles at the heart of federal governance. Criminal laws are Parliament’s definition of our civilization’s standards of conduct and care. To fall below these standards of care by unwanted conduct is to invite penalties, prompting state action and, more important, to provide a clear warning against unwanted conduct. Ultimately, criminal law seeks to prevent and ostracize egregious conduct and, hopefully, in the process, to transform the attitude and intentions of those who practise such conduct. It is to transform public opinion, public conduct and private conduct.

Ignorance of the law is no excuse. All citizens are presumed to know the law. A fortiori, there is a clear and present obligation of Parliament to ensure that the criminal laws are clear and lucid, especially because of its criminal consequences. To deprive a person of his liberty because of precipitous or unwanted conduct requires lucidity of the highest order. That is why common jargon, phrases and parlance have been picked up specifically in our Criminal Code, and other criminal law, for example, in England, like “kidnapping,” “murder” and “theft.” We took common parlance and moved it explicitly into the code so the public would not be confused.

The Criminal Code is bound up in the protection and security of people and property. Two of the Tablets of the Covenant, Moses’ Ten Commandments, are clear and simple: “Thou shalt not kill,” and “Thou shalt not steal.” Words are as important as the laws themselves. Laws rest on practice, moral principles and clarity. Natural laws float above the normative laws. Natural laws encapsulate moral principles. The normative laws draw upon natural laws and specify the moral offences enforcement with particularity and precision, hence the high onus of proof and the high presumption of innocence when offensive conduct results in loss of liberty.

[ Senator Grafstein ]

Therefore, at the core of the debate of this bill lies the core of our culture, our civilization — the reverence for life and the sanctity of life rather than the promotion of a cult of death. Put another way, criminal law purpose is to unify normative principles and social standards. As the great judge Oliver Wendell Holmes once put it, “no grand principle is worth a damn unless it is applied to specific cases.”

Let me turn to the specific question of suicide bombing.

Both suicides and bombing of innocents are condemned in the Old Testament, the New Testament and, surprisingly, the Quran itself.

Let me quote from the website of the Iraq Foundation: “Suicide bombing is a terrorist activity.” Therefore, on their website, they support the predecessor of this bill, Bill S-206. It is on their website. By the way, I did not know about this website until it was brought to my attention.

The website goes on to say the following:

We, the undersigned, support and seek your support for Senate Bill S-206, which amends Section 83.01 of the Criminal Code to ensure suicide bombing is clearly within the definition of “terrorist activity”.

It goes on to say the following:

Suicide bombing has become an all too frequent practice in many countries throughout the world. Thousands of civilians are killed and maimed to advance a cause based on falsely implanted expectations of glory and martyrdom. We say no cause can justify suicide bombing.

So says the Iraq Foundation:

Bill S-206 aims beyond those who trap explosives to their bodies and look where they can cause maximum pain, suffering, death and dismemberment. It will help focus on those who promote terrorism by teaching, organizing and financing the killers in the names of ill-conceived ideology, distorted belief or abhorrent political conviction. This amendment will assist law enforcement agencies to pursue the individuals promoting their heinous tactic.

Penal statutes must unambiguously state which actions are criminalized. Rather than assuming that suicide bombing is currently covered by implication in the Code, this amendment specifies suicide bombing as prohibited terrorist activity.

Those words also came from the Iraq Foundation.

Arnold Toynbee, in his magnificent work, *A Study of History*, is dedicated to a perceptive analysis of the rise and fall of civilizations. In his book, he traces the characteristics that led to the disintegration of a civilization. He examines what he calls the schism in the body social and the collective experience. Then he examines the “outward and visible sign of inward and spiritual rift” resulting from this internal inner schism.

Toynbee explores this underlying schism in society that is characteristic of a disintegrating civilization. He looks deeper into what he calls “the schism in the souls of members of a disintegrating society,” the individual members of sect societies. He notes that, in the disintegration phase of civilizations, individuals are split between active and passive substitutes for action, neither of which is creative. These choices of personal behaviour become “more rigid in their limitation, more extreme in their divergence and more momentous in their consequences.” A society unravels, Toynbee notes, when an individual looks at his failed or failing society, his disintegrating society, and becomes a “truant” and turns to so-called martyrdom. It is a way of stepping beyond the current malaise of his fragmenting society, rather much like a soldier who no longer seeks to minimize the risk to his life while inflicting damage on the other. Instead of this course, the “truant” from society, as Toynbee says, chooses to court death to take the offensive in the face of manifest moral defeat, decay and drift.

• (1520)

Having failed to reform his own society and cultural environment, the suicide now seeks to master his own self. This action of abandonment and truancy are “simply products of the vice of cowardice.” So the divided soul chooses martyrdom “and in psychology more than half a suicide.” The “truant” is, in modern jargon, an “escapist.” “A “truant’s” motives are buried in ignominious oblivion, a profound sense of drift.” Toynbee then concludes that “the pain is the punishment for the sin of idolatry worshipping the creature rather than the Creator.”

The problem of suicide bombing goes beyond martyrdom when the suicide intentionally targets other innocent lives as a measure of success and thus promotes the cult of death, overriding the reverence for life, including his own.

Roscoe Pound, a leading American teacher and writer on the philosophy of law, in his magnum opus *An Introduction to the Philosophy of Law*, defined 12 organizing ideas of law from ancient times to the present, from Mosaic law to Hammurabi Code to Greek, Roman law to Medieval law of the theologians, to the origins of social then economic justice. The common thread, the organizing idea of the rule of law throughout the ages, progressively incorporated principles that allowed for the greater political freedom and security of the individual aligned with reciprocal duties to refrain from aggressive violent conduct towards others that would limit, in the extreme case of suicide bombings, to end innocent human life. This is a brilliant analysis.

Reverence for life is a lynchpin of all religions and the keystone of the rule of law. All our laws are wrapped around this central idea.

Honourable senators, I raise the question because suicide bombing cuts contrary to the essence of our concept of civilization and our reverence for life.

There are two arguments against this amendment. First, the notion of criminalization of suicide bombing is already implicit in the criminal law, by other words; so have said some of the critics. I return to my original thesis. The criminal law should and must incorporate accepted and clear-headed words that emerge from common usage in order to enhance the clarity of the criminal law in the public mind. The express operative precautionary words in the amendment are for “greater clarity”.

In the Ouimet report, the Report of the Canadian Committee on Corrections, *Towards Unity: Criminal Justice and Corrections 1969* said this:

No conduct should be defined as criminal unless it represents a serious threat to society, and unless the act cannot be dealt with through other social or legal means.

Thus it is accepted by the Law Commission of Canada that the criminal law ought to be “pruned” to differentiate between what it calls “real crimes.” “To count as a real crime an act must be morally wrong . . . The real criminal law should be confined to wrongful acts seriously threatening and infringing fundamental social values.”

Honourable senators, I am directing my comments to this particular bill, but these comments and principles have wider significance because of the other criminal justice measures that shortly will be before the Standing Senate Committee on Legal and Constitutional Affairs.

The second argument against this bill, more vague and inexact, is that this amendment would somehow dilute the application of international law as illustrated in international resolutions or treaties. Allow me to address this later argument.

*Pacta sunt servanda* — that is Latin — meaning that agreements must be honoured. This maxim from Roman law is presupposed to be the organizing principle of international law. Unfortunately, in international law the principle and the practice diverge. This principle has not been observed nor has it been practised. What then is the relationship between treaty law and domestic law?

The aim is the same, but the practice of enforcement obviously is different. International law has no direct enforcement mechanism other than the International Court of Justice, with its limited mandate, funding and access. The articles of the UN charter empower the Security Council to enforce its resolutions.

I will not belabour a self-evident proposition other than to say that the UN actions of enforcement have been episodic, inconsistent and highly politicized. Politics rather than justice, equality and the rule of law have governed its enforcement practices. Enforcement depends on a coalition of the willing. The Security Council has politically polarized itself on issues of enforcement contrary to the hopes of the architects of the UN charter, including our late and revered former prime minister, Lester Bowles Pearson, probably the greatest foreign minister we ever had, and the late and very honourable Louis St. Laurent.

Observers such as the late Senator Moynihan, in his brilliant book *On the Law of Nations*, argue that enforcement of the international rule of law by one state unilaterally is ineffective, especially when politically renounced by other states. This, of course, was not the intention of the fathers of the UN, especially Canada.

So we are in a no-man’s land of good intentions when it comes to international law. The best way to address this chasm of enforcement is to establish and enforce domestic legislation — hence this amendment.

When Senator Eggleton first approached me on the subject, it was his view, and that of an outstanding Canadian, the former Justice Bromstein, that we should pass a resolution in this chamber. I concluded that that would not, in any way, shape or form, enhance the situation in Canada. The only way to enhance the situation in Canada would be by an amendment to our Criminal Code. I think that Senator Eggleton and Mr. Justice Bromstein agreed with that, and hence this amendment.

Senator Moynihan argued that the canons of international law are thought to be normal, necessary and satisfactory, so the international law and domestic law converge in the same objectives: renunciation of aggressive violence against innocent individuals with the political purpose to sow terror in democratic states to retard the growth of freedom, liberty, stability and, above all, the security of the individual and the reverence for life.

Death is the most serious crime that can be inflicted on a person and thus carries the harshest penalties in criminal law — so says the Law Commission of Canada; so says our Criminal Code. To leave an express void in our domestic criminal law against acts of suicide bombers is neither salutary nor celebratory for the peace, order and good government of Canada. Canada can lead the way internationally in its express criminal law to suffocate and hopefully eradicate suicide bombing as a weapon of choice for whatever purpose.

Honourable senators, I will not belabour the point any further, other than to say that a resolution encapsulating calls for addressing in law suicide bombing has been consistently passed at the OSCE. Senator Di Nino is the chairman of our delegation and he will affirm that. At meeting after meeting, the 56 democratic states of the world, the largest international human rights organization in the world, have passed resolution after resolution condemning suicide bombing and recommending that it be passed in domestic legislation.

This is not simply a whim of Senator Eggleton, Justice Bromstein or me. This has great support of 56 other nations.

There they have difficulty because they say they want to propose this as a “crime against humanity.” I argued earlier that the idea is to make it much more specific, congruent and coherent as it applies to our own domestic laws.

As I said, this amendment fully accords with Jewish, Christian and Muslim teachings against the intentional homicide of innocent persons by persons committing suicide by their tragic action.

Honourable senators may recall that on July 18, 2005, in response to suicide bombing in London on July 7, more than 500 British Muslim religious leaders and scholars offered condolences to the families and victims and issued a fatwa which stated that the use of violence and the destruction of innocent lives are vehemently prohibited. This fatwa was proclaimed by the British Muslim Forum outside the British Houses of Parliament. The Secretary-General of that organization, the BMF, Mr. Gul Mohammad, quoted from the Quran as follows:

Whoever kills a human being . . . then it is as though he has killed all mankind; and whoever saves a human life it is as though he has saved all mankind.

He then quoted from the Quran, Surah al-Maidah paragraph 5, verse 32:

Islam’s position is clear and unequivocal: murder of one soul is the murder of the whole of humanity; he who shows no respect for human life is an enemy of humanity.

Approximately 50 Muslim leaders and scholars from around the U.K. stood together outside the Houses of Parliament to support Mr. Gul Mohammad as he publicly read out that fatwa.

• (1530)

In a separate statement, the British Muslim Forum, with nearly 300 mosques in the U.K. affiliated to it, noted that this fatwa would be read out in all mosques across Britain on July 22, 2005, which it was. This public statement also stated: “We pray for the defeat of extremism and terrorism in the world.”

Then, 40 Islamic leaders and scholars, at a meeting of London’s Islamic Cultural Centre organized by the Muslim Council of Britain, issued yet another declaration denouncing suicide bombings.

Honourable senators, since the time of Moses the intentional taking of human life has been prohibited. Witness the story of Cain and Abel. This edict encapsulated in the sixth of the Ten Commandments At Sinai, the two tablets of the Covenant that Moses unveiled, the idea of freedom was limited or circumscribed by the Ten Commandments. One tablet dealt with honour and respect, and the other with human well-being. The Decalogue was found in the Old Testament, Exodus 20:13, and in Deuteronomy 5:17. The original Hebrew text of the Old Testament uses different words for “intentional” versus “unintentional” killing.

The King James Version, in modern translation, now uses this translation: “Thou shalt not murder.” This translation is more linguistically nuanced and more closely represents the original meaning of the ancient Aramaic text. The original root Hebrew word “tirtzach” in the sixth Commandment is “ratzach,” which ordinarily refers to intentional killing without cause and accidental killing.

The Talmud then went on to explain, in references to suicide, which stated: “For the world was created for only one individual to indicate that he who destroys one human life is considered as if he destroyed the whole world.” In effect, the Quran echoes the Talmud.

Hebrew law considered accidental killing as not punishable. The Old Testament distinguished carefully between intentional murder without cause and accidental killing. Thus, in the Old Testament, “cities of refuge” were designated so that an unintentional killer could flee to escape retribution. Under the Old Testament, breaking other sacred laws such as honouring the Sabbath is permissible if breaking that law will save just one human life. To protect one’s own life against intentional murder by another, the law of self-defence is equally permissible.

Christian theology, including Protestant, Catholic, Orthodox and Eastern Rites denominations, makes it equally clear, prohibiting intentional murder of innocent people.

In Matthew 19:18 Jesus said: "Thou shalt do no murder." Killing in self-defence is also not deemed murder within the confines of the New Testament. As for suicides, Corinthians 6:19 to 20, prohibits taking of one's own life. Those more familiar with the Christian coda might be more expansive on Christian theology than I on the question of intentional taking of human life with *mens rea*. However, I have tried my best, honourable senators, to refer you to the Christian text.

The entire rationale of our Criminal Code is to be precise, to ensure that crimes are proved beyond a reasonable doubt. Strict onus of proof remains with the state. Clarity is essential when the Criminal Code and the powers of the state are arraigned against any person.

The Criminal Code is a codification of our laws of conduct pertaining to our civilized society and civilization. Is there any reason, honourable senators, not to clarify the Criminal Code and make suicide bombings an express, explicit criminal offence? On a careful reading of the Criminal Code and the Anti-terrorism Act, there is no specific criminal offence of suicide bombing per se and the Anti-terrorism Act will return to us again. Those who are on that committee can examine that question.

A specific prohibition against suicide bombing would directly assist and enhance the prosecution of those unsuccessful suicide bombings and those who individually and collectively conspire to assist in suicide bombings. Peace, order and good government lies at the base of Canada's system of the rule of law. Suicide bombing is contrary to the very heart of our constitutional principles.

Our criminal law, as it stands, does not expressly prohibit those who intentionally choose to take their own lives as a means of taking as many lives as possible. If suicide bombing is tantamount to homicide, the Criminal Code should eliminate any doubt about it as a clear-cut, express criminal offence.

This surgical amendment will help to bring attempted suicide bombers, those teaching this cult of death and those collaborating with them to justice. This surgical amendment would discourage, as the Criminal Code should, the encouragement of such conduct that we conclude is abhorrent to our entire civilized society. While this is a modest amendment, it represents an important clarification of the principles deeply embedded in our natural law and the Criminal Code.

The Criminal Code evolved to give greater emphasis to victims, including their families. This amendment would help remediate appropriate victims' concerns.

The nature of criminal law is to mediate between morality and reason. The purpose of the criminal law is to draw precise lines between acceptable and aberrant behaviour. In the process, criminal law forewarns, censures, ostracizes, isolates and seeks to undermine and reduce, if not expunge, aberrant behaviour from our civic society. The criminal law requires precision rather than vagueness as the state arraigns its mighty powers against aberrant behaviour of the individual.

Honourable senators, I believe I have made the case to remediate our Criminal Code and the criminal law to prohibit expressly suicide bombings under the Criminal Code.

I commend to honourable senators a book entitled *Dying to Win: The Strategic Logic of Suicide Terrorism*, by Robert Pape, a professor at the University of Chicago. In it, he painstakingly analyzes and documents a demographic profile of suicide bombers and the groups who conspire to assist and aid them. He concludes that, for the most part, these individuals are neither poor, nor desperate, nor uneducated religious fanatics. More often than not, they are well-educated, middle-class, political activists.

Honourable senators, we spend most of our lives in politics. We have observed desperate politics at home and desperate politics abroad. With this human weapon, suicide bombers have taken political activism to a profound level beyond the core of our civilized principles and beliefs.

Honourable senators, when I read his book I called Mr. Pape and I asked him what was happening since he had published the book. He stated, "Suicide terrorism continues to rise rapidly around the world."

In Iraq and Afghanistan, innocent lives, particularly Canadian lives have been lost because of suicide bombers. If we are fighting against suicide bombers abroad, surely at home we can make this an explicit criminal offence.

Should we not follow the lead of other countries of the OSCE who have condemned suicide bombings as abhorrent to civilized society? Canadians Against Suicide Bombing, led by former Mr. Justice Bromstein, has thousands upon thousands of citizens who have signed its petition. Every outstanding Canadian has been listed as a supporter of this bill. The former Mr. Justice Bromstein has urged the United Nations and Parliament to take action to remediate against this unnecessary uncertainty in our criminal law.

I want to commend the former Mr. Justice Bromstein, who has taken his voluntary responsibilities when he retired as a judge to the highest level of civic duty in our country. I believe we should all commend him for his activities. The Canadians Against Suicide Bombing website has received over 50,000 hits, which indicates a deep interest in this issue from Canadians in every corner of our land. The legal views I have reviewed include those of a great professor of law, formerly the editor of the *Canadian Bar Review*, Professor Jean-Gabriel Castel.

Honourable senators, I urge the speedy adoption of this amendment. This amendment would send a clear message of abhorrence and condemnation to those who would praise, plan or implement suicide bombing against innocent citizens here and abroad.

Honourable senators, I will conclude with a quote from another mentor of mine, my old distinguished dean and friend, the late Dean Cecil Augustus Wright of the University of Toronto Law School. In a speech he made at the opening of the University of Toronto Faculty of Law in 1962, he quoted Mr. Justice Frankfurter of the U.S. Supreme Court. These words I have on my office wall here and in Toronto. This quote has been an organizing principle of my political life:

Fragile as reason is, and limited as the law is as the expression of the institutionalized medium of reason, that's all we have standing between us and the tyranny of mere will and the cruelty of unbridled, undisciplined feeling.

• (1540)

Honourable senators, this amendment reaches into the pith and substance of our Criminal Code. I urge you to return it as quickly as possible back to the Standing Senate Committee on Legal and Constitutional Affairs to be studied further.

**Hon. Anne C. Cools:** Would Senator Grafstein accept a question?

I was listening with great care to what Senator Grafstein was saying, and I thank him for all the work he has put into his speech.

Some decades back, suicide used to be a crime in our jurisdiction. As a matter of fact, I think the old name for it was a *felo de se*, a felony of the self, a murder of the self. As time progressed, I suppose, it ceased to be a crime, although all the supporting law around it still is, like assisted suicide and that sort of thing. The real problem that the system ran into is that once a suicide has been committed, a person having murdered themselves, that person is dead; so it made prosecution somewhat difficult.

Though I seconded this bill last year because the honourable senator needed a seconder. I am not well acquainted with the bill, but I listened with care today. I am motivated to now go and read it. Maybe the honourable senator answered this question in his discourse, but if there has been a suicide bombing and the suicider is dead, as are many other people, how could the Crown prosecute the suicide bomber?

**Senator Grafstein:** First, let us go back to the foundation of the criminal law. The purpose of my remarks today was to talk about the criminal law and the role of Parliament in passing those laws.

As a specific example, let us turn to Roscoe Pound, Mr. Felix Frankfurter and others, or Moynihan, and look to the specifics. The purpose of the criminal law is not to prosecute in the first instance, but to prevent egregious conduct. The law must send a clear message to the public: "Do not do this or there will be criminal consequences." Honourable senators, when someone stands up and says, "I am in favour of suicide bombing," that borders on a criminal offence because they would be encouraging criminal conduct.

A successful suicide bomber cannot be prosecuted because he or she is a dead person. However, one can certainly prosecute those who would aid and conspire with him or her, those who taught and applaud the action. The purpose of the criminal law is not to put people in prison. If that were the case, all of Canada would be in a prison; we have all broken the criminal law.

**Senator Prud'homme:** The honourable senator has, perhaps.

**Senator Grafstein:** In some minor fashion, unbeknownst to us, or more rarely, knowingly, who amongst us has not?

**Some Hon. Senators:** Shame!

**Senator Grafstein:** I will not limit the scope of this example to honourable senators; every Canadian has done this. They have done this unknowingly, or they have done it because they thought they could get away with it. The purpose of the criminal law is to prevent misconduct and to say, "If you do this, you will have the

full power of the state brought against you." I am not only speaking here of the act, but also the prevention of the act, the counselling and applauding of the act. The intent is to stop the promotion of the act.

Honourable senators now know, for instance, that the act of suicide bombing proliferates everywhere. It is on the Web, on television and websites. The number of websites promoting suicide bombing has accelerated across the board. Suicide bombing is moving from egregious conduct to common acceptance. That is what the criminal law is meant to prevent. The law is meant to act as a prophylactic against egregious conduct before it occurs. If the act takes place, obviously, the law to prosecute must be clear.

**Senator Cools:** My understanding of the criminal law is somewhat different from that of the honourable senator. My understanding of the use and purpose of the Criminal Code is somewhat different.

The honourable senator put a significant amount of valuable information on the record, but he has put nothing on the record about the risk or dangers of suicide bombers in Canada. We know about Afghanistan; that case is well made. We know about the situations in other parts of the world. Does the honourable senator have some information about the growing risk or the dangers within Canada from suicide bombers?

**Senator Grafstein:** I do not have any specific information other than information in the public domain. In the public domain there is information that suicide bombing is taught in Canada. There is information in the public domain that some people were preparing implements to carry out suicide bombing. There is information, as there was more particularly in the U.K., that this is a growing practice. The concern in the U.K., and more recently with the arrests in Toronto, of which we still wait to hear the prosecutions, is that there is a second generation of young people who have become believers in this particular political tactic.

We ought to make the law explicit and clear-cut. Criminal law is not perfect. We should not let the imperfect drive out the good. We try to do the best we can, and the best we can do is to pinpoint this conduct explicitly. When this piece of legislation passes, we will have the tools to address it immediately. I do not believe we have appropriate tools now in the Criminal Code.

**Senator Cools:** Perhaps, when the bill arrives in committee we could have some testimony on that subject.

**Senator Grafstein:** When this bill is referred to the committee, I see no reason not to call on the appropriate authorities to look at this question in Canada. I would hope that would be part of the public record.

[*Translation*]

**Hon. Marcel Prud'homme:** Honourable senators, I was a little surprised to hear that all Canadians are criminals, more or less. I do not think that is what the senator meant to say.

I listened to his speech with a great deal of interest. In order to examine his bill more closely, if it were approved and became a Senate bill, would there not be an opportunity at committee stage to invite appropriate witnesses to look into the causes?

[ Senator Grafstein ]

It has become an epidemic. I know that the honourable senator is very concerned about these issues. I think it would be wise, and would balance out the claims he wants us to accept, if we asked why we have suicide attempts in today's society. It has become an unbelievable epidemic, a deadly illness. The reasons for such actions could certainly be examined.

In order to get the full picture, would the honourable senator agree that, if this bill makes it to committee stage, there should also be a study on why this unfortunate series of events is taking place across the world?

[English]

**Senator Grafstein:** I have had before the Senate, and I referred to this yesterday, an outstanding resolution dealing with anti-Semitism.

**Senator Prud'homme:** Yes, we know to what it is related.

**Senator Grafstein:** The resolution also refers to anti-Muslim sentiment. I have urged the Standing Senate Committee on Human Rights to look at this question, and they have refused to deal with the subject, as has the Senate. It strikes me that that would be a very appropriate place to deal with some of the root causes to which the honourable senator referred.

The Standing Senate Committee on Legal and Constitutional Affairs is a master of its own thinking. I do not need to impede their work. They will decide what witnesses to call. I will be available to give evidence, as should any member if he or she is proposing a private member's bill. It will be up to the committee, the chair and the Steering Committee to decide which witnesses to call. I will be prepared to respond to any testimony made available to that committee on any question.

On motion of Senator Andreychuk, debate adjourned.

• (1550)

[Translation]

## DEVELOPMENT ASSISTANCE ACCOUNTABILITY BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Roméo Antonius Dallaire** moved second reading of Bill C-293, respecting the provision of official development assistance abroad.—(*Honourable Senator Tardif*)

He said: Honourable senators, I know I will not have enough time to finish my speech this afternoon, but I would like to thank you for giving me the opportunity to begin speaking to you today on Bill C-293, respecting the provision of official development assistance abroad.

I consider this bill a first step towards evolutionary change in our country's entire international development program. We must recognize the crucial need not only to increase the volume, quality and quantity of international development, but also to review, according to the Standing Senate Committee on Foreign Affairs, the very structure of the agencies, in particular CIDA, that manage the evolution of Canada's international development assistance for those countries that need it.

[English]

This bill was initiated in May 2006, almost a year and a half ago, by my colleague in the other place, the Honourable John McKay.

Briefly, the purpose of Bill C-293 is to give a clear focus on poverty reduction to the Official Development Assistance, ODA, provided by Canada. It will provide a focus and orientation that is currently lacking as ODA seems to be in a shotgun mode attempting to respond to a variety of requirements that do not necessarily ultimately meet the objective of assisting nations in their development.

Bill C-239 also details measures for accountability whereby the minister responsible would be required to report to Parliament on the activities of, in particular, the Canadian International Development Agency, CIDA.

Finally, the bill states that the minister shall consult with governments, non-governmental organizations and, not surprisingly, those who are most affected by the poverty of the world — the poor.

Many of us agree that there is a need both for more and better aid to be provided by Canada. That is an understatement when we look at the level that we have committed over the years and still commit to meeting the objectives of 7 per cent GNP. We are currently at 4.1 per cent.

Bill C-293 addresses the "better aid" part of the equation; namely, how to use the funds more effectively and how to focus those funds to provide the best possible results, ultimately the results to those who need it most — the poor.

Bill C-293 defines ODA according to the definition of the Development Assistance Committee, DAC, of the Organization for Economic Co-operation and Development, OECD but encompasses also unique Canadian features. As Bill C-293 states, ODA should be:

... administered with the principal objective of promoting the economic development and welfare of developing countries, that is concessional in character, that conveys a grant element of at least 25 per cent and that meets the requirements set out in section 4;

— which I will come to —

or

(b) that is provided for the purpose of alleviating the effects of a natural or artificial disaster or other emergency occurring outside Canada.

Section 4 of the bill specifies the three features that Canadian ODA should meet. Canadian ODA should be provided to developing countries

... only if the competent minister is of the opinion that it

(a) contributes to poverty reduction;

- (b) takes into account the perspectives of the poor; and  
 (c) is consistent with international human rights standards.

This opinion shall reflect that of the civil society organizations as well.

I strongly believe that this bill will provide CIDA, our current and principal aid provider, with tools necessary for this department to provide better aid — aid that is more efficient and more accountable to parliamentarians and to the public.

It will not be the be-all and end-all. It is a first step in the realignment of international development by this country, great nation that we are, to respond with our capabilities and responsibilities toward those nations in need. We are a leading middle power in the world, and as such we have a responsibility to provide assistance. ODA is one of those principal instruments. Poverty is the most virulent instrument creating international conflict and disparity in the world.

A word on committees and consultations: In total, this bill has already spent almost 20 hours in committee, first in the House of Commons Standing Committee on Foreign Affairs and International Development and then in the Standing Senate Committee on Foreign Affairs and International Trade.

[Translation]

Before our summer break, the Standing Senate Committee on Foreign Affairs and International Trade heard nine witnesses on Bill C-293, in addition to comments from Mr. MacKay and me. As sponsors of the bill, we provided information to guide the committee's deliberations.

In his testimony, Mr. Mark Lowcock, Director-General, Policy and International with the Department for International Development (DFID), which is CIDA's counterpart in Great Britain, told us that in Great Britain, a similar bill had been extremely beneficial to the department since the policy was implemented in 2002.

[English]

Mark Lowcock told us:

Our experience has been that the 2002 act has been beneficial in a number of ways. First, it provides clarity of purpose. This was commented on in the latest Development Assistance Committee peer review in the U.K. Mission fuzziness can be a problem for public sector bureaucracies and the act helps us with that.

Second, the act is beneficial as a motivator for the staff of the department and our external partners. People want to get up in the morning and come to work to contribute unambiguously to the reduction of poverty in poorer countries.

Third, it ensures that we avoid the problems we encountered when we used the aid program to pursue multiple objectives.

That is certainly what is happening.

In addition to the expert advice received by DFID, I have been in consultation with several experts regarding Bill C-293 over the summer. Representatives from the UN's Millennium Project have told me that they support the bill's core concept of putting poverty reduction at the centre of CIDA's mission. As you may know, the UN Millennium Project, led by the famous economist Jeffrey Sachs, is mandated to map out an action plan for achieving the millennium development goals of which poverty reduction is one.

[Translation]

For his part, the Prime Minister promised this past summer that Canada would join the global movement to achieve the millennium development goals put in place by the Right Honourable Gordon Brown, Prime Minister of the United Kingdom. The first of these millennium development goals, which Canada has promised to achieve by 2015, is to eradicate extreme poverty and hunger. More specifically, wealthy nations are promising to reduce by half the proportion of people living on less than a dollar a day.

The former Minister of Foreign Affairs, the Honourable Peter MacKay, made this announcement in early August:

[English]

Canada will continue to work with its partners — other governments, the private sector and non-governmental organizations — toward meeting these internationally agreed objectives.

That was quoted from the *Ottawa Citizen*, August 1, 2007.

[Translation]

This commitment was made by the government on behalf of Canada. However, no action has been taken since then to ensure that Canada achieves the millennium development goals. The Speech from the Throne is not very useful in shedding a positive light on this matter.

If the government truly wanted to achieve these goals, it would implement the recommendations of the experts from the Millennium Project of the United Nations Development Program, who say that Bill C-293 is a step in the right direction, and they would support this bill.

[English]

The Senate adjourned until Thursday, October 25, 2007, at 1:30 p.m.



## CONTENTS

Wednesday, October 24, 2007

	PAGE		PAGE
<b>SENATORS' STATEMENTS</b>			
<b>The Term "Republic of Macedonia"</b>			
Hon. Pana Merchant .....	66	<b>United Nations</b>	
<b>Autism Month</b>			
Hon. Wilbert J. Keon .....	66	Declaration on the Rights of Indigenous People.	
<b>The Documentary <i>Nomad's Land</i></b>			
Hon. Lucie Pépin .....	66	Hon. Elizabeth Hubley .....	71
<hr/>			
<b>ROUTINE PROCEEDINGS</b>			
<b>Income Tax Act</b>			
<b>Excise Tax Act (Bill S-214)</b>			
Bill to Amend—First Reading.			
Hon. Charlie Watt .....	67	Hon. Marjory LeBreton .....	71
<hr/>			
<b>QUESTION PERIOD</b>			
<b>Public Works and Government Services</b>			
Sale of Federal Office Buildings.			
Hon. Céline Hervieux-Payette .....	67	<b>Indian Affairs and Northern Development</b>	
Hon. Michael Fortier .....	67	Kelowna Accord.	
Hon. Larry W. Campbell .....	68	Hon. Elizabeth Hubley .....	71
<b>Veterans Affairs</b>			
Extension of Veterans Independence Program.			
Hon. Catherine S. Callbeck .....	69	Hon. Marjory LeBreton .....	71
Hon. Marjory LeBreton .....	69	<b>Elections Canada</b>	
<b>The Senate</b>			
Female Representation.			
Hon. Marcel Prud'homme .....	69	Conservative Campaign Expenses.	
Hon. Marjory LeBreton .....	70	Hon. Grant Mitchell .....	71
<b>Finance</b>			
Saskatchewan—Equalization Payments.			
Hon. Robert W. Peterson .....	70	Hon. Marjory LeBreton .....	72
Hon. Marjory LeBreton .....	70	<b>Visitors in the Gallery</b>	
<b>Parliament</b>			
Intellectual Survey of Senators and Members of Parliament.			
Hon. Jean Lapointe .....	70	The Hon. the Speaker .....	72
Hon. Marjory LeBreton .....	70	<hr/>	
<b>ORDERS OF THE DAY</b>			
<b>Canada-United States Tax Convention Act (Bill S-2)</b>			
Bill to Amend—Second Reading—Debate Adjourned.			
Hon. David Angus .....	72	<b>Speech from the Throne</b>	
<b>Speech from the Throne</b>			
Motion for Address in Reply—Debate Continued.			
Hon. Dennis Dawson .....	73	Hon. Dennis Dawson .....	73
Hon. Hugh Segal .....	76	Hon. Hugh Segal .....	76
Hon. Serge Joyal .....	76	Hon. Serge Joyal .....	76
Hon. Fernand Robichaud .....	77	Hon. Fernand Robichaud .....	77
<b>Bill to Provide Job Protection for Members of the Reserve Force (Bill S-202)</b>			
Second Reading—Debate Adjourned.			
Hon. Hugh Segal .....	77	<hr/>	
Hon. Roméo Antonius Dallaire .....	78	<b>Criminal Code (Bill S-210)</b>	
Bill to Amend—Second Reading—Debate Adjourned.			
Hon. Jeremiah S. Grafstein .....	79	Hon. Jeremiah S. Grafstein .....	79
Hon. Anne C. Cools .....	84	Hon. Anne C. Cools .....	84
Hon. Marcel Prud'homme .....	84	Hon. Marcel Prud'homme .....	84
<b>Development Assistance Accountability Bill (Bill C-293)</b>			
Second Reading—Debate Adjourned.			
Hon. Roméo Antonius Dallaire .....	85		







*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada  
Publishing and Depository Services  
Ottawa, Ontario K1A 0S5