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OFFICIAL REPORT  
(HANSARD)

**Tuesday, April 15, 2008**



THE HONOURABLE ROSE-MARIE LOSIER-COOL  
SPEAKER *PRO TEMPORE*

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## THE SENATE

Tuesday, April 15, 2008

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

Prayers.

Disrespectful reflections on Parliament as a whole, or on the House and the Senate as component parts of Parliament are not permitted. Members of the House and the Senate are also protected by this rule.

### SENATORS' STATEMENTS

#### COMMENTS BY MEMBERS OF HOUSE OF COMMONS

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, last week in the other place, Pierre Poilievre, the Member of Parliament for Nepean—Carleton, stated that “the Liberal-dominated Senate is blocking the bill.” He was referring to Bill S-225.

It is entirely incorrect and inappropriate for that member in the other place to claim that the Liberal-dominated opposition was blocking this bill. The workings of this chamber are not always understood by others, including parliamentarians who should check their facts before speaking on procedural matters.

Bill S-225 is a complicated bill that affects several departments, and it is only right that senators be afforded enough time to look into the subject matter and decide if they want to speak to the bill before giving it second reading.

I acknowledge Senator Tardif's efforts in helping to ensure that all honourable senators have a chance to speak to complicated bills such as this one.

I repeat that there was no undue delay on this bill, regardless of whatever knee-jerk reactions may have been seen in the other place.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I wish to make a few comments on the rules of order and decorum that govern the practices of our Houses of Parliament.

Recurrently, some members of the other place have made inaccurate and erroneous statements concerning the functioning of this place, in particular, on the progress of legislation in this house. I contend that these types of remarks made by members of one house about the other house are completely inappropriate and unparliamentary.

Any member of Parliament, whether from the Senate or the House of Commons, who attempts to discredit either institution by disparaging its character or by propagating falsehoods not only misleads the Canadian public on the work that we carry out as parliamentarians, but furthermore undermines the integrity of Parliament as a whole.

I read at pages 522 to 523 of Marleau and Montpetit's *House of Commons Procedure and Practice*:

The passage continues:

This ‘prevents fruitless arguments between Members of two distinct bodies who are unable to reply to each other, and guards against recrimination and offensive language in the absence of the other party.’

[*Translation*]

It is completely unacceptable for a member of Parliament to accuse this chamber or one of the members of this chamber to disrupt the legislative process. The Houses of Parliament can certainly complement each other, but the fact remains that they were created as two distinct entities.

[*English*]

Honourable senators, this is not a place where legislation is aimlessly approved. On the contrary, every bill arriving here merits the careful scrutiny and time for study by each and every member of this chamber.

As parliamentarians, we enjoy the privilege of free and civil debate, but we must always carry out this privilege with moral responsibility and with the highest degree of respect for our institutions and for one another.

#### AQUA SUR 2008

**Hon. Michael A. Meighen:** Honourable senators, I draw your attention to a recent visit made by Fisheries Minister Loyola Hearn to Aqua Sur 2008, the largest international aquaculture exhibition in the southern hemisphere, held from March 24 to 29 in Puerto Montt, Chile.

The exhibition, which attracted over 15,000 participants, was intended to encourage collaboration and information sharing among like-minded aquaculture producing countries and identify innovative solutions to common challenges.

[*Translation*]

During his visit, the minister signed a memorandum of understanding with Jorge Chocair, Chile's Undersecretary for Fisheries. The Canada-Chile MOU will strengthen our two countries' commitment to sustainable aquaculture development. Through a joint committee on bilateral cooperation, this agreement commits Fisheries and Oceans Canada and Chile's Undersecretary for Fisheries to work collaboratively in areas of mutual interest on technical, scientific and economic issues.

[English]

Honourable senators, fish and shellfish farming is one of the fastest growing food industries in the world. In Canada alone, this sector employs more than 14,000 people year-round, representing about 15 per cent of the entire commercial fishery. Aquaculture is also practised in every province in Canada, as well as in the Yukon Territory.

As Minister Hearn stated during his visit to Chile:

To be successful in the long term, aquaculture must be sustainable and of high quality. International cooperation among like-minded and responsible nations is extremely important.

• (1410)

Honourable senators, the farming of fish and shellfish offers significant opportunities to Canada's coastal communities. At the same time, it is vital that we manage aquaculture in an environmentally sustainable manner. Regrettably, there are many examples in Canada and around the world of aquaculture threatening ecosystems and native species.

One example is in New Brunswick's Bay of Fundy, where escaped farmed salmon run up local rivers and compete with the few remaining wild salmon for food and habitat. In some cases, escaped farmed salmon also interbreed with wild salmon, which has been proven to weaken the wild gene pool.

Honourable senators, while I commend the government on the progress made to date on aquaculture issues, I strongly encourage the government to redouble its efforts to promote and manage this industry in a truly environmentally sustainable manner that minimizes the risk to native wild species.

[Translation]

#### WORLD INTELLECTUAL PROPERTY DAY

**Hon. Joseph A. Day:** Honourable senators, today I would like to discuss intellectual property; in particular, trademarks, patents and copyrights.

[English]

Honourable senators, today we celebrate World Intellectual Property Day on the Hill. The day is not officially celebrated until April 26 but since it falls on a Saturday this year, we are celebrating early.

World Intellectual Property Day was first established by the World Intellectual Property Organization based in Geneva. This United Nations agency is focused on the development and understanding of intellectual property rights worldwide.

Today, we are hosting members of the Intellectual Property Institute of Canada. The institute, which was founded in 1926, is the professional association of patent agents, trademark agents and lawyers practicing in the area of copyright and technology in the law. There are over 1,300 members of the Intellectual Property Institute of Canada, which includes international members practicing within and outside of Canada.

The term "intellectual property" may be contrasted with real or personal property. Real or personal property is something physical, like a car or a house. Intellectual property is non-physical. It is a non-physical right that can be enforced, and it arises by virtue of original creativity, such as writing music or a poem. The creator of that work does not own each word or each note, but the creator does have a right to the arrangement of those words or notes.

One of Canada's most recognizable patented items is the Canadarm, used to manoeuvre equipment outside the International Space Station. Companies like MacDonald Dettwiler and Associates and Microsoft often have as one of their most important corporate assets the innovative employees and the patents and intellectual property they develop.

Students, honourable senators, who participate in science fairs learn the value of innovation and protecting their inventiveness. The science fair ideas of today could well be a successful business of tomorrow.

This year's World Intellectual Property Day focuses on celebrating innovation and promoting respect for intellectual property. In support of the World Intellectual Property Day on the Hill, it is my hope that honourable senators will join me this afternoon between 5 p.m. and 7 p.m. in room 256 S. There, we will have an opportunity to meet and encourage both the young winners of regional science fairs as well as Canada's leaders in this important area of intellectual property law.

#### HUMAN RIGHTS VIOLATIONS IN CHINA

**Hon. Jim Munson:** Honourable senators, I bring to your attention the serious issue of human rights violations in China. A young man, Hu Jia, who has a wife and a young baby, has been sentenced to three and a half years in prison. His crime: He spoke publicly about the need to protect the rights of people with HIV in China. Hu Jia is well known for being outspoken. He has spoken out about environmental issues and about the need to remember the Tiananmen Square massacre.

Many of my honourable colleagues know I had the privilege of living in China. For five years, I was the Bureau Chief for CTV News. Those were five of the most exciting years of my life. I travelled with my family throughout that fascinating country and made many strong friendships. I have memories that will last a lifetime.

• (1415)

However, not all memories are good ones. I witnessed the exciting events leading up to, and then the tragic events of, the Tiananmen Square massacre. I was travelling in Tibet and saw Buddhist monks beaten by police. I reported on the Tibetan uprisings of the late 1980s. I had my tapes confiscated, was detained and forced to leave on a plane.

In light of those experiences, I was pleased to see a new, modern and progressive China when I was there recently as an ambassador for Special Olympics Canada. The Special Olympics games in Shanghai were a huge success. China was a welcoming host.

I must ask then, if China is ready to acknowledge the rights of Special Olympians and as China prepares to welcome the world to the Olympics, why does China not respect the human rights of its own citizens?

China is a vibrant and essential contributor to the world's economy. It is an important part of the United Nations, the World Trade Organization and the world community as a whole.

Article 35 of the Constitution of China states that Chinese citizens enjoy freedom of speech and freedom of the press. Given that China is engaging with the world and opening its doors to the outside, can we not expect greater respect for human rights on the inside? Hu Jia and the more than 1 billion people who live in China all have a voice. They should all be heard. They all have the right to be heard.

### THE HONOURABLE ROMÉO ANTONIUS DALLAIRE

#### COMMENTS DURING INTERVIEW ON CJCH HALIFAX

**Hon. Gerard A. Phalen:** Honourable senators, I rise today to commend our colleague, Senator Dallaire, on his recent interview on CJCH, the Halifax CTV affiliate. We have all been faced with explaining the work and value of the Senate of Canada and I wish to speak about Senator Dallaire's comments on that subject.

The interviewer asked if accepting the position of senator, after having been a general, was not, in fact, a demotion, given the reputation of the Senate. Senator Dallaire replied that part of the exercise is to educate people that the Senate is an important part of our system of governance. He continued by saying that there is a diversity of people here with a spectrum of experience, from hockey players to ex-premiers of provinces. Senator Dallaire said that he finds working in the Senate to be an elevation.

The reporter then asked if Senator Dallaire considered working in the Senate to be a promotion. Senator Dallaire answered: "Sure. The Prime Minister calls you up and says, 'I want you to serve as part of the system of governance of our country.' You can't call that a demotion."

The interviewer then asked Senator Dallaire why the rulers in the military are held in such high regard while politicians in the main are held in low regard. Senator Dallaire answered that he found it fascinating that politicians are so often the target and bane of both the media and people generally and that politicians become targets because they are vulnerable and open. That is one of the dimensions of public life. He added that there is a misperception about people becoming politicians for the money or the power. As Senator Dallaire said: "There ain't no money in politics."

The interviewer continued on other issues, but honourable senators, Senator Dallaire did this institution proud and is worthy of our congratulations for defending the Senate in a very difficult interview.

### CANCER AWARENESS MONTH

**Hon. Jane Cordy:** Honourable senators, April is the Canadian Cancer Society's Daffodil Month, a time to focus on cancer awareness. Most if not all of us in the Senate have been affected by cancer either directly or indirectly.

Daffodils are a symbol of hope and April, Daffodil Month, is a time to talk and learn about cancer and to work toward making cancer history.

In Nova Scotia, the sale of three bunches of daffodils will provide three meals to someone staying at the Lodge That Gives, a home in Halifax where those receiving cancer treatment can stay for free. The sale of nine bunches will pay for a 30-minute call to the cancer information service. The sale of 22 bunches will pay for one day of a child's stay at Camp Good Time in Nova Scotia, a summer camp for children diagnosed with cancer.

Honourable senators, statistics released on April 9, 2008 show that the incidence of disease and death rates for the majority of cancers have stabilized or declined in the past 10 years. The statistics also indicate that more Canadian children diagnosed with cancer are surviving. These are positive highlights.

• (1420)

Honourable senators, when I was looking at websites to make notes about cancer, I came across a poem called, *If I Had My Life to Live Over*. It was written by the great humorist Erma Bombeck after she was diagnosed with cancer. I want to share some of her thoughts with you today because, while I have read it before, it gives a message that we should all remember:

If I had my life to live over, I would have talked less and listened more.

I would have invited friends over to dinner even if the carpet was stained and the sofa faded.

I would have eaten the popcorn in the "good" living room and worried much less about the dirt when someone wanted to light a fire in the fireplace.

I would have taken the time to listen to my grandfather ramble about his youth.

I would have burned the pink candle sculpted like a rose before it melted in storage.

I would have sat on the lawn with my children and not worried about grass stains.

I would have cried and laughed less while watching television — and more while watching life.

I would have gone to bed when I was sick instead of pretending the earth would go into a holding pattern if I weren't there for the day.

I would never have bought anything just because it was practical, wouldn't show soil or was guaranteed to last a lifetime.

When my kids kissed me impetuously, I would never have said, "Later. Now go get washed up for dinner."

There would have been more “I love you’s” . . . More “I’m sorrys” . . .

But mostly, given another shot at life, I would seize every minute . . . look at it and really see it . . . live it . . . and never give it back.

[Translation]

## ROUTINE PROCEEDINGS

### STUDY ON INVOLVEMENT OF ABORIGINAL COMMUNITIES AND BUSINESSES IN ECONOMIC DEVELOPMENT ACTIVITIES

GOVERNMENT RESPONSE TO ABORIGINAL PEOPLES COMMITTEE REPORT TABLED

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour of tabling, pursuant to rule 28(3), the government’s response to the sixth report of the Standing Senate Committee on Aboriginal Peoples, entitled *Sharing Canada’s Prosperity — A Hand Up, Not a Handout*, tabled in the Senate on March 20, 2007, during the previous session.

### STUDY ON RECENT REPORTS AND ACTION PLAN CONCERNING DRINKING WATER IN FIRST NATIONS COMMUNITIES

GOVERNMENT RESPONSE TO ABORIGINAL PEOPLES COMMITTEE REPORT TABLED

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour of tabling, pursuant to rule 28(3), the government’s response to the eighth report of the Standing Senate Committee on Aboriginal Peoples, entitled *Safe Drinking Water for First Nations*, tabled in the Senate on May 31, 2007, during the previous session.

[English]

## HUMAN RIGHTS

### BUDGET—STUDY ON INTERNATIONAL OBLIGATIONS REGARDING CHILDREN’S RIGHTS AND FREEDOMS—REPORT OF COMMITTEE PRESENTED

**Hon. A. Raynell Andreychuk**, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Tuesday, April 15, 2008

The Standing Senate Committee on Human Rights has the honour to present its

#### SEVENTH REPORT

Your committee, which was authorized by the Senate on Wednesday, November 21, 2007, to monitor the implementation of recommendations contained in the

committee’s report entitled *Children: The Silenced Citizens: Effective Implementation of Canada’s International Obligations with Respect to the Rights of Children*, tabled in the Senate on April 25, 2007, respectfully requests funds for the fiscal year ending March 31, 2009.

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

Respectfully submitted,

RAYNELL ANDREYCHUK  
Chair

(For text of budget, see today’s Journals of the Senate, Appendix A, p. 816.)

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

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

### BUDGET—STUDY ON LEGAL ISSUES AFFECTING ON-RESERVE MATRIMONIAL REAL PROPERTY ON BREAKDOWN OF MARRIAGE OR COMMON LAW RELATIONSHIP—REPORT OF COMMITTEE PRESENTED

**Hon. A. Raynell Andreychuk**, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Tuesday, April 15, 2008

The Standing Senate Committee Human Rights has the honour to present its

#### EIGHTH REPORT

Your committee, which was authorized by the Senate on Wednesday, November 21, 2007, to invite the Minister of Indian Affairs and Northern Development to appear with his officials before the committee for the purpose of updating the members of the committee on actions taken concerning the recommendations contained in the committee’s report entitled: *A Hard Bed to lie in: Matrimonial Real Property on Reserve*, tabled in the Senate November 4, 2003, respectfully requests funds for the fiscal year ending March 31, 2009.

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

Respectfully submitted,

RAYNELL ANDREYCHUK  
Chair

(For text of budget, see today’s Journals of the Senate, Appendix B, p. 822)

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

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

• (1425)

### BANKING, TRADE AND COMMERCE

#### BUDGET—STUDY ON PRESENT STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM—REPORT OF COMMITTEE PRESENTED

**Hon. W. David Angus**, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, April 15, 2008

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

#### SIXTH REPORT

Your committee was authorized by the Senate on Tuesday, November 20, 2007, to examine and report upon the present state of the domestic and international financial system.

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

Respectfully submitted,

W. DAVID ANGUS  
*Chair*

(*For text of budget, see today's Journals of the Senate, Appendix C, p. 828.*)

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

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

[*Translation*]

### TRANSPORT AND COMMUNICATIONS

#### BUDGET—STUDY ON CONTAINERIZED FREIGHT TRAFFIC—REPORT OF COMMITTEE PRESENTED

**Hon. Lise Bacon**, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, April 15, 2008

The Standing Senate Committee on Transport and Communications has the honour to present its

#### FIFTH REPORT

Your Committee, which was authorized by the Senate on Wednesday, November 14, 2007, and on Tuesday, March 11, 2008, to examine and report on containerized freight traffic handled by Canada's ports, respectfully requests approval of funds for fiscal year 2008-2009.

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

Respectfully submitted,

LISE BACON  
*Chair*

(*For text of report, see today's Journals of the Senate, Appendix D, p. 836.*)

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

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

[*English*]

### AGRICULTURE AND FORESTRY

#### BUDGET—STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY—REPORT OF COMMITTEE PRESENTED

**Hon. Joyce Fairbairn**, Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Tuesday, April 15, 2008

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

#### SIXTH REPORT

Your committee, which was authorized by the Senate on November 20, 2007, to examine and report on the present state and the future of agriculture and forestry in Canada, respectfully requests funds for the fiscal year ending March 31, 2009.

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

Respectfully submitted,

JOYCE FAIRBAIRN  
*Chair*



(For text of budget, see today's Journals of the Senate, Appendix E, p. 842.)

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

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

BUDGET—STUDY ON RURAL POVERTY—  
REPORT OF COMMITTEE PRESENTED

**Hon. Joyce Fairbairn,** Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Tuesday, April 15, 2008

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

SEVENTH REPORT

Your committee, which was authorized by the Senate on November 20, 2007, to examine and report on rural poverty in Canada, respectfully requests funds for the fiscal year ending March 31, 2009.

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

Respectfully submitted,

JOYCE FAIRBAIRN  
Chair

(For text of budget, see today's Journals of the Senate, Appendix F, p. 848.)

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

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

• (1430)

[Translation]

LEGAL AND CONSTITUTIONAL AFFAIRS

BUDGET AND AUTHORIZATION TO ENGAGE  
SERVICES—STUDY ON AMENDMENTS MADE BY  
AN ACT TO AMEND THE CANADA ELECTIONS ACT  
AND THE INCOME TAX ACT—  
REPORT OF COMMITTEE PRESENTED

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

Tuesday, April 15, 2008

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

NINTH REPORT

Your Committee, which was authorized by the Senate on Thursday, February 28, 2008, to conduct a comprehensive review of the amendments made by *An Act to amend the Canada Elections Act and the Income Tax Act* (S.C. 2004, c.24), respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, for the purposes of its study.

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

Respectfully submitted,

JOAN FRASER  
Chair

(For text of report, see today's Journals of the Senate, Appendix G, p. 854.)

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

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

CONFLICT OF INTEREST FOR SENATORS

BUDGET—  
THIRD REPORT OF COMMITTEE PRESENTED

**Hon. Serge Joyal,** Chair of the Senate Committee on Conflict of Interest for Senators, presented the following report:

Tuesday, April 15, 2008

The Standing Committee on Conflict of Interest for Senators has the honour to present its

THIRD REPORT

Your committee, which is authorized on its own initiative, pursuant to rule 86(1)(t) (i) to exercise general direction over the Senate Ethics Officer; and (ii) to be responsible for all matters relating to the *Conflict of Interest Code for Senators*, including all forms involving senators that are used in its administration, subject to the general jurisdiction of the Senate, respectfully requests funds for the fiscal year ending on March 31, 2009.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the

Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

SERGE JOYAL  
*Chair*

(For text of report, see today's Journals of the Senate, Appendix H, p. 860.)

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

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

[English]

### ABORIGINAL PEOPLES

#### BUDGET—STUDY ON FEDERAL GOVERNMENT RESPONSIBILITIES AND MATTERS GENERALLY RELATING TO ABORIGINAL PEOPLES— REPORT OF COMMITTEE PRESENTED

**Hon. Gerry St. Germain**, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Tuesday, April 15, 2008

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

#### THIRD REPORT

Your committee, which was authorized by the Senate on November 21, 2007 to examine and report on matters generally relating to the Aboriginal Peoples of Canada, respectfully requests funds for the fiscal year ending March 31, 2009.

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

Respectfully submitted,

GERRY ST. GERMAIN  
*Chair*

(For text of budget, see today's Journals of the Senate, Appendix I, p. 865.)

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

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

[ Senator Joyal ]

[Translation]

### JUDGES ACT

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker pro tempore** informed the Senate that a message had been received from the House of Commons with Bill C-31, An Act to amend the Judges Act.

Bill read first time.

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

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

[English]

### LIBRARY AND ARCHIVES OF CANADA ACT

#### BILL TO AMEND—FIRST READING

**Hon. Jeremiah S. Grafstein** presented Bill S-233, An Act to amend the Library and Archives of Canada Act (National Portrait Gallery).

Bill read first time.

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

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

• (1435)

### QUESTION PERIOD

#### HERITAGE

##### EFFECT OF BILL C-10 ON TAX CREDITS TO TELEVISION AND FILM PRODUCTIONS— COMMENTS BY MINISTER

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** My question is to the Leader of the Government in the Senate.

The Standing Senate Committee on Banking, Trade and Commerce is currently conducting a full study of the provisions of Bill C-10. There is a provision on page 346 of the bill that would allow the government to withhold tax credits from Canadian film productions for public policy reasons.

The Minister of Canadian Heritage appeared before the committee and defended the principles that led her government to the drafting of this legislation. However, CBC Radio has a recording that seems to suggest that the Minister of Canadian

Heritage told senior members of the government caucus the opposite. In fact, one senior member of the government caucus commented, "She told me she hates the law."

Can the Leader of the Government in the Senate tell us the Minister of Heritage's real position on Bill C-10? Does the minister really hate the new proposed law, and if she does, does she hate all of it or just certain parts of it?

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

The Minister of Heritage appeared before the Standing Senate Committee on Banking, Trade and Commerce and put forward her testimony with regard to Bill C-10. The testimony the committee heard reflects the minister's belief in the bill. I remind honourable senators they were exactly the same provisions brought in by the previous Liberal government under John Manley and Sheila Copps.

Honourable senators, it is very clear that Minister Verner is supportive of the legislation, as she indicated in testimony before the committee. That is the position of both the minister and the government.

[Translation]

**Senator Hervieux-Payette:** Honourable senators, we understand that the Leader of the Government in the Senate may have problems reconciling these expressions of her cabinet colleague's feelings. We have a great deal of sympathy for her, but we wonder who is telling the truth. Is it the honourable senator, who has never lied to her committee colleagues, or is it the minister, who allegedly voiced her feelings in private, feelings that we also share? Can the minister tell us which one of them is telling the truth?

[English]

**Senator LeBreton:** The honourable senator characterized the comments of the chair of the committee when she said, "seems to suggest." I believe the chair of the committee.

The reports in the various media are not exactly clear as to what was said by whom. I have great faith in my colleague, the Minister of Heritage, as I do in my colleague, the chair of the committee.

• (1440)

## FOREIGN AFFAIRS

### CASE OF OMAR KHADR

**Hon. Roméo Antonius Dallaire:** Honourable senators, my question is directed to the Leader of the Government in the Senate, and it is on the Omar Khadr case. The leader has repeatedly responded to my queries about Mr. Khadr, regardless of what information I have provided, by saying that this young gentleman has been fairly treated and that he faces serious accusations.

With regard to "fairly treated," the UN and the Canadian Human Rights Commission have said that the jail in which he is being held should be closed down. In fact, many senior

Americans, including presidential candidates, said that the place must be closed down. There has been torture and mistreatment there.

With regard to "serious accusations," we find more evidence on a daily basis that the American military courts there are fiddling with the evidence. The chief prosecutor has quit because there has been so much political interference.

I cannot understand why the Prime Minister refuses to bring someone home who is being mistreated in the judicial processes of a friendly state.

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Various people are commenting publicly on the situation in Guantanamo Bay. We are dealing with a specific individual, with whom our officials have had many opportunities to visit. He faces serious charges. My answer does not change.

We can make all kinds of comments on the floor of the Senate about what people think of this facility, but that does not change the fact that this individual faces serious charges. A legal process is underway, and nothing more can be said until that process is complete.

[Translation]

**Senator Dallaire:** Does the minister realize just how irresponsible her answers are becoming?

The force of argument and specific technical data from international forces, as well as comments from the people whose country created the monster that is Guantanamo, are saying that what is happening is absolutely unacceptable.

Is the Leader of the Government telling us that the Prime Minister agrees that Mr. Khadr should be kept in this prison and continue to be charged irresponsibly in a process that is not recognized by international bodies? The other countries found the situation so unacceptable that they decided to pull their people out.

What criteria is the Prime Minister using to assess this situation, and who is making the Leader of the Government repeat something that is increasingly ridiculous?

[English]

**Senator LeBreton:** Honourable senators, departmental officials have satisfied themselves that there is no evidence of mistreatment or abuse of Mr. Khadr. There is no question that he faces serious charges. There are various views on what happened in this case. However, at the moment, Mr. Khadr faces serious charges of murder. Departmental officials have had occasion to visit Mr. Khadr and they have been assured that he is being properly treated. A legal procedure is underway and we believe that it must follow its proper course. At this time, nothing more can be said.

[Translation]

**Senator Dallaire:** Can the minister tell us whether the Prime Minister has personally and specifically made sure that the officials who are regularly providing information that seems

erroneous are not fooling him about the reality of a situation that is quite simply unfair to a Canadian and against the protocols we have signed concerning child soldiers?

[*English*]

**Senator LeBreton:** As honourable senators know, this matter is being handled by the Department of Foreign Affairs and International Trade. I am not privy to any advice they may have provided to the minister or the Prime Minister. I believe that the Department of Foreign Affairs and International Trade is handling this matter in a competent and judicious way.

As I said before, Mr. Khadr faces serious charges. There is no doubt about that.

• (1445)

As the honourable senator stated, he is a Canadian citizen. He has been there for some time. The processes are ongoing, but I will ask Foreign Affairs to provide me with the latest information on this case.

**Senator Dallaire:** Could I ask the leader to request the information from the Prime Minister directly?

**Senator LeBreton:** As I said, this matter is being handled by Foreign Affairs. Beyond that, I will say nothing more at the moment.

As I stated a moment ago, I will, by way of the questioning, ask Foreign Affairs if, at this moment, they care to share further information with me and my Senate colleagues, although I hasten to say they may not have such information. It will not hurt to ask, however.

## CANADIAN BROADCASTING CORPORATION

### CHANGE TO PROGRAMMING ON RADIO 2

**Hon. Francis William Mahovlich:** Honourable senators, I rise to ask a question of the Leader of the Government in the Senate about changes to the CBC that were announced recently.

My concern and, therefore, this question, are particularly focused on the CBC Radio 2 network. The CBC management team, led by its newly appointed President, Hubert Lacroix, has decided to decrease the amount of classical music played on Radio 2, and to have more mainstream music played to increase ratings.

That is a terrible shame. According to its mandate, the role of the CBC is to carry a wide range of programming that informs, enlightens and entertains. Listening to the many great classical pieces that are currently played on CBC Radio 2 meets these requirements. If I want to listen to pop, rock or almost any other kind of music, I can turn to many radio stations. If I want to listen to classical music, however, I will be left with few options on public radio after these new changes are implemented. I will need to resort to CDs or satellite radio. I much prefer continuing to listen to Radio 2. Resorting to such options will also take away some of the incredible, well-informed and entertaining hosts that have graced the airwaves of CBC Radio 2, and that I have

[ Senator Dallaire ]

personally come to enjoy over a number of years, including Tom Allen, Jurgen Gothe, Eric Friesen, Howard Dyck, Peter Togni, the late Bob Kerr and Otto Lowy, as well as many others. These people are not mere announcers but musically informed on the pieces they offer to their listeners.

[*Translation*]

I know that choosing to listen regularly to classical music puts me in the minority in Canada, but since representing minorities is one of the main roles of the Senate, I believe that we should keep CBC Radio 2 playing classical music.

[*English*]

I believe that diminishing the amount of classical music offered by CBC is akin to removing the cornerstone from the mosaic of Canadian identity.

My question to the Leader of the Government in the Senate is: When will the government step in and protect the classical traditions of CBC Radio 2?

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

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** The honourable senator has an impressive ear, and, obviously, gave us a good lesson on some of the hosts who appear on CBC Radio 2.

In answer to his question, as the honourable senator knows, the CBC is an arm's length organization, operating at an arm's length from the government. These decisions were made by the management of CBC; therefore, the government does not have any specific role to play. God knows, if we did try to tell anyone, I am sure honourable senators would be up on their feet accusing us of interfering with the CBC.

• (1450)

In this case, this was a decision of the CBC management and, of course, that is their right.

## HEALTH

### CANADIAN FOOD INSPECTION AGENCY— PROPOSALS FOR FOOD LABELLING

**Hon. Mira Spivak:** Honourable senators, later this month the committee on food labelling of the Codex Alimentarius Commission will meet in Ottawa to discuss matters that are germane to the health of Canadians. Canada chairs this international committee, which operates under the auspices of the World Health Organization and encourages healthy eating and food labelling as an important tool to help consumers make healthy choices. Yet Canada is opposing the call for what is known as QUID labelling — that is, the labelling of the quantitative ingredients. It also opposes mandatory labelling of food and food ingredients produced through genetic engineering except in the narrowest of circumstances. Neither position is one that will help consumers make knowledgeable choices on food and guide themselves and their families toward healthy eating.

My question is for the Leader of the Government in the Senate. Why is the government advancing a proposition that is clearly not in the interests of consumers?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. As honourable senators know, I have previously answered questions of this nature from Senator Milne. The government is in the process of taking many steps with regard to the safety of Canadian food. The Department of Health and the Minister of Health, as well as the Canadian Food Inspection Agency, are seized with these various issues.

Canada supports the World Health Organization's Global Strategy on Diet, Physical Activity and Health. Health Canada is in the process of addressing the strategies and recommendations by taking action to reduce trans fat and sodium in the food supply as well as to limit saturated fat. Many steps are being taken.

Canada also requires a list of food ingredients and mandatory nutrition labelling of 13 core nutrients and calories so that consumers can make informed choices. Canada is one of a small number of countries with mandatory nutrition labelling and supports the WHO recommendation on expanding the list of mandatory nutrients in packaging to include the energy value and the amount of protein, carbohydrates, sugar, fat, saturated fatty acids, trans fats and sodium.

On the issue of food labelling, there is still much to be done. We have had discussions in this place about the labelling of foods and the actual assurance that they are products of the country they indicate they are from.

I wish to assure Senator Spivak that the government and the Minister of Health take this issue seriously. As honourable senators know, there have been a series of announcements on the issue of food and product safety. These are matters on which the government has made several announcements, and is continuing its work to improve the situation.

**Senator Spivak:** I thank the leader for her answer. There is no doubt that there are many fronts on which the government is taking responsible action. However, that does not quite clear up this particular issue. I would very much like to know if my information is correct.

The government has welcomed last month's decision by a World Trade Organization panel that has ruled against the European Union's ban on imports of Canadian beef from cattle treated with growth hormones.

In a news release, no mention was made of the EU's complaint against Canada and U.S. action on EU food products imposed in retaliation for the ban. Both parties can appeal the ruling.

• (1455)

My question to the Leader of the Government is, will Canada end this fight now. Does the government favour clear labelling so that European consumers will have a choice in what they eat, even if we do not?

**Senator LeBreton:** I thank the honourable senator for the question. With regard to the labelling, that issue will be discussed by the Codex Alimentarius Commission later this month. I will refer the portion of the question on the Codex committee to the department for a more definitive answer.

With regard to the European Union and the sale of beef, I will take that question as notice.

## AGRICULTURE AND AGRI-FOOD

### MARKETING OF HOGS

**Hon. Terry M. Mercer:** Honourable senators, Canada's growing old government is again glossing over the problems of this country and not addressing the actual causes of those problems.

The federal government intends to pay hog farmers up to \$50 million to slaughter as many as 150,000 hogs. Farmers will receive \$225 for every hog they kill, as long as they agree to cull their entire breeding herd. The farmers must not raise any hogs for three years. This is an effort to save the hog business.

As we heard in the Standing Senate Committee on Agriculture and Forestry, rising feed prices and the stronger Canadian dollar have hurt hog producers. Does the new federal initiative address the actual causes of these problems or is the initiative just a quick fix?

When the U.S. dollar weakened, American farmers found new export markets for their pork. As a result, Canadian farmers started cutting back while U.S. farmers are raising more hogs for their new markets.

My question to the Leader of the Government in the Senate is this: What is this government doing to market Canadian hogs on the international market? Where has the government been when it is clear that the U.S. government identified this problem some time ago and took measures to correct it? Why have we waited so long to help our hog farmers?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for the question. As honourable senators know, the issue of hog producers has been before the government for quite some time. Minister Ritz met with hog producers and I understand a decision was made to cull the herds.

With regard to how this will happen and what the proposals are in terms of marketing the hogs, I will take that question as notice.

### SUBSIDY FOR CULLING HOG STOCKS— DISTRIBUTION OF MEAT

**Hon. Terry M. Mercer:** I thank the minister for her answer. The result of this new program will mean that most of the pork will be used for pet food or otherwise disposed of. However, an interesting angle in the proposal suggests that up to 25 per cent of the meat be made available to Canadian food banks. This is an interesting point.

Do the pet food manufacturers have to purchase the meat? If we are giving 25 per cent to our food banks, why not give the food banks 100 per cent?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank Senator Mercer for those valid questions. I am not sure of the exact distribution plans, but I would be happy to find out. We are all aware of the news reports of the food shortages in other countries. This is a complex question.

With regard to the actual distribution from the cull of hogs, I will be happy to try to obtain an answer for the honourable senator.

## INTERNATIONAL TRADE

### MARKETING OF GATEWAYS FOR IMPORTS AND EXPORTS

**Hon. Terry M. Mercer:** Honourable senators, the issue of marketing hogs goes to the issue of marketing the country in general. It is selling Canada to the world, whether it is through the Pacific Gateway or through the Atlantic Gateway. Honourable senators have heard me speak many times about the fact that no one in this government seems to be promoting the use of ready-made jobs available through the Port of Halifax by increasing imports and exports through the Port of Halifax and future developments that may occur at the Strait of Canso or in the City of Sydney.

I am concerned that we are not marketing agricultural, mining or manufactured products and that we are not marketing the services offered in such places as the Port of Halifax. I hope that the minister would be able to address some of those questions as well.

• (1500)

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for his question. I can assure him that with regard to the various gateways, hardly a week goes by that Minister MacKay is not actively promoting the Atlantic Gateway.

I assure the honourable senator that these opportunities for the government and for the country, in terms of trade, are not being overlooked. I offer the assurance that they are being seriously pursued by the government.

As I said before, I would be happy to obtain the answers in regard to distribution.

## FOREIGN AFFAIRS

### WORLD FOOD SHORTAGE

**Hon. Yoine Goldstein:** Honourable senators, this is a non-partisan question directed to the Leader of the Government in the Senate.

As the minister indicated a few moments ago in a previous answer, we have been reading newspaper reports of at least 30 countries that are facing desperate food shortages, so much so that it is likely that there will be riots and starvation in those countries in excess of the usual rates. Regrettably, we are seeing examples of this in a variety of places.

Canada has excess hog supplies, as well as excess grain supplies, depending on how one defines it. Would the leader prevail on her cabinet colleagues to have Canada take the lead, as the International Monetary Fund and other international organizations have said, to encourage developed countries to take their responsibility and to help less-developed countries in this time of crisis?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for his question. He makes a very good point.

I believe it is incumbent on all countries to encourage other countries to assist in dealing with the world food shortage. As the honourable senator knows, Canada is the second-largest donor to the World Food Program. Canada has provided assistance readily in all cases when the calls go out.

For instance, \$10 million was recently allocated to emergency food aid funding for Afghanistan. Canada also provides the Canadian Food Grains Bank with \$20 million annually in support of their efforts to address global food insecurity.

Minister Oda, the minister responsible for CIDA, brought this issue to the table at the recent G8 meeting in Tokyo. She will continue to raise this issue in her work with CIDA as the minister responsible for that agency.

## FINANCE

### UNITED STATES AND AUSTRALIA— AGREEMENT REGARDING REGULATORY OVERSIGHT OF CAPITAL MARKETS—BILL TO ESTABLISH FEDERAL REGULATOR

**Hon. Jeremiah S. Grafstein:** Honourable senators, my question is for the Leader of the Government in the Senate. Having in mind the rather clear uncertainty with respect to the nature of regulation for the oversight of financial institutions here and abroad and matters related to securities, last week we read in the press that the United States and Australian governments, and the U.S. federal Securities Exchange Commission and its Australian counterpart, announced a bilateral understanding had been reached to explore a common regulatory oversight respecting securities and other related matters between Australia and the United States.

Why was Canada left out, shut out or ignored once again by the United States for the second time this month — the last time with respect to United Kingdom — on vital questions affecting capital markets and the oversight of those markets?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I believe the answer is — and the Minister of Finance has been clear about this — that Canada's regulatory system, such as is the case now, has 13 regulators.

The Minister of Finance has always felt that this was not the most advantageous position for Canada to be in. He has spoken about a common regulator. This is a perfect example of what happens when you have a system of 13 regulators in the country.

All of these events that are happening around the world only strengthen the argument of the Minister of Finance for having a common regulator for the country.

• (1505)

**Senator Grafstein:** I have a brief supplementary question. I thank the leader for that advertisement. We have on the Order Paper of the Senate of Canada a private member's bill to establish a single federal regulator for Canada.

When will the federal government proceed on that legislation?

**Senator LeBreton:** As a matter of fact, when the honourable senator tabled his private member's bill, he had already heard that Minister Flaherty was discussing these issues. The question is akin to which came first, the chicken or the egg?

**Senator Grafstein:** There have been numerous studies about the question. Here is a concrete measure that could be discussed by any committee of the Senate to pursue this exercise to ensure that Canada is included and not faced with these oversights in other countries.

**Senator LeBreton:** I thank the Honourable Senator Grafstein for that comment.

[Translation]

#### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour of presenting delayed answers to oral questions raised on February 7, 2008 by the Honourable Senator Banks, regarding Gatineau Park housing development, and on March 13, 2008 by the Honourable Senator Mercer, regarding rural mail delivery.

#### NATIONAL CAPITAL COMMISSION

##### GATINEAU PARK—HOUSING DEVELOPMENT

*(Response to question raised by Hon. Tommy Banks on February 7, 2008)*

The National Capital Commission (NCC) is governed by the National Capital Act, which mandates it to plan and assist in the development of federal public lands in the National Capital Region. The NCC has no authority over the 2% of privately owned properties within the Gatineau Park boundary; private properties are regulated by municipalities.

For several decades, in all of its Plans, including the 2005 Gatineau Park Master Plan, the NCC has always committed to regulating uses within the Park. The preferred method remains to pursue the acquisition of private properties, wherever possible, by mutual agreement. These actions occur based on identified priorities and wherever opportunities present themselves, subject to the availability of resources. The NCC must also proceed within the constraints of internal and external approval requirements, which impact on the timeliness of the response and the completion of a transaction.

The NCC considers the situation regarding the housing development near Carman Road very serious and when it was informed of the private property owner's intentions, it quickly initiated various actions to seek a solution in keeping with the conservation mandate of Gatineau Park. The NCC is examining various options to be more proactive and consequently to better intervene when such events occur in future.

#### CANADA POST

##### RURAL MAIL DELIVERY—SAFETY OF BOX SITES

*(Response to question raised by Hon. Terry M. Mercer on March 13, 2008)*

The Government of Canada and Canada Post Corporation have reaffirmed their commitment to rural mail delivery. Wherever possible, delivery to rural mailboxes will continue. Changing a customer's mode of delivery is something that is considered only as a last resort where the law and the safety of employees and the traveling public require it.

On December 13th, 2006 the Government of Canada issued a directive to Canada Post, which requires Canada Post to deliver mail at rural roadside mailboxes while respecting all applicable laws. The Directive requires Canada Post to regularly report to the Minister responsible for Canada Post on progress made.

Canada Post's review of rural mailbox delivery is a result of health and safety concerns expressed by postal employees delivering mail to roadside mailboxes. Canada Post has a legal responsibility under the Criminal Code and the Canada Labour Code to ensure that employees have safe working conditions. The safety review responds to more than 40 health and safety-related rulings by Labour Canada and more than 1,400 complaints by employees. If a safety hazard or unreasonable risk is identified, Canada Post must address it. For this reason, Canada Post is assessing the safety of rural mailboxes, some of which have been found to be in hazardous locations.

Canada Post is committed to maintaining delivery to rural mailboxes wherever possible. Changing the mode of delivery is something that is considered only as a last resort. Canada Post is also committed to communicating with customers and communities affected by the rural mailbox assessment through all stages of the process. As part of its Community Outreach process, Canada Post contacts individual customers to discuss with them the findings of the assessment and if any changes need to be made to the location of their mailbox. If conditions do not allow for re-positioning a rural mailbox for continued delivery, Canada Post offers a number of options for local mail delivery. These include Community Mailbox service or a free lockbox service at a local post office.

In choosing mailbox locations, Canada Post strives to keep them as close to people's homes as reasonably practical and ensures they are in safe and secure locations.

[English]

## ORDERS OF THE DAY

### STUDY ON CANADIAN ENVIRONMENTAL PROTECTION ACT

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

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Energy, the Environment and Natural Resources, entitled: *The Canadian Environmental Protection Act (1999, c. 33) Rx: Strengthen and Apply Diligently*, tabled in the Senate on March 4, 2008.

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

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

Motion agreed to and report adopted.

### PERSONAL WATERCRAFT BILL

#### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Murray, P.C., for the second reading of Bill S-221, An Act concerning personal watercraft in navigable waters. —(*Honourable Senator Spivak*)

**Hon. Mira Spivak**: Honourable senators, with the greatest respect for Senator Comeau, I want to address misconceptions that arise from time to time about this legislation.

Bill S-221 was first introduced in May 2001, and, as Senator Banks has said, our Standing Senate Committee on Energy, the Environment and Natural Resources has heard the counter-arguments repeatedly, and has repeatedly passed this bill. The Senate has given third reading to this bill on four separate occasions.

Senator Comeau raised several points. First, he suggested that this bill is a response to the “pastoral annoyance” — the noise — of personal watercraft. This bill was not conceived for noise abatement. Municipalities deal with noise, not the federal government.

In the absence of any worthwhile federal action on personal watercraft, some municipalities have passed noise by-laws banning personal watercraft, including the town of Whistler, site of the 2010 Olympics. They need to be brave in the face of threats of court action from the federal government and from manufacturers. Constitutionally, only the federal government can restrict navigation, and most municipalities do not want to risk a legal challenge to a bylaw.

This bill respects federal constitutional authority and it respects local knowledge of waterways, not for noise abatement but for safety and protection of the environment. It follows the same

principle fixed in regulations of the Canada Shipping Act that allows communities to determine, for example, where water-skiing is permissible or whether a lake should have a total ban on motorized boats of any kind.

It places trust in the judgment of local communities, rather than office-bound officials in Ottawa, to best decide where personal watercraft are safe to use and where they pose too great a threat to safety and to the environment.

• (1510)

This bill was a response to a tragic and preventable death. My neighbours at West Hawk Lake were trying to prevent a tragedy on a body of water plainly not suited to the high-powered, zoom-zoom manoeuvres of a young man on a personal watercraft. They were on the shore, speaking to a provincial official, as they witnessed the crash between the boat and the personal watercraft. That crash claimed his life.

The question was clear: How would it be possible to prevent another tragedy on that or any other lake in Canada? There was no mechanism, no possible way to prevent an accident under the existing law or regulations at the time.

The Coast Guard had tried to regulate PWCs. In 1994, it proposed a new schedule to the regulations of the Canada Shipping Act very similar to what this bill would put in place. Coast Guard officials were acting on the advice of the RCMP, the OPP, Parks Canada officials, provincial officials and the pleadings of cottage communities who knew that the PWC situation was out of control.

The proposed amendment went as far as part I of the *Canada Gazette* and then, the Canadian Marine Manufacturers Association, through lobbying, put a stop to this. A regulation rather than legislation would be preferable, but it is not something that parliamentarians can introduce here.

There have been many PWC deaths and serious injuries since the Coast Guard’s proposal failed. The news media report the PWC-related injuries of golfer Ernie Els or musician Keith Richards. It reports the death of New England Patriots defensive end Marquise Hill. However, for ordinary people, unless the loss of life or limb is a spectacular mishap, we seldom hear of it.

Two summers ago there were reports when three people died in one tragic accident near Valleyfield, Quebec — a man, his 12-year-old daughter and his daughter’s 12-year-old friend. The personal watercraft they were riding collided with a boat. Perhaps, if anything had been in place, the beach front they repeatedly criss-crossed and particularly that part of it where boats leave a channel, could have been designated off-limits to PWCs. Instead, they struck the side of a boat and three lives were lost.

The Lifesaving Society calculates that there are 11 deaths per year for every 100,000 personal watercraft. The fatality rate for power boats is just over half that level. For canoes, sailboats and other craft without motors, the rate is smaller still.

This bill is not about noise. The repeated attempts by opponents to characterize it as such trivialize not only this legislation but also those tragedies it is hoped to prevent.



As for threats to the environment that PWCs create, let me count the ways. The high-powered engines pollute. They pollute air and water that cottagers would like to use for drinking water.

The engines just keep getting bigger and bigger. When I began to work on this bill a decade ago, the typical engine size was well under 100 horsepower. According to recent news reports, the market is now in the grip of a horsepower “arms race.” Companies are now producing machines that exceed 300 horsepower.

In the last 17 years, the horsepower of the leading mass-produced flagship models of PWCs more than doubled. By comparison, the horsepower of other sports machinery increased by less than a third.

With the shallowest of drafts, these little powerhouses can go where large boats cannot — including near nesting birds at the water’s edge. They have also been used by people who think that harassing wildlife is good sport. Two summers ago, near Belleville, Ontario, a young man was charged for chasing a family of swans around the lake.

The problems these machines pose when they are in unsuitable places and in unsuitable hands are not trivial. For decades, however, the government has been persuaded by manufacturers to deal only with PWC operators and to overlook the fact that there are some bays, lakes and rivers where they need to be restricted in some fashion.

The second point to address is Senator Comeau’s suggestion that this bill is redundant because other regulations are in place to deal with the problem. The same argument was made repeatedly by the representative of the manufacturers’ association in committee.

For example, a regulation prohibiting anyone less than 16 years of age from driving these powerhouse machines has not solved the problem. A regulation requiring drivers to take tests and to have a “competency” card, which also precedes the bill, has not solved the PWC problem.

There is a regulation prohibiting careless operation of a small vessel. The 15-year-old who chased swans on the PWC was charged with careless operation and placed on probation for 12 months. His father pleaded guilty and was ordered to make a \$1,000 donation to an animal sanctuary. Charges are always after the fact. They do not prevent a preventable tragedy.

The strongest ray of hope lies in the new interpretation of an existing regulation — a reinterpretation that could see restrictions on PWC or wakeboard use added to an existing schedule. Some 21 months ago, newspapers in Quebec reported on this situation. Some 16 months ago, I received a letter from the Minister of Transport that told me of the policy change. The minister wrote:

Where it has been determined that a particular type or types of craft are the cause of a problem, these craft can be made the subject of a boating restriction using the existing Boating Restriction Regulations.

It was not quite a “hallelujah” moment, but it was close. Finally, we had some sanity at the highest level. We were told that the issue stemmed from the appearance of departmental witnesses

before the Standing Senate Committee on Energy, the Environment and Natural Resources in June 2005. It was backed up by a legal opinion that had been tucked away since November of that year. Not to be too technical, much of what this bill will do could be accomplished by a “note” to schedule II of the Boating Restriction Regulations, or so Department of Justice officials thought. That was not so according to representatives of Bombardier Recreational Products. Pierre Pichette, BRP Vice-President of Public Affairs, had this to say:

[*Translation*]

In our opinion, the law has not changed. Transport Canada seemed to have a different interpretation.

[*English*]

As it turns out, Mr. Pichette was correct. The law has not changed. Several communities tried to use the mechanism and were tied in knots by officials at various levels. More recently, a community in Quebec was told wrongly by local opponents that the legal opinion had been withdrawn and the option was no longer available.

I would dearly love to agree that this existing regulation has made my bill redundant. Whenever one restriction on PWCs under schedule II is published in part II of the *Canada Gazette*, I will very happily concede the point. However, I know of no other way to put the feet to the fire of elected and non-elected officials who say that they want to make this bill redundant than to keep advancing it until the job is done.

As with a few other bills, this measure has been around for far too long and has been delayed by adjournment after adjournment.

I would like to see this bill proceed to third reading after second reading, but I think the deputy leader has a different idea and I certainly accede to his wishes.

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker *pro tempore*:** When shall this bill be read the third time?

On motion of Senator Comeau, billed referred to the Standing Senate Committee on Transport and Communications.

• (1520)

## DRINKING WATER SOURCES BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Corbin, for the second reading of Bill S-208, An Act

to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future.  
—(Honourable Senator Tkachuk)

**Hon. Bert Brown:** Honourable senators, I rise to speak to Bill S-208. Water is fundamental to the health of Canadians and their quality of life. While we support the broad policy objective of Bill S-208 to protect the health of Canadians by ensuring the provision of safe drinking water, it is unlikely that the proposed legislation will advance water management in Canada.

Bill S-208 would make some 21,000 municipal community water systems accountable to an additional authority while they are still accountable to provincial governments and bound by existing laws that guide their operations. The bill would duplicate existing powers within the Canada Water Act and those found in other environmental legislation that overlap with the proposed authorities in Bill S-208.

Other important statutes have been developed that provide additional powers related to water, including the Department of the Environment Act of 1972 and the Canadian Environmental Protection Act, 1999. Important authorities over water pollution prevention also exist under section 36 of the Fisheries Act.

The federal, provincial and territorial governments have put in place cooperative arrangements that both protect Canada's water and avoid unnecessary duplication. The government works collaboratively with provinces and territories in areas of joint interest. The primary forum for working with provinces and territories on water priorities is the Canadian Council of Ministers of the Environment, CCME.

Water quality is a priority issue for all Canadian jurisdictions and enhanced collaboration in water quality research, monitoring and guidelines is key. This collaboration has been a key component of the approach taken by the CCME. Working through the Federal-Provincial-Territorial Committee on Drinking Water, the federal government plays a leadership role in the collaborative development of Guidelines for Canadian Drinking Water Quality and through the CCME on environmental quality through the Canadian Water Quality Guidelines.

The CCME continues to advance their work on water by developing a Canada-wide strategy for the management of municipal wastewater; establishing environmental quality guidelines for water; analyzing water conservation measures and performance indicators; and developing national tools for water management, like the water quality index.

With respect to federal-provincial jurisdictional issues, here is what we heard at committee on November 2, 2007, from Henry Schultz, Senior General Counsel, Legal Services of Environment Canada, Department of Justice Canada:

... as regards its constitutionality, we have reviewed this bill from the perspective of the division of legislative jurisdiction between the federal and provincial governments. We have not identified any objections to the bill on division-of-powers grounds.

It does not appear to impinge on any aspect of provincial jurisdiction. In fact, the preamble recognizes that the legislative powers that relate to the protection of watershed areas are both under federal and provincial jurisdiction.

Bill S-208 does, however, raise some concerns from the perspective of the separation of powers. It is very directive and leaves little or no discretion to the minister in pursuing the proposed federal-provincial agreement and concluding it. It also purports to bind the minister to introduce, by a fixed date, a bill to establish the agency.

This would appear to be interference in the role of the executive branch, and might also constitute a prima facie breach of the privileges of the minister as a member of Parliament.

As regards its potential overlap with the Canada Water Act, the obligations imposed by this bill on the Minister of the Environment, namely, the obligation to conclude a federal-provincial agreement, cannot be found in the Canada Water Act. The Canada Water Act authorizes the minister to enter into a federal-provincial agreement but in no way obliges him to do so. On its face, then, there is no direct overlap between Bill S-208 and the Canada Water Act.

However, Bill S-208 and the Canada Water Act both share the same purpose, to facilitate federal-provincial water resource management in Canada; and the Canada Water Act is, we would suggest, sufficiently broad in scope to achieve the aims contemplated by Bill S-208. It is our view that the purposes of Bill S-208 could be achieved by exercising legislative powers that can already be found under the Canada Water Act and other statutory authorities.

Furthermore, on December 4, 2007, Michael Martin, a senior ADM at Environment Canada, said the following:

Part II of the Canada Water Act was based on the peace, order and good government head of power allotted to the Government of Canada in the Constitution in matters of urgent national concern. As I noted above, this power could be utilized to protect drinking water sources.

We believe we have the powers necessary to act and to protect source water. This legislation appears to duplicate powers that already exist in the Canada Water Act.

We have the authority to act under the Canadian Water Act but experience has shown that collaboration with the provinces and communities is essential for effective water management, and that is what we do.

It is effective and it is for that reason that we believe we have sufficient tools to do the job.

Moving on to water quantity, important regional cooperation in water flow and levels management is achieved through bodies such as the Prairie Provinces Water Board and the Mackenzie

River Basin Board. These boards were established under the Canada Water Act and help to ensure that interprovincial waters are equitably shared by Canada's Prairie provinces, and they help to prevent potential conflicts.

As the primary water managers in Canada, provinces and territories use regulations, legislation and other instruments to address specific water and water-related issues, primarily water quality, water use and allocation. Provincial and territorial governments are also responsible for many aspects of land use planning and development, which can impact water quality and availability.

Many provinces and territories have in place water policies and strategies that establish watershed-based governance, and they take concrete action to protect drinking water.

For example, the Province of Alberta's new Water for Life strategy introduces a transition from traditional water management planning for water allocation issues to integrated watershed management supported by a shared governance model. The Quebec Water Policy is based on full integration of the different aspects of water management by adopting an integrated watershed management approach. The Quebec Water Policy is based on citizen involvement, integrated management of the St. Lawrence River and recognition of water as an integral part of the collective heritage of the citizens of Quebec. The governments of Canada and Quebec are currently working to elaborate an integrated management framework for the St. Lawrence under the St. Lawrence Plan for a Sustainable Development 2005-2010.

Ontario has enacted measures to protect drinking water supplies in its Clean Water Act, which requires each municipality to have watershed management and source water protection plans in place.

Through its own Action Plan for Clean Water, the Government of Canada is taking action and working with others to make real and continuous progress on water-related issues. A number of actions have been taken under the Action Plan for Clean Water.

In September 2007, the federal government announced its intention to work with its partners to take action to cut water pollution by setting hard and tough new national standards for sewage treatment. Municipal wastewater effluent is the single most significant contributor to water pollution, and we are taking action.

• (1530)

The government has also proposed to amend regulations in order to reduce the amount of phosphates added to the laundry detergents and, for the first time in Canadian history, limit the amount found in dishwasher detergents and general purpose cleaners.

The government has targeted resources for the protection of Canada's fresh water resources. Specifically, commitments include, Great Lakes contaminated sediment clean-up investments of \$30 million for Hamilton Harbour and \$4.1 million for clean-up and monitoring of activities for the St. Clair River near Sarnia, the Detroit River near Windsor and the Bay of Quinte; \$30 million for the clean-up of Lake Simcoe; \$18 million for the clean-up of Lake Winnipeg; new funding of \$751,000 will help fund four initiatives of the Gulf of Maine Council on the Marine Environment; and \$5 million for the

International Joint Commission's studies on water levels in the Great Lakes.

Working with the First Nations to ensure that all their residents have access to safe drinking water is a key priority for the government. Budget 2008 will invest over \$330 million over the next two years to extend the plan of action for drinking water in First Nations communities. The government will undertake consultations with the First Nations and provincial and territorial governments on the development of a regulatory regime to oversee water quality on reserves. The unprecedented \$33-billion Building Canada Initiative will provide assurance to Canadians that long-term, stable and predictable funding is available to help support infrastructure projects, such as sewage treatment systems.

To be clear, the government is working to ensure clean, safe and secure water for Canadians. It is also the government's goal to work collaboratively with all partners, provinces and municipalities, First Nations, and interested private sector entities to build on existing mechanisms to find ways to better manage our water systems.

Considerable progress is being made through collaboration in many areas, and we expect a continuing trend of policy and legislative reform as jurisdictions come more fully to terms with the need to manage their water resources for economic, social and environmental reasons.

This bill will not lead to any new solutions. We will continue to work collaboratively with our provincial, territorial and municipal partners to find concrete and realistic solutions to Canada's water challenges.

**Hon. Tommy Banks:** Will Senator Brown accept a question?

**Senator Brown:** Yes.

**Senator Banks:** I thank Senator Brown for his speech. Since he used the words "we" and "the government" interchangeably, I assume he is speaking for the government in this speech. Since he brought up the question of the matter of national standards, could Senator Brown explain what he means by "those national standards will be enforced"?

**Senator Brown:** I do not believe I brought up the matter of national standards. I said there were 21,000 different municipality governances that account for the quality of the water that they serve.

**Senator Banks:** We might continue this debate tomorrow. If the senator checks his speech, he referred to national standards being set by the government. I am curious to know what the means are by which they will be enforced. We can recap the honourable senator's speech and see if I misheard.

**Senator Brown:** Honourable senators, I will check through the speech. I think the national standard is that potable water should be provided by any municipality in this country.

On motion of Senator Banks, debate adjourned.

## MEDICAL DEVICES REGISTRY BILL

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Harb, seconded by the Honourable Senator Adams, for the second reading of Bill S-222, An Act to establish and maintain a national registry of medical devices.  
—(Honourable Senator Keon)

**Hon. Wilbert J. Keon:** Honourable senators, I am pleased to rise today and speak to Senator Harb's Bill S-222. This bill is intended to establish and maintain a national registry of medical devices that would contain the names and addresses of people who use implantable or prescribed home-use medical devices. This information would be submitted voluntarily by the users of the devices.

This bill would also require manufacturers and distributors of medical devices to notify the registrar if a device could pose a risk to the health or safety of someone who is using them — presumably, someone who is on the list.

Several times over the past few years there have been requests to establish patient registries for medical devices. For example, the Independent Advisory Committee on Silicon Gel-filled Breast Implants report of 1991 recommended the establishment of implant registries for all implanted medical devices.

Several private members' bills have been tabled in the other place requesting the establishment of a patient registry for breast implants. The goal of the registries in these cases would be to conduct further research regarding the complications associated with implants, to define the extent of use in Canada and to facilitate locating patients if risks were identified.

Health Canada has reviewed the issue of establishing and maintaining a national registry of medical devices in the past, looking, in particular, at the potential benefits and associated costs of registries for medical devices in general.

Under the current regulatory regime, Health Canada has the authority to regulate the safety of medical devices and the manufacturers. The role of the provinces and territories is to regulate physicians and the practice of medicine. This means that any requirement for physicians to maintain or provide patient data to a registry would need the support of the provincial and territorial governments.

Establishing an implant registry raises a number of issues, including provincial and territorial funding, the benefits of a registry versus its costs and the need to ensure privacy and informed consent.

Registries are restricted in collecting data because of privacy concerns. An additional issue is that such registries are voluntary both for surgeons and patients who must consent to the use of their private information.

There are very real obstacles to implementing any implant registry. Depending on the information to be gathered and whether the system is voluntary or mandatory, the registry would

need to conform to privacy laws and to the Canadian Charter of Rights and Freedoms. Any relevant legislation would have to conform to the Constitution.

The fact is that while registries may provide a mechanism for contacting patients who have chosen to enrol and maintain their personal data on file, they are not a replacement for randomized clinical trials or other carefully designed studies.

Registries cannot lead to accurate estimates of incidents or outcome rates, nor can they be used to compare different treatment options. Implant registries may be initiated and maintained by other organizations, all of which operate on the premise of informed consent and privacy information. These include organizations such as MedicAlert and the Canadian Institute of Health Information, known as CIHI. Registries established by these organizations are intended to gather information in a post-market setting or to provide a service to an individual for a fee.

The government has, in the past, assisted other private organizations in the development of specific registries, such as the Canadian Joint Replacement Registry operated by CIHI.

The implementation of a patient registry system at the national level would come at significant financial costs. Such a system would have to meet the need of physicians, patients and researchers. It would require sufficient staff and resources to monitor, detect and respond to safety flags immediately.

• (1540)

The high costs and difficulties of the implementation are not offset by any additional benefits. There are already mechanisms in place under the Medical Devices Regulations that meet the needs of patients and physicians. Among these regulatory requirements are mandatory problem reporting requirements imposed on manufacturers. In addition, peer-reviewed research and prospective clinical outcomes are obtained from patient registries worldwide, which contain far more information than would be possible to collect from within Canada.

Health Canada monitors these sources of information as part of the post-market surveillance of licensed products. Furthermore, manufacturers of medical devices are already required to maintain a registry of the devices they have sold as listed under schedule 2 of the regulations. The devices listed in this schedule are high-risk, implantable devices that need to be monitored.

The information collected includes a unique hospital identifier number. The hospital can link this unique identifier to personal information provided for a patient at the time of surgery. The patient also receives an implant registration card clearly identifying the manufacturer and device that he or she received during surgery. The information card is only passed by the manufacturer if the patient provides his or her consent to participate in the process.

In the event of a problem with a medical device, the manufacturer can provide the patient identifiers involved through the hospitals. The hospitals are then responsible for finding which patients and surgeons are involved, and the manufacturer is responsible for issuing any warnings regarding the devices. This is currently provided under the Medical Devices Regulations.

In addition, Health Canada provides general notices and safety alerts regarding device problems to all hospitals and physicians potentially affected in Canada as well as to the general public. This approach strikes an appropriate balance between privacy rights and the mitigation of risks to health.

Health Canada cannot force hospitals or physicians to fill in the cards or patients to provide their consent to the collection and maintenance of their personal information by the hospital or clinic.

The benefits of the establishment of a voluntary national registry, in addition to the current mandatory system in place, for the reporting of device-related problems to Health Canada under the Medical Devices Regulations are not clear. Similar problems with reporting mechanisms exist at the provincial level regarding the provision of medical services and physician care.

In conclusion, mechanisms and requirements are already in place that meet the needs of physicians and patients. If a national registry is established that requires physicians to provide and maintain patient data, perhaps it is the provincial and territorial governments that should be taking on the task.

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

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** It was moved by the Honourable Senator Harb, seconded by the Honourable Senator Adams, that Bill S-222 be read a second time now.

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**The Hon. the Speaker *pro tempore*:** All those in favour of the motion please say “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker *pro tempore*:** All those opposed to the motion please say “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker *pro tempore*:** In my opinion, the “nays” have it.

*And two honourable senators having risen:*

**Hon. Terry Stratton:** It will be a thirty-minute bell.

**The Hon. the Speaker *pro tempore*:** Call in the senators.

• (1610)

Motion agreed to and bill read second time on the following division:

YEAS  
THE HONOURABLE SENATORS

Adams  
Bacon  
Banks  
Campbell  
Chaput  
Cook  
Cools  
Corbin  
Cordy  
Dawson  
Day  
De Bané  
Downe  
Eggleton  
Fraser  
Gill  
Hubley

Jaffer  
Joyal  
Lovelace Nicholas  
Mahovlich  
McCoy  
Mercer  
Mitchell  
Moore  
Pépin  
Peterson  
Phalen  
Ringuette  
Robichaud  
Rompkey  
Stollery  
Watt—33

NAYS  
THE HONOURABLE SENATORS

Andreychuk  
Angus  
Brown  
Champagne  
Cochrane  
Comeau  
Di Nino  
Gustafson  
Johnson

Keon  
Meighen  
Murray  
Nancy Ruth  
Nolin  
Prud'homme  
St. Germain  
Stratton  
Tkachuk—18

ABSTENTIONS  
THE HONOURABLE SENATORS

Nil

REFERRED TO COMMITTEE

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

On motion of Senator Tardif, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

• (1620)

PERFLUOROCTANE SULFONATE  
VIRTUAL ELIMINATION BILL

THIRD READING

**Hon. Tommy Banks** moved third reading of Bill C-298, An Act to add perfluorooctane sulfonate (PFOS) and its salts to the Virtual Elimination List under the Canadian Environmental Protection Act, 1999.—(*Honourable Senator Banks*)

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

Motion agreed to and bill read third time and passed.

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

### BUDGET—STUDY ON ISSUES RELATED TO FOREIGN RELATIONS—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Foreign Affairs and International Trade (budget—study on foreign relations in general), presented in the Senate on April 10, 2008.—(*Honourable Senator Di Nino*)

**Hon. Consiglio Di Nino:** Honourable senators, I move adoption of the item standing in my name.

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

Motion agreed to and report adopted.

### STUDY ON AFRICA—OVERCOMING 40 YEARS OF FAILURE: A NEW ROAD MAP FOR SUB-SAHARAN AFRICA—MOTION TO PLACE COMMITTEE REPORT Tabled DURING PREVIOUS SESSION ON ORDER PAPER—DEBATE CONTINUED

On the Order:

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

That the seventh report of the Standing Senate Committee on Foreign Affairs and International Trade entitled *Overcoming 40 Years Of Failure: A New Road Map For Sub-Saharan Africa*, tabled in the Senate on February 15, 2007, during the First Session of the Thirty-ninth Parliament, be placed on the Orders of the Day for consideration at the next sitting of the Senate.—(*Honourable Senator Cools*)

**Hon. Anne C. Cools:** Honourable senators, I rise to speak to this motion. I believe I will need a few extra minutes. I thought it would be a good idea to ask for leave at the outset, earlier than later. Can I be allowed an additional five minutes, honourable senators?

**Hon. Senators:** Agreed.

**Senator Cools:** Thank you very much, honourable senators. I speak today to Motion No. 76. This was moved by Senator Di Nino, the newly constituted Chair of the newly constituted Standing Senate Committee on Foreign Affairs and International Trade in this new session, the Second Session of the Thirty-ninth Parliament. The new chairman of a new committee seeks the adoption of this motion to place this old report from the previous session of a now non-existent Senate committee also of the previous session on the Orders of the Day for consideration at the next sitting of the Senate.

This motion proposes a parliamentary retroactive action, a constitutionally posthumous proceeding. Such an action is attended by huge problems.

Honourable senators, on November 29, 2007, a senator for whom I have great respect, Senator Stollery, a Toronto senator, moved a related motion on the same seventh report. Senator

Stollery asked the Senate to adopt it, even though this report was not then, nor since then, before the Senate. Senator Carstairs questioned this parliamentary irregularity and raised a point of order, to which several senators, myself included, spoke. Senator Carstairs said at page 366 of the *Debates of the Senate*:

We are asked to approve a motion to approve a report, but the report is not before us.

She continued:

However, although we now have a motion before us, we do not have the report.

A few lines later, Senator Carstairs again said:

. . . I reiterate, the report is not before us.

Honourable senators, when I spoke, I noted that committee reports are usually placed before the Senate by senators presenting them under our rubric, Presentation of Reports. Thereby, the Senate receives the report. I said, at page 368 of the *Debates of the Senate*:

In addition, the matter is not before this house at all because it has not been introduced or presented. This motion states that “the seventh report . . . be adopted.” Before we can adopt a report, honourable senators, we must take it into our possession, into our cognizance.

Honourable senators, on this point of order, Senator Stollery said, at page 368 of the *Debates of the Senate*:

. . . I consulted at the highest levels here in the Senate as to how to proceed. I did not invent this procedure myself. . . . Those were my instructions. I do not know what else I can do when I am told that by the most senior officers in the Senate.

He continued:

I was told that it was not necessary to reintroduce the report because it is already a public document.

Senator Stollery continued:

. . . I am somewhat surprised, when I follow the recommendation of the officials and do what I am supposed to do, that I find myself in this situation.

I was sorry, honourable senators, that Senator Stollery, my Toronto colleague, found himself in this position.

Honourable senators, the Senate Speaker ruled on the point of order on December 11, 2007. He ruled that Senator Stollery's motion was out of order. He sustained Senator Carstairs' point of order, terminated the debate on the motion, and ordered that it be discharged from the Order Paper. Senator Stollery, the Deputy Chair of the Standing Senate Committee on Foreign Affairs and International Trade, passed the torch to Senator Di Nino, the new chair. After Christmas recess, on February 5, 2008, Senator Di Nino moved this motion, the question now before the Senate.

Honourable senators, the problem remains the same now as then. Senator Di Nino's motion is before us, but the report is not.

Honourable senators, I repeat that. The problem remains the same now as then. Senator Di Nino's motion is before us, but the report is not. We are in exactly the same position. We have a motion, but we still do not have the report. The Senate still does not have possession or cognizance of the seventh report of the Foreign Affairs Committee of the previous session. Consequently, we cannot vote on Senator Di Nino's motion. It is insufficient for the same reasons that Senator Stollery's motion was. The fact is, honourable senators, that there are significant and unavoidable parliamentary obstacles to the persistent and stubborn attempts to employ Senate practice to defeat and oust the law of prorogation. These difficulties are not as easy to overcome as the proponents say. The purpose of a prorogation is to entirely terminate all Senate proceedings. In Senator Di Nino's favour, his wording for his motion was drawn from the Senate Speaker's ruling of December 11, 2007, on Senator Carstairs' point of order.

• (1630)

Honourable senators, I shall quote the Speaker's ruling, but before I do that I wish to state that I have great admiration for the Speaker of the Senate, Senator Kinsella. He is an accomplished senator whom we are honoured to have in that position. Senator Kinsella was very thoughtful. He was most helpful in his ruling but in helping, he, in his ruling, went somewhat beyond the scope of the point of order. This ruling offered extensive advice and suggestions to Senator Stollery as to how best to achieve the objectives of his motion.

In the courts lower than this, the High Court of Parliament, such suggestions or voluntary offerings are characterized as *obiter dicta*. *Obiter dicta* are words of opinion that are not part of the decision, and are not necessary for the judgment or decision of the case. These words of opinion are not binding as precedent or as law.

This freely offered guidance was given as a series of suggestions and options as to how Senator Stollery could proceed. Senator Kinsella's ruling said, at page 465 of the *Debates of the Senate*:

The motion moved by Senator Stollery paralleled the 2004 example, and, accordingly, it was properly drafted in the light of that ruling.

He continued later:

In light of these problems, it would be more appropriate to find a different approach to reach the objective sought by Senator Stollery in his motion.

The Speaker's ruling was attentive to doing justice for Senator Stollery. The ruling dedicated several pages to prolific descriptions of the different options and different approaches that Senator Stollery could use to bring a new motion to achieve his objective, mainly the Senate's adoption of the seventh report of the Foreign Affairs Committee from the previous session.

Of the several approaches recommended to Senator Stollery in the Speaker's ruling, Senator Di Nino chose to employ the Speaker's ruling's "second approach." The Speaker's ruling stated:

A second approach might be to follow the process outlined in citation 890 of the sixth edition of *Beauchesne's*. . . Taking into account the citation and Senate practice, a motion might be moved, on notice, to place a report from a previous session on the orders of the day for consideration at the next sitting.

Honourable senators, this "second approach" we will now see generates a whole new set of difficulties. Senator Di Nino's motion purports to follow the ruling's exact words. This "second approach" from the Speaker's ruling prescribes a two-motion process, being first the motion to place the report on the Orders of the Day for consideration at the next sitting and, that sitting having come, then the second motion, the motion to adopt the report. I repeat: The Speaker's suggestion is a two-motion process.

Honourable senators, the problem is that even though the Speaker's "second approach" with its two-motion process appears to follow *Beauchesne's* citation 890, it in fact does not. It seems that *Beauchesne's* citation 890 prescribes a three-motion process, not the two-motion process that the Speaker's ruling suggested and described.

*Beauchesne's* requires a three-motion process being, first, the motion to obtain the Senate's judgment as to whether the Senate even wishes to entertain, to even consider a report from a previous session in the current session. If such a motion is negated the matter is ended. If such a motion is adopted, then the second motion is required to place the report on the Orders of the Day for the appointed day for its consideration. If that motion is adopted then yet another motion — the third motion — the motion to adopt the report itself, is required.

*Beauchesne's* citation 890 says:

If the House is to debate a report from a previous session, a motion, with notice, must first be made in the House that the report of the said committee be considered during the current session, and, if such a motion is carried, the House may appoint a day for the consideration of that report.

Undoubtedly, honourable senators, citation 890 of *Beauchesne's* prescribes that Senator Di Nino must move another motion prior to his motion that is currently before us today — a motion prior to that. This neglect is sufficient to disable or cripple Senator Di Nino's motion entirely.

Honourable senators, I wish now to say a word about His Honour, the Speaker, Senator Kinsella. The Senate Speaker is one of the high offices of state in Canada and the world. It is currently occupied by Senator Kinsella, a distinguished academic and a person for whom I have great respect and great affection. In addition, he brings to his office many unique capabilities and gifts, including his facility in languages and his knowledge of international affairs. He is respected for his international and domestic efforts, which have been well fortified by his countless years of work and study on issues of social justice. In addition, he is always ably supported by his dedicated, hard-working assistant Janelle Feldstein.

Honourable senators, I move now from the individual incumbent Senator Kinsella, on to the constitutional role of Senate Speakers' rulings.

Constitutionally, the Senate Speaker's ruling is a circumscribed role. The proper role of a Speaker's ruling is to express an opinion, a judgment on the point of order raised. Speakers' rulings cannot anticipate, dictate or direct future actions, future motions or future debate in this place.

Speakers' rulings cannot be used to found motions that are flawed, defective or insufficient. Speakers' rulings are not tools of advice. They are what they are, rulings. Speakers' rulings can neither defeat the law of Parliament nor the law of the prerogative, particularly the law of prorogation.

Honourable senators, the Senate Speaker has been fair in his ruling. He agreed with Senator Carstairs that Senator Stollery's motion was out of order. Simultaneously, he treated Senator Stollery fairly and justly.

Honourable senators, I believe that there is yet another parliamentary cause for concern in this matter before us. I have not been able to find in the committee record a statement that the seventh report of the Foreign Affairs Committee was adopted by the committee. It may be there; it may have happened. I have not been able to find the record. My concern is that if the Senate were to adopt the seventh report, the Senate would be deciding for the committee. Such a decision is constitutionally objectionable.

Honourable senators, in conclusion, I wish to say that the problems with this motion are too many and too complex that they simply cannot be sorted out here on the Senate floor. We have Senate committees to assist the Senate with these difficult issues.

• (1640)

Honourable senators, I wish to cite from Sir John George Bourinot's *Parliamentary Procedure and Practice in the Dominion of Canada*, fourth edition, published in 1916, where he says at pages 102 to 103:

The legal effect of a prorogation is to conclude a session; by which all bills and other proceedings of a legislative character depending in either branch, in whatever state they are at the time, are entirely terminated, and must be commenced anew, in the next session, precisely as if they had never been begun.

Honourable senators, in recapitulation, I repeat the difficulties: First, the report in question is not before us. I chose not to raise a point of order on this issue. I did not think it was a wise, prudent or good thing to ask the Speaker to rule on his own ruling of a few weeks ago. Second, the notion of constitutionally posthumous adoptions of reports is inherently problematic. Those problems have to be overcome. Third, the common law eschews retroactivity, and the very fact of this retroactivity in Senate proceedings engages all the risks and uncertainties that parliamentary retroactivity entails. The fourth problem, honourable senators, is the inherent difficulty surrounding these attempts to defeat the law of prorogation. Fifth, and most

important for the purpose of this particular issue, is the fact that this motion does not conform to the practice required by *Beauchesne* 890, as it purports to do.

Honourable senators, the Speaker's suggestions are precisely suggestions, *obiter*, arising from him, not from the debate, and those suggestions have never been tested.

Honourable senators, no point of order, no Speaker's ruling and no debate here can sort out this now complicated and I would say confounded matter. The question has been deeply confounded. In my view, honourable senators, the only practical solution is that the Standing Senate Committee on Foreign Affairs and International Trade must take possession of this motion before us and come to the Senate with a recommendation as to how properly to move ahead.

Consequently, the Senate must commit Motion No. 76 to the Standing Senate Committee on Foreign Affairs and International Trade, and therefore, honourable senators, I move, pursuant to rule 59(2):

That the question now before the Senate be referred to the Standing Senate Committee on Foreign Affairs and International Trade for examination and report.

Honourable senators, there was another suggestion in the Speaker's ruling to the effect that a motion should or could have been brought to come to the house and ask for a new reference on Africa. Had that been done, the entire situation might have been resolved, because I have no doubt that senators would have agreed. However, to the extent that it is where it is and has become further confounded, I can see no other practical solution other than to ask the committee to look at the motion itself. Senator Di Nino and Senator Stollery are extremely well placed to do that. They are chair and deputy chair of the committee, and they would have ample opportunity to look at the whole situation and report back to the Senate very swiftly as to how to move ahead.

The fact is that this matter before us is extremely disabled and should not be voted on because the report is still not before us. If we were to read with thorough care the first part of the *Beauchesne's* citation 890, where the Senate has to be asked whether or not it wants to look at a report from the previous session, within that, one would understand that obviously, the report would be presented or brought forward to the Senate.

Honourable senators, I thank you for your patience and for your time. These issues are quite often far more complicated than they appear at first blush. There are parliamentary ways to proceed, and there are unparliamentary ways to proceed. The proposal I put forward I believe is the proper way to proceed.

**The Hon. the Speaker *pro tempore*:** The time allotted for Senator Cools is over. It was moved by Senator Cools, seconded by Senator McCoy, that pursuant to rule 59(2):

That the question now before the Senate be referred to the Standing Senate Committee on Foreign Affairs and International Trade for examination and report.

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



**Hon. Peter A. Stollery:** Honourable senators, this affair has now gone on for more than a year. I remind senators that in this Parliament, this issue has been dealt with twice. It has gone to the committee, and the committee has authorized Senator Di Nino or me to undertake the steps, which we took. We received these instructions twice.

The other point I would make, honourable senators, is that the entire underlying argument is to ensure that senators do not have an opportunity to vote as to whether or not they approve of this report. It is not a question of whether they like or do not like the report. There has been an attempt for the past year to ensure that the issue is not dealt with and that senators do not have the right to vote on the report. That is all the committee has asked since the report was tabled in the last Parliament. I do not think it reflects well on us that we are unable to deal with an item of public business. I think we should be able to deal with an item of public business, which, as I will remind senators tomorrow, has become a report that has been accepted worldwide. It seems the Senate, a committee of which produced the report, is unable to take a decision.

**Hon. Consiglio Di Nino:** Honourable senators, my intent is to first thank Senator Cools for her intervention. She has raised a number of interesting issues, some of which are complex. Obviously she has done a great deal of work in looking at the laws behind this issue. In thanking her, I would adjourn the debate so that we can look at it and I can respond appropriately, unless someone else wishes to speak.

#### POINT OF ORDER

**Hon. Eymard G. Corbin:** On a point of order, honourable senators, I had some difficulty in following all the intricacies of Senator Cools' reasoning on this matter. One thing struck me though, and that was comments about the previous Speaker's ruling.

Rule 65(2), under the heading of "Voting in Part VIII" of the *Rules of the Senate*, reads, "In the absence of a request for a standing vote, the decision of the Speaker is final."

I ask myself: How long is the finality of a Speaker's ruling? Is it at the instant he makes his ruling or, on the other hand, can it be debated in subsequent debate?

• (1650)

I say this with some reservation because I had difficulty following some of the arguments, but it seems that part of the comments about what was supposed to be a speech were really a larger point of order that Senator Cools raised. Some of the comments sounded to me like a challenge to the Speaker's previous ruling.

**Senator Cools:** No.

**Senator Corbin:** The honourable senator says no. I ask for a ruling on that matter.

**Hon. Pierre De Bané:** Honourable senators, I stand with great sadness to correct some of the statements of my colleague Senator Stollery. He said, as honourable senators have heard, that the whole world agrees with the report.

**The Hon. the Speaker *pro tempore*:** I remind Senator De Bané that there is a point of order that has been raised by Senator Corbin. I ask the honourable senator if he wishes to speak on that point of order, which is the finality of the Speaker's ruling — how long that ruling is in effect. Does the honourable senator wish to speak on the point of order?

**Senator De Bané:** I will sit, and I hope I will have the chance to comment.

**Hon. Joan Fraser:** Honourable senators, I am torn because the two speakers in question are among our most careful and thoughtful students of procedure in this place. When in doubt, I tend to think that clarification is usually helpful.

Having listened to Senator Cools, I believe she was at some pains not to quarrel with the Speaker's ruling. I heard her say more than once that she agreed with the ruling and that the Speaker had done a fine job. Clearly, if she had been Speaker, the ruling might not have been identical. Nonetheless, Senator Corbin has a point when he suggests that the overall burden of her remarks was to make us think again about the Speaker's ruling.

I argue, therefore, Your Honour, that narrowly, the Speaker's ruling is final and Senator Cools did not challenge that. However, I think Senator Corbin has done us a service in asking for a ruling on this matter. I ask that you take the point of order under advisement and give us a good, considered, although speedy decision on this matter. I think it would be helpful for us all as we go forward.

[*Translation*]

**Hon. Marcel Prud'homme:** Honourable senators, I wish to say that there is no point of order. I have no objection to Senator Fraser's very justified attempt to allow the Speaker to ponder the question.

I think that the point Senator Cools raised was not to challenge a Speaker's ruling. I was about to take the adjournment of the debate since the points raised by Senator Cools must be taken into consideration, as well as those raised by Senator Corbin and Senator Stollery.

[*English*]

In view of all the points raised by Senator Stollery, Senator Corbin and Senator Cools, the admonishment of Senator Fraser leads me to believe that there are more senators than one may think who have a great interest in this decision.

I know that I was intending to take the adjournment, not because I really want to talk about it, but because I know Senator Andreychuk and Senator De Bané, very faithful members of that committee, have much to say and would like to speak on this issue.

In view of this imbroglio, I submit that the Speaker might take under advisement the wise call by some to revise and in due time return to the Senate with further advice as to our conduct.

**Hon. Anne C. Cools:** Honourable senators, I may not have spoken clearly enough. I wish to take a few minutes to explain what I meant so that there will be no misunderstanding about what I did not mean.

I would like to begin with the Senate rule that Senator Corbin has cited, rule 65(2). Rule 65(2) is that the Speaker's decision is final:

In the absence of a request for a standing vote, the decision of the Speaker is final.

Honourable senators, the Speaker's decision has not been questioned in any form or fashion in this debate. The Speaker's decision has not been questioned by me.

Let us be crystal clear that in any statement in jurisprudence, there are many statements made that are not part of the decision. I was crystal clear to say that what I was citing came not from the decision; it came out of the ruling, but it was around his suggestions. I explained the definition of *obiter dicta*. They were three suggestions that the Speaker freely offered to assist Senator Stollery. It would take a wild imagination to define those suggestions as part of the decision. I want to be crystal clear on this, honourable senators; I have not questioned then and I am not questioning now the decision of the Speaker.

The decision, as the Speaker gave it, was essentially a few words, because I recited it. He declared the motion out of order and he declared the item struck from the Order Paper. That is the decision.

The other parts of the ruling describing events and the narrative are not the decision. When the Speaker says Senator Cools took part in the discussion, and Senator Carstairs and many others joined, all that is narrative. The scope and intention of this rule 65(2) is extremely circumspect, honourable senators. The rule does not say the Speaker's ruling. It does not say every word uttered out of the Speaker's mouth. It is very circumspect and limited to the decision.

The margin note for rule 65(2) says "Speaker's decision final." In the absence of a request for a standing vote, the decision of the Speaker is final. Honourable senators, the finality is decided by that fact. That particular rule is directed solely to the question as to whether or not honourable senators wish to appeal the Speaker's ruling by a vote of the Senate.

Honourable senators, I was very circumspect; I was extremely careful and I chose my remarks very carefully.

I want to proceed to the other point. The Speaker, as I said, went to great pains to describe options, called "approaches," for Senator Stollery. This motion by Senator Di Nino is based on one. I do not believe, honourable senators, that anyone can say here, in any judicious way, that a motion which happens to borrow the words from the Speaker's ruling cannot properly be debated here. I do not think anyone could possibly assert that.

As soon as anything comes onto this floor in the form of a motion, asking for a conclusion or adoption and a judgment of the house, that of itself is a debatable action. One cannot say that

those parts of the Speaker's ruling, the narrative, are not open to debate. If they are not open to debate, to me this motion is even more out of order because it was quoted from the narrative in the Speaker's ruling.

• (1700)

Honourable senators, there is so much confusion on so many parliamentary points that I despair sometimes that any of this will ever be sorted out. That was why I chose to ask the committee to look at this motion; I did not ask for the Speaker's ruling to be referred to the committee. That is an open option. I did not do that.

I was trying to make the point that, if the committee is so interested in the report, it should submit it to the right process. The right process was to come here and ask for a reference to study Africa again. Having received that reference, the committee may then include and adopt the old report.

One simply cannot circumvent parliamentary process by asserting or adopting the posture that you cannot question it because it comes out of a Speaker's ruling. In my mind, that impugns the Speaker because you are raising the question whether he should be making suggestions in his rulings.

However, that is not my point. My point is it is inherent in this situation — the first motion and now the second motion — are difficult problems which simply can not be overcome in such a simplistic way. It has now reached a confounded situation, as I said before.

Honourable senators, I do not want any embarrassment whatsoever to the Speaker. The Speaker knows what I think of him; the Speaker knows of the high regard I hold for him.

The best way to proceed is to take this motion completely away from the Speaker's ruling. Let the committee look at it and let a judgment be formed in the committee as to how best the Senate should proceed. If there was ever a situation where the Senate clearly needs the advice of its committee, it is now.

On a very personal point, I want to say I am a great defender of these institutions and I really believe in the system of Parliament. I do not think the Senate, the Speaker or any of these institutions have a greater defender than me, honourable senators. I take Senator Corbin's point. I believe there is no negative intention. However, the rule that he is speaking about is confined to that one part of the Speaker's statement called the decision. I looked at that very carefully, honourable senators.

**The Hon. the Speaker *pro tempore*:** Honourable senators, I want to thank you for all your observations, your points and thank those who have spoken to the point of order. The Speaker has heard your words. I will seek advice and return with a decision.

**Senator De Bané:** It is with great sadness that I would like to comment on what Senator Stollery said. Honourable senators have all heard that he said that the report was approved by the whole world. He also said that the Standing Senate Committee on Foreign Affairs and International Trade passed a motion asking the Senate to approve the report.

**Senator Cools:** Point of order. I believe the Speaker took the point and, therefore, the debate cannot continue.

**The Hon. the Speaker *pro tempore*:** It is not a point of order.

**Senator De Bané:** That motion was never passed by the Standing Senate Committee on Foreign Affairs and International Trade for the very simple reason that Senator Stollery put it before the committee and the chair ruled that motion out of order.

**The Hon. the Speaker *pro tempore*:** I am sorry, Senator De Bané. We have made the decision that we will take advice and return if there is a point of order. The debate is closed.

**Senator De Bané:** I will speak to it at a later date. Thank you.

On motion of Senator Di Nino, debate adjourned.

[*Translation*]

### THE SENATE

#### MOTION TO URGE GOVERNMENT TO NEGOTIATE FREE TRADE AGREEMENT WITH EUROPEAN UNION— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Keon:

That the Senate call upon the Government of Canada to engage in negotiations with the European Union towards a free trade agreement, in order to encourage investment, free movement of people and capital.—(*Honourable Senator Fraser*)

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, given the importance of this motion, I would like to adjourn the motion in my name because I would like to take more time to prepare my notes.

On motion of Senator Comeau, debate adjourned.

[*English*]

#### MOTION TO URGE GOVERNMENT TO RECOGNIZE SERVICE OF BOMBER COMMAND IN LIBERATION OF EUROPE DURING WORLD WAR II— DEBATE ADJOURNED

**Hon. Michael A. Meighen,** pursuant to notice of February 14, 2008, moved:

That the Senate urge the Government of Canada to take appropriate steps to end the long and unjust delay in recognition of Bomber Command service and sacrifice by Canadians in the liberation of Europe during the Second World War.

He said: Honourable senators, I realize the hour is late, but I will want to speak on what I think is an important motion. I hope a number of other honourable senators will share my view.

This motion urges the Government of Canada to take appropriate steps to end the long and unjust delay in recognition of Bomber Command service and sacrifice by Canadians in the liberation of Europe during the Second World War. It touches on a subject of great importance in the history of our nation.

All Canadians, honourable senators, who served or who currently serve in uniform are recognized for their service and sacrifice in some fashion. Whether it is by means of a medal such as the Air Crew Europe Star, monuments such as the Canadian National Vimy Memorial or annual ceremonies such as the Battle of the Atlantic Ceremony in Ottawa every May, Canadians do what they can to recognize those who serve our country.

• (1710)

Unfortunately, we have long neglected to recognize the particular service and unequalled sacrifice of a substantial number of our countrymen who flew with the Royal Air Force's Bomber Command. These airmen, far too many of whom paid the ultimate sacrifice, have never been singled out for their deeds of heroism which played such an important role in the liberation of Europe.

Royal Air Force Bomber Command consisted of various groups and began the war with groups one through five. During the war, Bomber Command grained a new group, that being 6 Group, which was unique in the fact that it was an entirely RCAF unit attached to Bomber Command.

Throughout the Second World War, RAF Bomber Command dropped over one million tons of bombs on Europe. A total of 12,330 aircraft were shot down or damaged beyond repair. As a result of the close relationship between the British and Canadian air forces, 9,183 RCAF aircrew served in RAF squadrons and 7,917 served in RCAF squadrons within Bomber Command.

Canada activated the 6 Group on January 1, 1943, over 65 years ago. It was arguably the most powerful strike force that Canada had ever created. RCAF 6 Group grew to 15 squadrons and formed an important part of RAF Bomber Command. By the end of the war, Canadian squadrons had flown 40,822 sorties and a total of 814 aircraft were lost.

I cite these statistics, honourable senators, because in the context of the war and of other operations, they are really quite astonishing. Canadian airmen flew various aircraft including the Hampden, Halifax, Wellington and Lancaster bombers. Their 10 bases were located in Northeast England and were much further from targets in Germany and occupied Europe than the RAF squadrons to the south. Limited manoeuvring space, factory smoke and frequent fog created further hazards for aircraft returning from dangerous missions, often severely damaged.

Prior to Canada's contribution to Bomber Command, we had only one bomber squadron based in Halifax. The ill-equipped, open cockpit, two-seater Westland Wapiti bi-planes were hardly anything to brag about.

Two years later, the first RCAF bomber unit was formed overseas. The 405 Squadron was equipped with twin-engine Vickers Wellingtons. The squadron flew its first mission on June 12 and 13 against railway marshalling yards in Germany. By

the end of the year, Canada had established Squadrons 408 and 420 that consisted of twin-engine Handley Page Hampdens, and 419 Squadron equipped with Vickers Wellingtons, popularly known as “the Wimpy” by service personnel.

Francophone units were established in 1942, namely 424 Squadron, 425 Squadron and 426 Squadron, all of which flew Vickers Wellingtons. Later that year, 427 Squadron, 428 Squadron, 429 Squadron and 431 Squadron were quickly stood up, all again equipped with Vickers Wellingtons.

In 1943, 420 Squadron, 424 Squadron and 425 Squadron were detached to Tunisia in North Africa to support the invasions of Sicily and mainland Italy. The result was the creation of three more squadrons: 432, 433 and 434. The groups' final total of 15 squadrons was realized when 415 Squadron returned from its detachment to Coastal Command in July 1944.

New upgraded aircraft followed throughout the war. Four squadrons were equipped with four-engine Handley Page Halifaxes and 11 squadrons with four-engine Avro Lancasters.

Casualty rates for those serving in Bomber Command were astonishing, second only to German U-boat losses. In the end, 60 per cent of airmen died, 3 per cent were seriously wounded, 12 per cent became POWs, 1 per cent evaded capture and only 24 per cent were unharmed. To put those statistics into further perspective, the survival rate for two tours in Bomber Command was 5 per cent. The first tour of operations consisted of approximately 30 sorties, and the second tour, if one survived the first, was 20 sorties. In total, 55,573 pilots were killed, including 9,980 Canadians.

Ninety-one members of the Women's Auxiliary Air Force also lost their lives while on duty with Bomber Command. A total of 10,999 members were taken prisoner — Senator Kenny's father was one — and 8,403 were wounded. As many as a thousand who were shot down evaded capture and made their way back to Britain to fly again. As 6 Group grew exponentially and although casualty rates were still enormous, Canadians became more accurate with their bombing and suffered fewer casualties than any of Bomber Command's five other groups.

Canadians are well aware of events such as D-Day, but the tremendous sacrifice by Bomber Command is sadly overlooked. For example, on D-Day, 275 Canadians died on the beaches and 628 were wounded. In comparison, on the nights of March 30 and 31, 1944, on a single raid to Nuremberg, 95 Bomber Command aircraft were lost and more than 700 aircrew perished. In comparison, during the entire Battle of Britain, Fighter Command lost 544 aircrew, and subsequently their victory was recognized by a special award to those who had been involved and memorials were erected at Folkstone and on the Victoria Embankment in London.

Honourable senators, it is time for both Canada and Britain to construct an equivalent memorial to recognize the almost 18,000 Canadians who participated in Bomber Command and, of those, the almost 10,000 Canadians who lost their lives.

[ Senator Meighen ]

One need only visit the Heverlee War Cemetery, just outside of Louvain, Belgium, to gain some sense of the losses suffered by Bomber Command. There are almost 1,000 headstones for members of Bomber Command in that cemetery and in some instances whole crews are buried side-by-side.

Unlike other World War II campaigns, such as the Battle of Britain, no special recognition by means of a medal or other visible citation has been awarded to Bomber Command aircrews. Personnel involved in a number of campaigns during the war were recognized by a medal, a rosette or a clasp to be attached to the theatre medal. Participants in Bomber Command were never given any such recognition. The injustice and failure to recognize the unmatched valour and impact on the victory of Bomber Command aircrew is a national shame, in my view, that has lasted for over 60 years.

Although this motion urges the Canadian government to take action to recognize those individuals, our government must work with the British government since, during the war, Bomber Command was a component of the Royal Air Force and over half of RCAF aircrew served in RAF squadrons. The British government must take the lead, but the Canadian government must diligently pursue this matter to ensure it is brought to fruition. One option is for the British government to agree to create a rosette or similar device to be affixed to the Allied Aircrew Europe Star medal and to be awarded to all Bomber Command aircrew, including Canadians, who flew against the enemy over Europe during the last war.

Honourable senators, approximately 30,000 Bomber Command pilots and aircrew are still alive, as well as the next of kin of those who were killed in action or who have since died who would accept this recognition I am proposing with pride. Although as time passes we regretfully lose more and more veterans of this unbelievably stupendous undertaking, it is not too late to honour those still with us and the souls of those who have passed on.

British Prime Minister Gordon Brown recently announced that the surviving 15 women and 100 men who served in the Air Transport Auxiliary or ATA will be honoured with a special merit award for their participation in the Second World War. Those being honoured were involved in a civilian organization charged with ferrying new and repaired Spitfires, bombers and other aircraft from factories to destinations including active service squadrons and airfields. Clearly, it is not too late to honour those who served in Bomber Command.

The importance of Bomber Command to the Allied victory was summed up eloquently in the words of Sir Winston Churchill in a letter to Sir Arthur Harris in February 1944:

All your operations were planned with great care and skill. They were executed in the face of desperate opposition and appalling hazards, they made a decisive contribution to Germany's final defeat. The conduct of the operations demonstrated the fiery gallant spirit which animated your air crews and the high sense of duty of all ranks in your command. I believe that the massive achievements of Bomber Command will long be remembered as an example of duty nobly done.

• (1720)

Honourable senators, it is time that we remember the high sense of duty that these men and women demonstrated and the monumental achievements of Bomber Command. The time to recognize the service and sacrifice of those Canadians who participated in Bomber Command is long overdue. I therefore urge all senators to support this motion so that these veterans may obtain the recognition they so richly deserve.

**Hon. Serge Joyal:** Will the honourable senator entertain a question?

**Senator Meighen:** Certainly.

**Senator Joyal:** I congratulate the senator for his initiative. The more we listen to him, the more we are convinced that his proposed objective is worthwhile.

Am I right in concluding from the honourable senator's presentation that all Canadians who served under British Command were never awarded medals or in receipt of special recognition by the British authorities?

**Senator Meighen:** I thank the honourable senator for the question. It is my understanding that the only recognition they were awarded was the Air Crew Europe Star. I suggest that our government urge the British government to create a specific recognition for Bomber Command. The Air Crew Europe Star was a general, wide-ranging award so I hope we can obtain a particular recognition for Bomber Command veterans.

**Senator Joyal:** Is there an objection in principle by the Canadian government to create such an award?

**Senator Meighen:** I asked the same question and was told that because these veterans served under the aegis of the RAF Bomber Command, the British government must create the special medal or recognition. I am at a loss to understand why, notwithstanding their service under British Command, we cannot strike our own medal or other form of recognition, but I am told that is the case. The Australians are of the same view and are joining with us in petitioning the British government to create this recognition.

**Senator Joyal:** Is it the same argument that prevented the Canadian government from erecting a monument to perpetuate the service of those persons active at that level?

**Senator Meighen:** That question is an interesting one. At first blush, I would say it is not the same. Some unofficial monuments have been created, and I see Senator Banks nodding in agreement. The monument was not erected by the Canadian government and, given that it is not a medal and is merely a monument, I suggest it should fall on receptive ears.

**Senator Joyal:** Honourable senators surely will concur that those Canadians who served under Bomber Command remain Canadian. It was a contribution of Canadians to the war effort to liberate Europe. It is important that not only those who receive the medals but also all Canadians in the generations to come perpetuate the service given to their country and the free world. That is why I have difficulty understanding the logic that prevents

the Canadian government or other Canadian authorities from erecting a monument on Canadian soil in honour of the men and women who fought and contributed in that context.

**Senator Meighen:** I thank the senator for his suggestion. As I said, at first blush the suggestion seems to be a reasonable one. In terms of the medal, I iterate that those who served were in Bomber Command, which was a British unit, and, therefore, recognition in the form of a medal must come from the British. I see nothing to prevent us from constructing a national memorial to honour their unique sacrifice.

[Translation]

**Hon. Pierre Claude Nolin:** Honourable senators, how many French Canadians were part of that force?

**The Hon. the Speaker pro tempore:** Honourable senators, I regret to advise that Senator Meighen's time has expired. Is leave granted to continue?

**Hon. Senators:** Agreed.

**The Hon. the Speaker pro tempore:** Leave is granted for five more minutes.

**Senator Nolin:** How many French Canadians participated in that effort?

**Senator Meighen:** Unfortunately, honourable senators, I do not have those figures here. However, as I emphasized in my comments, if I am not mistaken, there were two or three francophone squadrons. They were not insufficient in number.

[English]

I can look in my notes and find them for the honourable senator. As to the exact number, I will make inquiries to obtain that information.

[Translation]

**Senator Nolin:** I have a second question. I know part of the answer, but I want to be sure that we try to destroy the myth that French Canadians who participated in the war effort did so because they were conscripted, or, in other words, because they were ordered to and did not have freedom of choice. Were soldiers conscripted to participate in this effort, or did they take part of their own accord?

**Senator Meighen:** Honourable senators, French Canadians who participated did so of their own accord. They were not forced to participate. They chose to participate in the war effort.

**Hon. Aurélien Gill:** Honourable senators, I presume there is a list of the names of the people who participated in that war?

**Senator Meighen:** Yes.

**Senator Gill:** Honourable senators, I also presume that nobody was forgotten, even though it all happened so long ago. When people participated in such important historic events, people of Aboriginal descent in particular were often forgotten. I would like the lists to be checked so that nobody is forgotten, if possible.

**Senator Meighen:** It is possible, but as, honourable senators know, there are errors in the record because the war happened 65 years ago. May I repeat what I said in my remarks? Three francophone squadrons were established in 1942: squadrons 424, 425 and 426. I will provide the exact number as soon as I have it.

[*English*]

On motion of Senator Stratton, debate adjourned.

The Senate adjourned until Wednesday, April 16, 2008, at 1:30 p.m.

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