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THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Wednesday, May 6, 2009

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

Prayers.

SENATORS' STATEMENTS

MR. FARON HALL

Hon. Gerry St. Germain: Honourable senators, I rise to pay tribute to the heroic efforts of one man from Winnipeg. Faron Hall is not your everyday hero. He does not have a house to call his home, nor does he have money to his name. He has spent his time on the streets trying to stay out of society's way, a society that up until recently ignored him.

Last Sunday, Mr. Hall reminded Canadians how it should be; that it is not one's social status or achievements in life that earns the respect of others; but rather how one treats and cares for people that counts.

Mr. Hall did the most valiant and brave thing any one person could do — he put his own life at risk to save another. He was in the right place at the right time, hearing the calls for help after a young man fell from the Provencher Bridge into the waters of the Red River. Mr. Hall dove in after the young man and pulled him from the river. To dive in after the young man is an act of courage second to none. It is to the credit of Mr. Hall's selfless effort that this young man is alive today.

Honourable senators, Mr. Hall's actions are a clear reminder to all that one does not have to be rich and famous to be a hero. We in the hallowed halls of Parliament, caught up in the often rancorous Ottawa bubble, need to take a step back from time to time. We need to take a step back to look and recognize that it is not one's personal fame or fortune that has a lasting impact; it is one's ability to put others before oneself that gains the respect of others. Honourable senators, my hat is off to Faron Hall, for he is a living, breathing example of a true, selfless human being.

• (1335)

GRANDMOTHERS TO GRANDMOTHERS CAMPAIGN

Hon. Yoine Goldstein: Honourable senators, Africa has become a continent of orphans. As many as 13 million children have been orphaned by AIDS in sub-Saharan Africa. Their parents have disappeared and the grandmothers of those children have become their parents. The grandmothers have buried their own children and then, in their later years, have become parents again raising grandchildren with little or no support in most countries. More than half of these African orphans live in grandmother-headed households. These courageous women have no time to grieve.

This is the next generation; the infants and children who have been left behind. There is never enough for these grandparent-child households, and yet, somehow these grandmothers attempt nonetheless to feed, to clothe and to comfort their orphaned grandchildren.

The Grandmothers to Grandmothers Campaign was launched on March 7, 2006, on the eve of International Women's Day. Since that date, some 200 groups of Canadian grandmothers have responded to the desperate needs of these African grandmothers. Thus far, the campaign has raised \$4 million for African grandmothers and the children in their care. The funds raised through this campaign are handed over to community-level organizations in 15 sub-Saharan African countries that provide grandmothers with support including food, housing, rent, school fees for their grandchildren and grief counselling.

Please look at the Grandmothers to Grandmothers Campaign website through the Stephen Lewis Foundation. The plight of these women is heartbreaking. The pins that I distributed this morning to each of your offices depict a grandmother of one colour inextricably intertwined and linked with a grandmother of another colour. The pin is named Ubuntu, which is an African word meaning, "your humanity is inextricably bound with mine."

Please wear these pins and explain their meaning to whomever you can. Elizabeth Rennie of the Burlington Ubuntu Grandwomen says: "Stand with us and help the heroic grandmothers in Africa and their orphans."

Explain the pin to those who ask, and please support Bill S-232 to streamline and make effective Canada's Access to Medicines Regime so that Canada can send desperately needed AIDS, HIV, tuberculosis and malaria drugs to sub-Saharan Africa.

We owe it to the grandmothers; we owe it to the orphans; we owe it, honourable senators, to ourselves.

[Translation]

THE LATE LIONEL DESJARLAIS

Hon. Marie-P. Poulin: Honourable senators, in April 2009, Canada and French-speaking Ontario lost an exceptional educator, a man who had the courage of his convictions on language rights issues, both as a primary and secondary school teacher and as the founding dean of the University of Ottawa's faculty of education. That man was Lionel Desjarlais, who passed away at the age of 88.

He was a leading advocate for education rights and a member of the Bériault Commission, which was instrumental in ensuring recognition for French-language schools in Ontario.

He was a visionary and a man who, like every good educator, knew how to awaken his students' creativity by promoting self-confidence and innovation. Mr. Desjarlais' leadership style was warm, compassionate, and steeped in respect for basic human rights.

Even after his retirement, this proud Franco-Ontarian, this proud Canadian, stayed involved as a professor emeritus, a school board trustee, and president of the board of directors of Ottawa's Centre de jour Guigues.

• (1340)

He received numerous awards for his achievements in academia and his efforts to promote the rights of francophones in Ontario and in Canada.

I would ask that honourable senators join me in expressing our most sincere condolences to Jeannette, his wife of 55 years, and to his family on the loss of an extraordinary French Canadian.

[English]

ASIAN HERITAGE MONTH

Hon. Yonah Martin: Honourable senators, I rise today to draw attention to the beginning of Asian Heritage Month. During the month of May, Canadians join together from coast to coast to celebrate the long and rich history of Asian Canadians. This month provides an opportunity for all Canadians to experience many cultures and celebrate the contributions of our Asian citizens to the growth and prosperity of Canada.

In December 2001, the Honourable Senator Poy introduced a motion in this chamber to designate May as Asian Heritage Month. Six months later, in May 2002, the Government of Canada officially recognized Asian Heritage Month.

Two years after the launch of Asian Heritage Month festivities in Vancouver, British Columbia, I still remember Senator Poy's eloquent speech at an explorASIAN gala event presented by the Vancouver Asian Heritage Month Society in partnership with the Korean community.

Asian Heritage Month events across Canada during the month of May celebrate the many achievements and contributions of Asian Canadians while promoting cultural harmony and community diversity.

One such notable Canadian of Asian heritage is an extraordinary woman, Jin-me Yoon, a Vancouver-based world-renowned artist who, through her evocative photography and video installations, challenges the viewer to question what constitutes Canadian identity. We are "soul sisters," both born in Seoul, Korea as eldest daughters to immigrant parents who arrived in Canada with hopes of a better life for their children. We are proud daughters of two great nations.

More than three decades after being my favourite Sunday school teacher, who included the best arts and crafts in her lessons, it is no surprise that Jin-me Yoon is a respected professor of contemporary arts and visual arts at Simon Fraser University, inspiring many budding artists to find their own voice as Canadians.

Jin-me Yoon was nominated recently for the Art Gallery of Ontario's prestigious Grange Prize. Each year, the Grange Prize recognizes the work of two Canadians and two international contemporary photographers, awarding \$50,000 to one winner chosen through an international online public vote.

[Senator Poulin]

Honourable senators, I encourage you to visit the site, www.thegrangeprize.com, and cast your vote by May 20. I invite each honourable senator to take time this month to participate in one or more of the many festivals taking place across the country in honour of Asian Heritage Month.

CANADA'S ACCESS TO MEDICINES REGIME

Hon. Vivienne Poy: Honourable senators, like Senator Goldstein, I rise today to speak on behalf of participants in the Grandmothers to Grandmothers Campaign who are disappointed with this government's lack of commitment to make Canada's Access to Medicines Regime, CAMR, work in practice.

Unanimous support by all members of Parliament led to the passage of the CAMR legislation in 2004, which was designed, through compulsory licensing, to help countries acquire the low-cost generic medicines they needed to treat diseases such as HIV/AIDS, tuberculosis, malaria and other life-threatening infections.

By amending the Patent Act to create exemptions to intellectual property rules, it was hoped that low-cost medicines would flow to those who were suffering and dying, particularly in sub-Saharan Africa. Unfortunately, this flow has not happened. As Senator Goldstein noted, CAMR has only exported a single AIDS drug to one country.

CAMR is not working, and it needs to be amended as proposed in Bill S-232, the legislation recently tabled in this chamber by Senator Goldstein.

• (1345)

The legislation, as it currently stands, puts roadblocks in the way of generic drug companies and non-governmental organizations, well beyond what is required by the World Trade Organization. The need for a more flexible and open-ended approach to CAMR is evident without the strict, fixed quantities and time periods required under the current legislation.

Since there is no cure for HIV/AIDS, the treatments provided must be long-term and enduring. The current system acts as a disincentive to generic drug companies, importing countries, as well as NGOs, to participate in CAMR.

Given the urgent need of those dying of HIV/AIDS in Africa on a daily basis, these obstacles cannot be justified. It is regrettable that Canada has passed legislation with good intentions that does not work in practice. The motto of Grandmothers to Grandmothers is: "We will not rest until they can rest."

Honourable senators, in Africa there is no rest for grandmothers who are increasingly caring for orphaned grandchildren whose parents have died in the HIV/AIDS epidemics. Let us extend a hand to the grandmothers of Africa and the many orphaned children they care for by passing Bill S-232, enabling CAMR to work in practice so that Canadian drug companies and NGOs can bring generic drugs to sub-Saharan Africa on a continuous basis.

STUDENT DEBT

Hon. Mira Spivak: Honourable senators, the Canadian Alliance of Student Associations visited Parliament recently and asked that I put their concerns on the public record. This is my response.

Last fall, when I met with the Canadian Alliance of Student Associations and the Canadian Federation of Students, I was frankly shocked to learn that the average student debt now ranges from \$21,000 to \$28,000, depending on the provincial contribution. I made a statement then.

Late last year, the Canadian Council on Learning, an independent, not-for-profit corporation, released its second annual report on post-secondary education. In 2006, the council produced its first national overview of post-secondary education in Canada. These reports pull together what we know today about the state of post-secondary education.

We have fundamental data gaps. We do not know how the capacity of our post-secondary institutions measures up to the needs of the labour market. We do not know the state of community colleges with respect to faculty, enrolment or capacity, the extent to which part-time faculty teachers are in university, and whether private colleges are growing or declining.

Statistics Canada administers 11 surveys that provide valuable information about post-secondary education and such related matters as immigration and adult learning.

Honourable senators, investment in post-secondary education is where the future of our country lies, so I hope that in future, more will be done for the concerns of these students.

• (1350)

[Translation]

TRAINING INITIATIVES FOR UNEMPLOYED WORKERS IN QUEBEC

Hon. Suzanne Fortin-Duplessis: Honourable senators, I was present last week when the Conservative government and the Government of Quebec announced the signing of three new agreements, totalling over \$1 billion, aimed at developing the skills of workers and improving the employability of unemployed people in Quebec.

That announcement is a reflection of the Conservative government's support for initiatives introduced by the Government of Quebec. What is more, those funds are a testament to the Conservative government's commitment to the people of Quebec. The goal of this generous financial support is to provide easier access to training tailored to the needs of the Quebec market, which will allow workers in Quebec to get better jobs.

The Conservative government concluded these three new agreements with the Government of Quebec in order to boost that province's economy. Under the Canada-Quebec Labour Market Agreement, the Government of Canada will invest more than \$700 million over the next six years.

These new investments are aimed at unemployed Quebecers who do not qualify for training assistance under the employment insurance program. The new Labour Market Agreement is in keeping with the commitments made in the Advantage Canada plan, which aims to create the best educated, most skilled and most flexible workforce in the world.

Furthermore, the Conservative government will also provide Quebec with \$261.2 million. These funds are in addition to funding of over \$598 million provided this year to the Government of Quebec.

At the same time, nearly \$128 million from the Strategic Training and Transition Fund will be paid out during the same period to ensure that everyone has access to training or any other form of assistance they require, whether or not they are eligible for Employment Insurance benefits.

These investments by the Conservative government aim to improve Quebec workers' skills, to integrate pools of available labour, to make participation in the workforce more attractive and better paying, and to meet the labour needs of growing Quebec businesses in the coming years.

[English]

BATTLE OF THE ATLANTIC

Hon. Bill Rompkey: Honourable senators, last Sunday we remembered once again the Battle of the Atlantic, the most crucial battle of World War II.

At the outset of war, neither Britain — whose very survival hinged on the supply of materials, armaments and personnel — nor Canada, was prepared. Yet, it was a challenge that Canada accepted.

My own province played a vital role. In June 1940, five Digby bombers were flown to Gander. In May 1941, the Newfoundland Escort Force was born when almost all the ships that the Royal Canadian Navy, RCN, could muster, *Agassiz*, *Alberni*, *Chambly*, *Cobalt*, *Collingwood*, *Orillia* and *Wetaskiwin*, sailed for St. John's. Thereafter, the NEF was to play a crucial role in the Newfy to Derry run and "Newfyjohn" was affectionately known all over the world.

At the outbreak of war, there were barely 1,800 individuals in the RCN and 1,200 in the reserves. At the end of the war, over 100,000 had served in the RCN. At the outset, Canada could muster only 16 ships. By the end of the war, 370 ships had been built at shipyards like Kingston and Collingwood. With this support, 25,000 Allied merchant ships carried about 200,000 tons of cargo across the Atlantic.

Many of my fellow countrymen manned these escorts. Churchill called them "the most skilful boatmen in rough seas who exist." I dare say many of them took part in the seal hunt.

More ships, more men, more planes and more accurate intelligence. Finally, the tide began to turn in 1943. By grit and determination in the most trying circumstances, the RCN had risen to the challenge of patrolling the Atlantic sea lanes. It had become one of the largest and finest navies in the world.

Today, we salute those who served ashore and afloat in this historic battle, and we remember especially those who had no known grave, who went down to the sea in ships, and who gave their lives in the Battle of the Atlantic so that we might live in freedom.

• (1355)

THE LIBERAL PARTY OF CANADA

Hon. Patrick Brazeau: Honourable senators, last week in Vancouver, delegates from the Liberal Party of Canada met to confirm their third leader in almost six years. I am sure many in this chamber will agree that most Liberals did not have much of an opportunity to make this choice through elective means.

I was appalled when Paul Martin, in paying tribute to his successor, took credit for our government's rendering of last year's residential school apology. Perhaps I missed something, but were there not 13 years of Liberal rule during which this noble endeavour could have been achieved if the Liberal government had wanted to?

As for the notion of abandoning efforts at policy reform, this area is one where Mr. Martin deserves full marks for a most remarkable retreat from a progressive undertaking — we will talk about that subject later.

Under the leadership of his predecessor, his own party, in a majority Liberal government, had introduced legislation that sought to overhaul governance on reserves in an incremental fashion and to bring greater accountability to First Nations citizens. Unfortunately, Paul Martin himself scrapped the measure.

[*Translation*]

Honourable senators, simply saying anything, depending on where you are or who you are speaking to, is not effective governance. That is not leadership. Real leadership means dealing with difficult issues without hesitation.

The Liberal Party now has a new leader. We are all wondering how that leader and his party will be defined in terms of policy and actions, because currently they have no policies.

[*English*]

In a meeting with him in his office last year, the new Liberal leader told me to be careful with whom I was keeping company on Parliament Hill. I did not listen.

The Liberal leader has a lot to explain to Canadians and to Quebecers. It seems abundantly evident that depending on where he is and to which audience he is speaking, he will say anything, anywhere to anyone to obtain a vote. On the issue of policy, perhaps Mr. Ignatieff's strategy is this: Do nothing, say anything, and hope that poll numbers sustain.

I was pleased to read that Mr. Ignatieff praised even former Prime Minister Mulroney. This praise is laudable —, or perhaps it is because he was out of the country for 36 years and does not realize that Mr. Mulroney was a Tory.

[Senator Rompkey]

Honourable senators, real leadership is about being tested and challenged and being upfront about sharing with the public what one stands for. Mr. Ignatieff has been the de facto Liberal leader for four months. He has not been tested, he has not been challenged, and he has not shared with Canadians exactly what he stands for.

[*Translation*]

Honourable senators, that is a fact. Our Prime Minister and our government are not about lofty rhetoric, hidden agendas or false promises.

[*English*]

We continue to offer real help, real hope and real promise for Canadians of all ages, colours and creeds, from coast to coast to coast.

ROUTINE PROCEEDINGS

HUMAN PATHOGENS AND TOXINS BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-11, An Act to promote safety and security with respect to human pathogens and toxins.

(Bill read first time.)

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

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

• (1400)

CANADA PENSION PLAN

BILL TO AMEND—FIRST READING

Hon. Catherine S. Callbeck presented Bill S-234, An Act to amend the Canada Pension Plan (retroactivity of retirement and survivors' pensions).

(Bill read first time.)

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

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

FISHERIES ACT

CESSATION OF COMMERCIAL SEAL HUNT— PRESENTATION OF PETITION

Hon. Mac Harb: Honourable senators, I have the honour to present a petition signed by residents of British Columbia calling on the government to amend the Fisheries Act to end Canada's commercial seal hunt.

QUESTION PERIOD

FISHERIES AND OCEANS

LOBSTER INDUSTRY

Hon. Catherine S. Callbeck: Honourable senators, my question is for the Leader of the Government in the Senate. The lobster industry in Atlantic Canada is in major crisis. The prices are very low and some fishers cannot sell their catch. The Honourable Neil J. LeClair, Minister of Fisheries, Aquaculture and Rural Development in my province, says that a potential collapse of the lobster industry will hit Prince Edward Island harder than the collapse of the auto industry has hit Ontario.

In recent years, the Prince Edward Island Fisherman's Association has requested the federal government to establish a lobster licence buy-back program. That program eases the pressure on the fisheries and helps older fishers to retire in dignity. Does the government plan to put in place a lobster licence buy-back program?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, when I hear such questions from the former Premier of Prince Edward Island and member of the previous government, I ask myself why these issues were not urgent in the past. I must ask what the honourable senator was doing when she was premier or what her government was doing when it was in power.

Honourable senators, I am well aware that the Minister of Fisheries and Oceans has made many public comments about the lobster fishery. I will take the honourable senator's question as notice.

Senator Callbeck: Honourable senators, I will be interested to hear the leader's response because this crisis is unprecedented in the history of the fishery on Prince Edward Island. The lobster industry is extremely important to Atlantic Canada. In my home province, it employs over 5,000 people and contributes over \$250 million to the economy.

Recently, the Minister of Agriculture and Agri-Food, the Honourable Gerry Ritz, announced a marketing promotion for Atlantic lobster. However, the federal government committed only \$329,000 to this program, which is a drop in the bucket.

Will the leader ask the minister if he will commit additional dollars to this global promotional effort to increase the demand for Atlantic lobster?

• (1405)

Senator LeBreton: I thank Senator Callbeck for the question. One of the problems with the lobster industry is that many people do not realize that the price of lobster has fallen. People think of lobster as an expensive product, which it was a few years ago. Obviously, there ought to be some marketing initiatives to point out to potential consumers that lobster is more accessible today.

I will bring Senator Callbeck's concerns about the market accessibility of lobster to my colleague, the Minister of Agriculture and Agri-Food, as well as to the Minister of Fisheries and Oceans.

CANADIAN HERITAGE AND OFFICIAL LANGUAGES

2010 WINTER OLYMPICS—BILINGUAL SIGNAGE

Hon. Mobina S.B. Jaffer: Honourable senators, my question is to the Leader of the Government in the Senate and concerns the French language and the 2010 Vancouver Olympics. The Vancouver Organizing Committee, VANOC, for the 2010 Paralympics and Olympics Games says its "... mission is to touch the soul of the nation and inspire the world by creating and delivering an extraordinary Olympic and Paralympic experience with lasting legacies."

Honourable senators, I am concerned that this lasting legacy may become an embarrassing legacy as there is a serious danger of the games becoming unilingual. The City of Richmond recently opened an Olympic oval and the signage was only in English. The Mayor of Richmond, Malcolm Brodie, says there are no plans to add a francophone element to the large unilingual sign on the outside of the municipality's spectacular Olympic speed-skating oval. In fact, VANOC admits they did not discuss with the City of Richmond that the signs need to be bilingual.

The mayor and VANOC were in discussions for two years, and VANOC at no time discussed the fact that the signs needed to be in two languages. As honourable senators know, these are international games. Canada is proud to have two official languages.

What message are we sending to the world and our nation, given that the Government of Canada has the responsibility of nominating the 20-member board of directors?

I ask the Leader of the Government in the Senate, in light of this situation, what will the federal government do to right this situation?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): As honourable senators are all aware, Graham Fraser, Commissioner of Official Languages, expressed great concern about the lack of bilingual facilities at the Vancouver Olympics.

As a result of discussions between the Commissioner of Official Languages and VANOC, an advisory committee was created. Of course, this was something the Commissioner had requested in his report last December.

VANOC has made some effort over the past two years to ensure that both of Canada's official languages are represented at the Vancouver games. This advisory committee is comprised of Canadian members with expertise in the subject, as well as the former French Prime Minister, Jean-Pierre Raffarin, who acted as the observer for the Francophonie at the 2008 Olympics in Beijing.

The government has and always will defend and promote the linguistic and cultural duality of Canada. We will certainly continue on this track. We are working with our partners in the Olympics to ensure that our country's linguistic duality is showcased at the 2010 Olympics, thereby making all Canadians, regardless of their linguistic background, proud of our games in Vancouver.

Senator Jaffer: I appreciate what the leader has said. In light of what she has said, since VANOC has made this mistake of not discussing that the signs need to be in two languages, will the federal government pay to ensure the signs will be in both languages?

• (1410)

Senator LeBreton: In as much as the federal government is involved in the Vancouver Olympics, I am not certain, honourable senators, where the responsibilities lie. The Minister of Canadian Heritage — the completely bilingual minister from British Columbia and the minister responsible for the enforcement of our Official Languages Act — has made every representation possible.

In terms of signage, I imagine signage is part of the planning for the games. I know the situation; I saw the reports about the facility in Richmond. There seems to be a question about when the facility is turned over to VANOC. I can say with great certainty, honourable senators that anything that the federal government is involved with will continue, as always, to involve Canada's two official languages.

With regard to the amount of money, the Canadian government has invested a significant amount of money, as honourable senators know, into the Olympic Games. I believe that Canada's linguistic policy, the Official Languages Act, is very much a part of any expenditures we make. For further clarification, however, I will raise the matter with my colleague, Minister Moore.

Hon. Yoine Goldstein: Honourable senators, with great respect to the Leader of the Government, that answer is not good enough. Although the signage with respect to the airport in Vancouver, which is the gateway to the Olympics, is bilingual —, as it must be —, the airport also contains dozens of signs in the English language only, welcoming people to the Vancouver Canadian Olympic Games. That is not an issue for the Minister of Canadian Heritage. That is not an issue for a committee. That is an issue for the Department of Transport, Infrastructure and Communities to take action immediately to ensure that those signs are either removed or become immediately bilingual.

Will the minister assure this chamber that she will arrange for that action to take place this week?

[Senator LeBreton]

Senator LeBreton: Honourable senators, I will make Senator Goldstein's concerns known to my colleague, the Minister of Canadian Heritage.

Senator Goldstein: The Minister of Transport, Infrastructure and Communities.

Senator LeBreton: I am not aware of the extent of the problem. I take Senator Goldstein's word for it. I will pass on his concerns and his suggested remedy to my colleague.

[Translation]

Hon. Maria Chaput: Honourable senators, on Wednesday, April 29, I asked the Leader of the Government in the Senate a question about this. I said that certainly most of the stakeholders and officials involved have the best possible intentions. They are mindful of the Official Languages Act and want to comply with it.

The problem is that there are people who are not complying with the Act, and no one seems to have the definitive authority needed to reach a decision. Stakeholders who do not comply with the Act must be made aware of it and told that the federal government has funded this activity. Services therefore must be provided in both official languages.

I suggested to the minister that the Prime Minister appoint someone who would have the necessary authority to make definitive decisions. There is an urgent need for action. I would like to ask the minister again to speak to the Prime Minister, Mr. Harper, and pass along this recommendation.

[English]

Senator LeBreton: We have an outstanding individual as the Commissioner of Official Languages who happens to be related to one of your colleagues. He has been forceful in his deliberations and in his public statements across the country on all of the media, English and French, about the concerns.

• (1415)

As a result of his concerns, an advisory committee is working with VANOC and with him to remedy the situation. We have every reason to believe that VANOC takes this situation seriously and is working to remedy it.

I dare say that Mr. Fraser, the Commissioner of Official Languages, is the best person to handle this issue. I do not believe it would show much confidence in his abilities, which are incredible, if we were to appoint someone else to follow him around to ensure that the same message is delivered to VANOC. He has shown that he is capable of delivering this message in his capacity as Official Languages Commissioner. He has an extensive background in media, so he is extremely capable of communicating this message not only to the Canadian public but also to the organizers of the Olympics that will be held in Vancouver, British Columbia, in February 2010.

[Translation]

Senator Chaput: I completely agree with what you said about the Commissioner of Official Languages. The Commissioner's recommendations are part of the action plan adopted by VANOC, for example.

Do you not believe that it is urgent for the Commissioner to have someone to support his recommendations since he has no authority to ensure compliance? All he can do is strongly recommend them, talk about them, talk about them some more, and heighten awareness, but no one has the authority to take action.

Do you not see the urgency of assigning someone to support and direct the implementation of the Commissioner's recommendations as soon as possible?

[English]

Senator LeBreton: I would argue that the Commissioner of Official Languages is extremely well equipped to deal with this concern. He also has the full support of the talented and committed Minister of Canadian Heritage, the Honourable James Moore, who was born and raised in British Columbia. Thanks to his parents, who saw the importance of Canada's two official languages, he was, as a young boy, educated in the French language so he would be fully bilingual, which he is. Who would be better to ensure that our policies are enforced than a minister who happens to be from that very area?

[Translation]

Senator Chaput: Once again, I agree with you. Therefore, give him the authority to deal with the issues.

[English]

Senator LeBreton: We have VANOC, various groups, and, then, of course, the Olympic committee.

Honourable senators, we must show a little faith not only in the individuals responsible for the enforcement of our Official Languages Act but also in the people of British Columbia, the people involved with the Olympic committee, the government and citizens.

I am much more optimistic than is the honourable senator that Canada's laws and linguistic policies will be fully enforced when Canada, British Columbia and Vancouver, in particular, welcome citizens from around the world to what we hope will be a very successful Winter Olympic Games. I have faith that will happen, honourable senators, even though Senator Chaput apparently does not.

• (1420)

Hon. Dennis Dawson: Honourable senators, it is called ministerial responsibility.

[Translation]

It is easy to cast the blame on someone else, whether it is VANOC or the Commissioner of Official Languages. The fact remains that we live in a system of ministerial responsibility. The government is the international partner of the Vancouver Olympic Games. Consequently, we expect the minister to assume his responsibilities rather than blaming VANOC or Mr. Fraser.

We want the issue to be resolved. We are not looking to blame people but to identify people who, before the Games begin, will find solutions so that the Olympic Games reflect the values of Canada and are completely bilingual.

[English]

Senator LeBreton: Honourable senators, I am looking at this matter with great confidence. It is you people who seem to want to point the finger of blame towards others.

Some Hon. Senators: Oh, oh!

Senator LeBreton: I do not care if honourable senators do not like the phrase "you people" — that is who they are.

We have a committed government, we have a committed minister in Minister Moore, and we have an excellent Commissioner of Official Languages. I have great faith in all of their abilities to ensure that, as the Olympic Games approach and as the sites are completed and ready to welcome visitors and athletes to our shores, all of Canada's laws, including our laws in recognition of our two official languages, will be fully complied with.

I do not blame anyone. We have people in place. The Commissioner of Official Languages, Mr. Fraser, has flagged this situation as a problem. An advisory committee has been set up. Mr. Fraser has been working closely with the Olympic committee. I have great confidence that his public pronouncements on this issue, as well as the actions of Minister Moore on behalf of the government, will bear the results we want, and we will have an Olympic Games that will be a great source of pride to Canadians, no matter which of the two official languages they speak —, whether it be English, French or both. We have an official languages policy in this country, and this government fully supports and promotes it.

[Translation]

Senator Dawson: Senator Goldstein has spoken to you about what happened last Friday.

[English]

We were in Vancouver last week for obvious reasons and we were happy for our weekend.

[Translation]

As Senator Goldstein pointed out, there are signs in the Vancouver airport that say "Welcome to the Vancouver Olympic Games" in English only.

[English]

I am sorry, but we expect more from the government. We expect, when we go to an airport in Canada that will host the Olympic Games, that both official languages will be recognized. We are not talking only about Canada; the Olympic Games also have two official languages.

[Translation]

We hope that the matter raised by Senator Goldstein will be resolved. This is not Mr. Fraser's responsibility, nor is it Canadian Heritage's. It must be addressed by the Minister of Transport.

There are two possible solutions: put up signs in both languages, or remove the English-only signs.

[English]

Senator LeBreton: Honourable senators, I had forgotten that Senator Dawson was in Vancouver; it did not receive much attention around the country.

Some Hon. Senators: Oh, oh!

Senator Comeau: They can dish it out but they cannot take it.

Senator LeBreton: "Vanity" is not a word Liberals understand.

• (1425)

I will be happy to draw to the attention of the Commissioner of Official Languages, the Minister of Heritage and the Minister of Transport, Senator Dawson's concerns about the signage at the Vancouver Airport.

Hon. James S. Cowan (Leader of the Opposition): I wonder if I could give my friend, the Leader of the Government in the Senate, a bit of friendly advice: When you are in a hole, stop digging.

Senator LeBreton: Since Senator Cowan speaks about holes, I was briefly watching the new Liberal leader, Michael Ignatieff, while channel surfing. What I was really looking for was the Kentucky Derby. I caught something that Mr. Ignatieff said. He started off his speech by saying, "In this hole, there are . . ." I thought: Why is he talking about their being in a hole? He meant "hall," of course.

TRANSPORT

AIRPORT SECURITY

Hon. Colin Kenny: Honourable senators, I have a question for the Leader of the Government in the Senate regarding the recent and welcome announcement of multiple millions of dollars to enhance airport security.

Would the leader please advise whether any of those funds will be dedicated to searching ramp workers; and, if so, how much? Will there be a policy of searching all ramp workers when they arrive and leave work?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I thank Senator Kenny for the question. I do not have those details readily available, but I will be happy to

[Senator Dawson]

obtain the exact breakdown of the amount of money that was announced by the Minister of State for Transport and provide the honourable senator with the answer.

JUSTICE

CONSTITUTIONAL RIGHTS OF ABORIGINAL CANADIANS

Hon. Joan Fraser: Honourable senators, earlier today we heard a little sermon from one of "you people" about Aboriginal rights. In December 2007, the Standing Senate Committee on Legal and Constitutional Affairs tabled a report, after a very thorough study, concerning non-derogation clauses. Those are the clauses, honourable senators will recall, that are inserted in bills to ensure that Aboriginal rights are not diminished by the application of a given law. Over the years, a patchwork of such clauses has evolved and, interestingly, each new iteration of the non-derogation clause has tended to limit its effect a little more.

The Legal Committee recommended repealing all existing clauses with one clear, unambiguous clause in the Federal Interpretation Act. The replacement clause would affirm for all time that all federal legislation would be interpreted in a manner that does not derogate from Aboriginals' constitutional rights.

Seven months later, the Minister of Justice responded that this was worthy of consideration but he would have to consult Aboriginal people. Could the leader tell us what progress has been made?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I would be very happy to tell the honourable senator what progress has been made.

Senator Fraser: I take that as the leader taking my question as notice. It is important. There is no minority in this country more in need of having its rights respected and affirmed than the Aboriginal peoples of Canada. The Senate of Canada offered to the government, on a platter, something that would actually do something for Aboriginal people.

When the leader is asking her colleague how the consultations have gone, could she also ask for an estimated timeline on when we might see this simple but important change?

Senator LeBreton: I will certainly be happy to, honourable senators, but I will take the opportunity to put on the record a few areas where we have made significant progress in terms of our Aboriginal people.

• (1430)

I heard someone yell "Kelowna" a little while ago — Paul Martin's press release. The former Liberal Minister of Indian and Northern Affairs, Robert Nault, said last year:

Kelowna is not the kind of fundamental change necessary to improve the lives of First Nations. Money will not solve the problem.

One of the first things we did as a government was to work with the Assembly of First Nations on a collaborative action plan to improve the quality of water on reserves. Last year our action plan was expanded because of its effectiveness. We also partnered with the AFN on Bill C-30, the Specific Claims Tribunal Act. Bill C-21 finally provided First Nations people full access to the Canadian Human Rights Act.

I will not get into it, but the Liberals had many opportunities and did not do anything about that.

We made significant investments in the Aboriginal Skills and Employment Partnership. Last September our government signed a historic protocol with the Metis nation to begin working on a wide range of issues, including economic development and education. We are making significant investments in building new schools and major renovations. We created two new programs to help reform and improve the success of First Nations education. In April, Minister Strahl and Mary Simon, President of Inuit Tapiriit Kanatami, signed the Inuit Education Accord.

Honourable senators, we have invested more than \$1 billion in housing on and off reserve and in the North. Our First Nations Market Housing Fund will make it easier for First Nations families and individuals to access financing to build, buy or renovate homes on reserve.

This government, to use Senator Cowan's words, dug this particular file out of the huge hole it was in when we took office.

[*Translation*]

ANSWER TO ORDER PAPER QUESTION TABLED

JUSTICE—AGENT ORANGE COMPENSATION PACKAGE

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 5 on the Order Paper—by Senator Downe.

[*English*]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I would like to introduce two House of Commons pages who are participating in the pages exchange this week.

Leah Stuart-Sheppard is from Toronto, Ontario. Leah is majoring in international studies and modern languages in the Faculty of Social Sciences at the University of Ottawa.

Ian McCarter is from St. John's, Newfoundland and Labrador. Ian is pursuing his studies in business at the University of Ottawa, where he is majoring in international management.

[*Translation*]

POINT OF ORDER

SPEAKER'S RULING RESERVED

Hon. Marie-P. Poulin: Honourable senators, I was surprised to hear such a partisan tone from one of our new colleagues today during Senators' Statements. His comments were about the Liberal Party of Canada's leadership convention held this past weekend.

I respect the fact that this parliamentary chamber includes senators from the Conservative Party and the Liberal Party, as well as independent senators. However, rule 22(4) states:

In particular, Senators' statements should relate to matters which are of public consequence . . .

That is the rule, as it is written.

I have been a member of the Senate since 1995 and, as I recall, this institution has a tradition of using Senators' Statements to raise matters of public consequence.

For example, today Senator Rompkey commemorated the Battle of the Atlantic. Yesterday Senator Nancy Greene talked about how women will not be allowed to ski jump in the 2010 Olympic Games.

Would the honourable Speaker be so kind as to interpret both the letter and the spirit of rule 22(4) at his convenience?

The Hon. the Speaker: Are there any other comments?

• (1435)

[*English*]

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, it always amazes me that members on the other side think they can throw all the mud they want and that we must sit here and take it.

Some Hon. Senators: Oh, oh!

Senator Comeau: There they go. They will not even stop for a second to listen to what I have to say.

When someone from our side states facts, they cannot take it. It is amazing.

By all means, I think His Honour might, at some point, remind members on the other side of the kinds of comments that are continually made on that side. We take it with a smile and gently accept it. However, the second that anyone on this side becomes a bit aggressive, they cannot take it.

Senator Tkachuk: We are in a political forum.

Senator Comeau: Yes, we are in a political forum. This chamber must accept that, from time to time, we will not stand down and mud will fly the other way.

Hon. Claudette Tardif (Deputy Leader of the Opposition): On the point of order, His Honour reminded us several weeks ago that the rug in this chamber is red, not green. One must remember that. I am disturbed by what is occurring during Senators' Statements.

If I understand correctly, the purpose of Senators' Statements is to bring to the attention of the Senate matters of public importance that otherwise would not be considered. It has often been the practice in Senators' Statements to bring forth examples of distinguished citizens from across the country and to celebrate the work they have done.

In the past, statements have rarely been used to applaud the government or the opposition for their deeds. Motions, bills and inquiries on the Order Paper provide opportunities to do that.

It is inappropriate to use Senators' Statements to applaud a government action or government bill. The time provided for statements should be reserved for the purpose for which rule 22(4) was intended.

Hon. Terry Stratton: I find what I have heard from the other side to be incredible. I ask His Honour to check the record of the last two or three weeks. We will. In Senators' Statements I have heard members on the Liberal side slam members on this side personally, as a party, and as a government.

When we slam them, it is improper behaviour, yet they feel they are entitled to slam members of this side and we have no recourse. We are supposed to sit here and take it.

Your Honour, I ask you to check the record of the last two to three weeks, and to distribute the record if you see fit. The statements made at a political level, by people on the other side are demeaning to this side of the chamber.

• (1440)

Hon. Joan Fraser: Your Honour, I am reminded of an occasion when one of your predecessors, the late Senator Molgat — and I do not remember the substance of the question before him — was ruling in relation to a controversial matter and quoted from a Speaker in, I believe, Nova Scotia who had said, "It may not be out of order but it is not nice."

The word "nice" was delivered with a smile because you do not usually tell a room full of grown-ups, "Be nice." However, it is true that the traditions of this place have laid some considerable emphasis on the maintenance of civility.

Senator Comeau: Speak to Mercer about that.

Senator Fraser: In Question Period we are, as a general rule, far more partisan than at most other times. However, Senators' Statements have traditionally been a precious moment where, by and large, non-partisan remarks were made, drawing to the attention of the Senate things that were truly of public interest and that were not part of our normal debating practice, highlighting the accomplishments of various citizens, et cetera. I do not say that either side is immune to error.

Senator Comeau: Good.

Senator Fraser: Although I do endorse the suggestion that Your Honour check the record — from the beginning of this Parliament would be my suggestion — and I urge you to recall to us the value of preserving that precious 15 minutes for non-partisan declarations.

Hon. David Tkachuk: Honourable senators, I wish to remind Senator Tardif and Senator Fraser that when they are talking about the non-partisanship of statements, and the fact that we should not be using Senators' Statements to talk about bills, Senator Poy used a statement today to talk about Senator Goldstein's bill on medicine, Bill S-232. That is prohibited under rule 22(4) of the *Rules of the Senate*.

The Hon. the Speaker: Honourable senators, I am quite pleased that this point of order has been raised because it has been very uncomfortable in this chair during Question Period from time to time. I welcome the opportunity, on your behalf, to look at today's *Debates of the Senate*, and to go back through other Hansards, and also to recapitulate several decisions that have been made on this matter, including a few from this particular Speaker.

In reserving my ruling and undertaking to report back on the matter, I wish to comment on the colour of our rug. The colour not only distinguishes the order and decorum that is the tradition of this house, which is distinct from the order and decorum in the other place —, particularly during Question Period if you watch it on CPAC — but, more importantly, the colour of the rug is red not because of us — we all being honourable senators — but rather to note the presence of the Crown and the throne located here. Being the chamber where the Crown has its throne speaks to the quality and the atmosphere that should prevail in this house. I will take the matter under advisement.

BUSINESS OF THE SENATE

Hon. Yoine Goldstein: Honourable senators, may I revert to delayed answers?

The Hon. the Speaker: Is the honourable senator asking for leave to revert to delayed answers?

Delayed answers are delivered by the deputy leader.

Senator Goldstein: May I ask your leave to do so?

The Hon. the Speaker: Does the senator wish to comment on a delayed answer?

Senator Goldstein: I wish to comment on a delayed answer that has not been given.

The Hon. the Speaker: Is leave granted to revert to delayed answers?

An Hon. Senator: No.

The Hon. the Speaker: I heard a "no." We will proceed to Orders of the Day.

ORDERS OF THE DAY

INDIAN OIL AND GAS ACT

BILL TO AMEND—THIRD READING

Hon. Hector Daniel Lang moved third reading of Bill C-5, An Act to amend the Indian Oil and Gas Act.

He said: Honourable senators, I want to thank all honourable senators for their serious consideration of the legislation before them. I would also like to point out that in Question Period the final question of the plight of our Aboriginal peoples was raised. I believe that was appropriate in view of the fact that this bill is coming forward to the Senate for third reading.

Honourable senators, First Nations with oil and gas reserves have asked for the bill before you, Bill C-5, to update the federal rules and regulations governing the energy sector to be consistent with other jurisdictions. After extensive review of this legislation over the last 10 years, it is time to take action, bring forward, and pass the Indian Oil and Gas Act into the 21st century. I believe all parliamentarians want this important sector of the economy to be a source of opportunity and hope for our First Nations.

While this legislation is complex and technical in its nature, we want to be clear: Bill C-5's primary objective, once enacted, will be to unleash the economic potential within our Aboriginal communities that have oil and gas potential by creating the conditions and framework to attract investment.

The amendments we propose will reduce legislative and regulatory barriers that discourage private sector investment. This will help to ensure our First Nations do not miss the opportunities to create jobs and generate wealth in their communities. At the same time, Bill C-5 will ensure that First Nations lands, property rights and the natural environment are protected.

Honourable senators, not only will this bill bring federal legislation in line with provincial regimes, but it will also enable Indian Oil and Gas Canada, whose responsibility it is to oversee oil and gas development on reserve lands, to continuously improve the federal system to remain responsive to future industry and technological advances. It has to be a priority in such a fast-changing industry.

Honourable senators, another key reason for modernizing this act is so the amendments will provide Indian Oil and Gas Canada with the tools it needs to do its job more effectively. With the new provisions of Bill C-5 in place, the agency will be a modern regulator with new authorities at its disposal to enforce the act. The amendments will provide clarity, consistency and certainty to the statutory regime. In turn, this will instill confidence and secure compliance among businesses considering or, even now, actively operating on First Nations lands.

One of the great strengths of Bill C-5 is that it ensures development will proceed in a way that respects and enhances the protection of cultural values and traditions of First Nations in managing their land. The act increases accountability and endows Indian Oil and Gas Canada with the power to audit any business

involved in the exploration and development of oil and gas on First Nations lands. Also, the bill will put Indian Oil and Gas Canada in a better position to determine the royalties owed to First Nations during oil and gas production.

• (1450)

It is important to point out another important change that will protect First Nations' interests: amendments which include a new maximum 10-year limitation period for filing actions. This new maximum will oblige industry to be on standby to respond to future audits. It is also important to note there is no limitation period in cases of fraud or misrepresentation.

Honourable senators, a further important feature of the legislation is the enhanced environmental protection it provides. This protection is one of the major priorities of our First Nations, and, I believe, of all Canadians. Current regulations can specify only that a condition of a lease or licence is that companies "should" comply with all provincial laws as they relate to the environment. This wording leaves Indian Oil and Gas Canada with limited options to enforce actual compliance, should provincial environmental regulations be violated.

Equally weak, the present Indian Oil and Gas Act allows the federal government to prescribe only a fine of up to \$5,000 for contravention of any regulation. These days, \$5,000 is almost a drop in the bucket for the oil and gas industry. Obviously, honourable senators, this fine is inadequate. This is why the legislation also creates an offence for contravention of this act or regulations with a fine of up to \$100,000.

In addition, to modernize fines, Bill C-5 will give the minister of Indian and Northern Affairs the authority to suspend operations and order remedial action to be taken in the case of dangerous or damaging actions to the environment, or if First Nation sites of historical or cultural significance are discovered or threatened. The legislation will also change the Indian Oil and Gas Act to allow federal regulations to be made that incorporate provincial laws as they relate to environmental protection, exploration, equitable production and conservation.

Honourable senators, there are numerous compelling reasons to support Bill C-5. However, the most pervasive is that it paves the way for greater First Nation participation in the energy sector. Currently, Indian and Northern Affairs Canada is working closely with the Indian Resource Council. The department has established joint working groups to explore options and future changes that will see greater First Nation control over resource management on their lands.

Also, these partners will be involved actively in the development of the regulations to implement this legislation — the important next step in the process.

We are confident that, once fully implemented, Bill C-5 will enable many more First Nation communities to enrich their lives and the livelihood of their citizens. I urge all honourable senators to give their full support to this legislation so we can move forward and seize this potential for Canada and its Aboriginal people.

Hon. Nick G. Sibbeston: Honourable senators, I will speak briefly on this bill that was reviewed by our Standing Senate Committee on Aboriginal Peoples for the last two weeks.

Although the bill was approved by the committee without amendment, we heard strong presentations on why changes should be made. Bill C-5, as the honourable senator stated, is the result of ten years of extensive consultation and a negotiation process between the government and the Indian Resource Council. The IRC represents approximately 130 First Nations that have oil and gas production or potential on their lands.

In the end, the IRC agreed that Bill C-5, although it did not address all the concerns, was good enough. Part of this agreement included a "letter of comfort" from the minister that the IRC would be fully involved in drafting regulations and that there would be a process of continuous change to lead to further amendments to the act in the future.

I note that the other place amended this bill to require the minister to report back to Parliament on these processes within two years. This amendment reflects perhaps a healthy scepticism about Canada's dealings with Aboriginal people.

However, not every First Nation was happy with the result. We heard from the Stoney Nakoda nation, who belong to IRC and were involved in the consultation, on changes they felt were needed to clarify and strengthen the bill. They were supported in writing by a number of other First Nations.

These First Nations are among the largest producers of oil and gas and they are the most experienced in dealing with this industry. They also recently had a case before the Supreme Court of Canada. This group of people is familiar with the law and the legalities, and are most experienced in the oil and gas business. These people made representations before us to make further amendments to the bill.

We were told by the government that any changes to this bill would require reopening consultations and a delay of the bill. The IRC said they were concerned that extensive changes would cause the government not to move forward with this bill. Note the subtle difference.

We have a situation where the federal minister, when he appeared, told us not to amend anything; do not do anything lest it will unravel the whole bill. Then the IRC said that they are afraid that if the Senate provides an opening or makes amendments they may have to deal with all the other issues. Because it was negotiated, the situation is difficult.

I raised the point about making the amendments and looking at these amendments as gifts that the Senate could provide to the First Nations. I proposed amendments, but unfortunately they were not supported by my colleagues.

I will talk briefly about what some of these changes would have been. It is important to understand two things about the amendments that were proposed, and which I moved in committee. First, all proposed amendments related to outstanding matters that the Indian Resource Council itself had identified and

proposed, but which government officials had rejected. These changes would be, in effect, a gift to the IRC. It is doubtful they would refuse to accept them by demanding further consultation. Second, these amendments would not have transformed the bill radically.

The first amendment would assure First Nations that the minister would carry out the minister's fiduciary responsibility whenever the minister delegated authority to provincial governments. Part of the process is that the provinces would adopt or harmonize provincial oil and gas regulations; a process wherein First Nations activity would be regulated by the provinces.

The clause I wanted to advance began with, "for greater certainty." A clause like this one would provide comfort to First Nations to assure them that although they would be under a provincial regime, the federal government still has fiduciary responsibility.

I felt that little amendments such as those examples could have been passed and could have been part of the bill. They would have given more comfort to First Nations.

Two amendments would have given First Nations shared power with the minister to take actions against businesses that had breached their contracts or failed to pay royalties. The fourth amendment would have permitted First Nations to develop their own oil and gas resources for their own purposes.

All these changes would have increased First Nations ability to take control of their lands and resources and improve their economies, not radically but in an incremental way.

These amendments are consistent with recommendations the Senate has made time after time in the last few years. I hope that eventually these and other amendments will come before us as a result of the continuous change process described in our committee.

The Senate has a well-earned reputation for carefully taking into account the concerns of Aboriginal and other people, especially where their rights are concerned, or the duty of the government is to uphold their rights.

I think this is a case where we could have enhanced that reputation and I am sorry we did not. Obviously, if the Standing Senate Committee on Aboriginal Peoples could not support these amendments, I felt there was no point in advancing them here.

• (1500)

We have a negotiated bill, in a sense, that was suitable and satisfactory to the IRC, the main body of First Nations that represents all of the oil and gas producing First Nations. While the bill is good, we had the chance to make it even better. Unfortunately, we will not have done that if we support the bill as it is, without amendments.

I am sorry about the situation, but I hope that in the future we can have the courage and determination to go that one step further to improve the situation for First Nations.

Hon. Gerry St. Germain: Honourable senators, I would like to thank all committee members who worked on this legislation and other issues in the committee.

I agree that it would be nice if we could meet the requirements of everyone involved, but we should never let perfection become the enemy of the good. There is a lot of good in this bill and it has been negotiated for 10 years.

The Indian Resource Council definitely did not want to reopen this matter. They have been working on it for 10 years, and they felt if it was reopened, it may be another 10 years before we would get back to the stage we are at now.

I am sure the honourable senator is fully aware that the First Nations Oil and Gas and Moneys Management Act can be opted into. I realize there is hesitation in that regard because there is a possibility — or a view is held by the First Nations — that the government would be absolved from its fiduciary responsibility if they take this action and move from the Indian Oil and Gas Act to the First Nations Oil and Gas and Moneys Management Act. Am I correct in that assumption? Was that the thought process?

I want this on the record, not that Senator Sibbeston was trying to neglect anything, because it is important for the Senate to know that the First Nations Oil and Gas and Moneys Management Act is available to First Nations if they wish to opt into it.

Senator Sibbeston: My understanding is that there is an alternative. First Nations can opt into the other act that the minister provided, but that act is not intended to deal with oil and gas. It is intended to deal with most other matters besides oil and gas — the general administration of First Nations' lands, et cetera. While there is the possibility of opting into that act and using it as a vehicle for more control over such matters as oil and gas on their lands, that is not the intent of the act. There is no regulatory scheme to deal with oil and gas. The amendments to the Indian Oil and Gas Act propose to set up such a regime. Bill C-5 proposes, in certain instances, to adopt provincial-type regimes already in place that are pretty effective for the most part.

As I said, the big concern of some First Nations is whether that scheme will still protect them. The day-to-day control of activities on First Nations reserves may be subject, by this act, to provincial regulations. In that case, the concern is whether the federal government minister's fiduciary responsibility is lessened in any way. That is one of the issues.

One of the clauses starts with the words, "For greater certainty." What is the harm in having a clause like that in the bill, which would have provided further clarity?

In response to the honourable senator's question, yes, it is an option, but it is not likely that they would use the other act to deal with oil and gas matters on First Nations' lands.

Hon. Robert W. Peterson: Honourable senators, as pointed out in this chamber many times, these amendments represent 10 years of exhaustive consultation. There was ample opportunity for all to be heard and their concerns addressed.

It is very difficult to achieve a perfect agreement but, overall, this bill provides the framework for First Nations to have a modern, effective tool for greater legal certainty. Honourable senators, 130 First Nations are supportive of this bill and want it to move forward.

Some of the uncertainty, such as royalties, will be dealt with in the regulations, which can only begin in earnest after the bill is passed.

Passage of Bill C-5 is the first step to bring First Nations into the mainstream of economic development and to give them the opportunity to be a major player in developing the oil and gas reserves on their properties. More importantly, it gives them an opportunity down the road to become involved in upstream activities such as trucking, drilling and site development companies — an opportunity to have employment for their young people, which is so sadly missing now. I urge honourable senators not to deny them the opportunity by delaying passage of this bill.

I urge your support, honourable senators, of this bill.

Senator Lang: Honourable senators, I want to say to Senator Peterson that I appreciate his support of the bill. I also wish to point out the fact that it is seen as a non-partisan piece of legislation which bodes well for the Aboriginal people of this country.

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

Some Hon. Senators: Question!

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.)

LIBRARY AND ARCHIVES OF CANADA ACT

BILL TO AMEND—SECOND READING— ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Pépin, for the second reading of Bill S-201, An Act to amend the Library and Archives of Canada Act (National Portrait Gallery).

Hon. Jerahmiel S. Grafstein: Honourable senators, when does the honourable senator intend to speak to Bill S-201? This particular measure has been before the Senate for four years. Perhaps we might proceed. When might we expect a response?

Hon. Gerald J. Comeau (Deputy Leader of the Government): Senator Segal will be speaking. I hope to have him speak next week on this bill.

(Order stands.)

**CANADA ELECTIONS ACT
PARLIAMENT OF CANADA ACT**

BILL TO AMEND—SECOND READING—
MOTION IN AMENDMENT—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Day, for the second reading of Bill S-224, An Act to amend the Canada Elections Act and the Parliament of Canada Act (vacancies);

And on the motion in amendment of the Honourable Senator Segal, seconded by the Honourable Senator Nancy Ruth, that Bill S-224 be not now read a second time but that the subject matter thereof be referred to the Standing Senate Committee on Legal and Constitutional Affairs;

That the committee report back no later than September 22, 2009; and

That the Order to resume debate on the motion for the second reading of the bill not appear on the *Order Paper and Notice Paper* until the committee has tabled its report on the subject matter of the bill.

Hon. Wilfred P. Moore: Honourable senators, like my colleague Senator Grafstein, I am wondering when we can expect to have this matter spoken to.

Hon. Gerald J. Comeau (Deputy Leader of the Government): I will ask Senator Brown. I believe he intends to speak to the bill next week.

(Order stands.)

• (1510)

VISITOR IN THE GALLERY

The Hon. the Speaker *pro tempore*: Honourable senators, I wish to draw your attention to the presence in the gallery of the Honourable Russell Trood, Senator for Queensland in the Senate of Australia.

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

BUSINESS DEVELOPMENT BANK OF CANADA ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Fairbairn, P.C., for the second reading of Bill S-203, An Act to amend the Business Development Bank of Canada Act (municipal infrastructure bonds) and to make a consequential amendment to another Act.

Hon. Stephen Greene: Honourable senators, I rise today to add my voice to the debate on Bill S-203, proposed by Senator

Grafstein. Bill S-203 proposes a federal income tax exemption for investors who purchase municipal bonds that provide financing for infrastructure projects. We all acknowledge that world-class infrastructure is essential, not only to the economic competitiveness and productivity of our country but also to the quality of life and well-being of our families.

Canada's Economic Action Plan accelerates and expands federal investments in infrastructure. This immediate action will result in Canada coming out of global recession with more modern and greener public infrastructure.

The Government of Canada clearly understands the need to strengthen our infrastructure. However, this bill is flawed. Bill S-203 would provide a tax break to some investors but would not reduce meaningfully financing costs for municipalities. I note this bill was originally introduced in the previous Parliament in January 2008, when I was working happily for Premier Rodney MacDonal, whose re-election on June 9 I eagerly anticipate. At that time, the reaction to this bill was decidedly unenthusiastic. Toronto Mayor David Miller questioned the need, noting, "... cities like Toronto already borrow at low interest rates." Toronto-Dominion Bank economist Derek Burleton slammed the idea, asserting, "... the negatives outweigh the benefit of slightly lower borrowing costs for some cities."

To understand why tax-exempt bonds would not reduce financing cost requires that I provide some background on the nature of Canadian bond markets. Large portions of bondholders in Canada — over 85 per cent — are tax-exempt or have special tax status. These bondholders include pension funds and other financial intermediaries, such as mutual funds, government and government enterprises.

Many individual investors earn investment and interest income tax-free in their RRSPs and, as of this year, in their new Tax-Free Savings Accounts. As TFSA's mature, it is expected that less than 10 per cent of individuals will hold investments outside tax-sheltered accounts. It is not likely that these investors would accept a lower interest rate in return for a tax exemption because the exemption would have no value to them. Given the importance of institutional or tax-exempt investors in Canadian bond markets, municipalities would have to continue to rely on them to fulfill their financing needs and provide interest rates that are attractive to them.

Of course, you do not have to take my word for it. Consider Ontario's experience with tax-exempt bonds when in 2003 the Ontario Municipal Infrastructure Financing Authority undertook a one-time issue of about \$320 million in Ontario Opportunity Bonds that were exempt from provincial tax. The program was discontinued.

If tax-exempt bonds were so effective, why would Ontario discontinue the program? OMEIFA, the Ontario Municipal Economic Infrastructure Financing Authority, as it is now known, commented:

... these kinds of bonds may not be the most efficient products to use to raise funds for broader infrastructure loan programs. Taxable IRBs are a more efficient financial instrument. They ... impose accountability and discipline on borrowers.

The limited benefit of tax-exempt bonds would not justify the expansion of the mandate of the Business Development Bank of Canada that this proposal would require. The BDC lacks the capacity to oversee and evaluate infrastructure projects. These functions are not consistent with its focus on the needs of small- and medium-sized enterprises and likely would require a considerable investment of resources. In addition, the requirement to obtain provincial pre-approval adds to the administrative burden of the proposal.

Honourable senators, as we seek to strengthen Canada's infrastructures, we should look at how we can maximize the benefit to municipalities, ideally in a way that attracts additional contributions from other partners as the government is clearly doing its part.

In Budget 2007, the government announced its historic \$33 billion Building Canada Plan to help provinces, territories and municipalities to meet their pressing infrastructure needs. This is the largest investment in infrastructure by the Canadian government in over 50 years.

A key component of the Building Canada Plan is the Gas Tax Fund, which provides stable, long-term funding to municipalities for investments in water and sewer systems, public transit and local roads. The amount of funding available under the Gas Tax Fund is growing and, by next year, will reach \$2 billion annually. In Budget 2008, we made the Gas Tax Fund permanent. To complement the funding provided by the Gas Tax Fund, the government is providing additional long-term funding through the increased rebate in the Goods and Services Tax paid by municipalities.

Another important component is the Building Canada Fund — the government's flagship infrastructure program. The BCF provides funding for specific infrastructure projects at both the provincial and municipal levels. Projects can include anything from major rapid transit expansion to sewage treatment plant upgrades.

In Budget 2009, the government outlined measures to streamline the approval process so that more projects under Building Canada can start this coming construction season. Budget 2009 also included significant new funding for municipalities, such as projects that rehabilitate worn-out municipal infrastructure like aging water mains and local roads, will be able to receive funding from the \$4 billion Infrastructure Stimulus Fund; refurbish existing recreational facilities and the building of new ones through Recreational Infrastructure Canada; and municipal infrastructure projects that improve the quality of the environment, which could receive funding from the \$1 billion Green Infrastructure Fund. Little wonder that the Federation of Canadian Municipalities heaped admiration on the recent budget by declaring, "... the federal government took concrete action to create new jobs, fight the recession and invest in a safer, greener, more competitive Canada."

The Canadian Construction Association declared that Budget 2009:

... recognized that the best and quickest way to get Canadians back to work is through investments in infrastructure. ... By investing in Canada today, we ensure

our economy will be ready to compete tomorrow and communities from Corner Brook to Montreal, Cambridge to Calgary, and Kamloops to Victoria all benefit.

Of course, let us not forget Coboconk to Carleton Place and my favourite, Ecum Secum to Meat Cove.

The Canadian Construction Association also said:

The infrastructure measures announced in today's federal budget are critical to ensuring that Canadian communities, businesses and our workforce are well-equipped and prepared to respond to the new opportunities that will present themselves as the economy recovers.

Thanks to our government's recent initiatives, the amount of federal funding available for provincial, territorial and municipal infrastructure will hit more than \$18 billion over the next two years. At the same time, we need to rethink the traditional government approach to infrastructure renewal. Why? Just like all countries in the world, Canada's infrastructure deficit is very large, which means that Canada, like all governments, is less and less able to afford to finance, build and maintain every single modern infrastructure project. All countries are looking for innovative solutions to this problem. That is why our government is taking steps to promote the greater use of public-private partnerships in Canada.

Honourable senators, I hasten to point out that Senator Dickson is one of Canada's pioneers in the P3 movement on this side of the chamber. Our government has created PPP Canada, a Crown corporation that is spearheading our efforts in this area and has established a \$1.25 billion Public-Private Partnership Fund.

Honourable senators, taking all these factors into consideration, I am unable to support Bill S-203 because it is not necessary. A government must ensure that taxpayers' hard-earned money is used effectively, in a manner that promotes economic growth and a quality of life for Canadians.

• (1520)

This use of taxpayer money is particularly important during this challenging economic time. The government realizes the importance of infrastructure and has acted decisively to provide much needed support to municipalities, but in an efficient and effective manner.

Hon. Jerahmiel S. Grafstein: I will ask a question or two, if I may. I thank Senator Greene for his thoughtful speech. I think he has raised all the issues that must be raised, assuming we can send this matter to committee. I think all honourable senators agree that our infrastructure is lagging in investment, and the amount of money available is still not sufficient to deal with the infrastructure investment. We agree with that point.

The question is, would it be opportune to look at other means, including this bill, from outside the experts, to see whether we can expand the pool of investment for infrastructure?

Senator Greene: We, as a government, are always looking for new and creative solutions. The answer to Senator Grafstein's question is yes, I am sure.

Senator Grafstein: I move second reading of this bill.

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

Some Hon. Senators: Question!

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

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

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

Senator Comeau: Never.

(On motion of Senator Grafstein, bill referred to Standing Senate Committee on Banking, Trade and Commerce, on division.)

[*Translation*]

NATIONAL CAPITAL ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Wallace, for the second reading of Bill S-204, An Act to amend the National Capital Act (establishment and protection of Gatineau Park).

Hon. Pierre Claude Nolin: Honourable senators, the purpose of Bill S-204 is to amend the National Capital Act to provide for the establishment and protection of Gatineau Park. The bill is designed to establish the park's legal boundaries, and it provides a mechanism for managing that land. Introduced in the Senate on January 27, 2009, it follows on Bill S-210, which was introduced in the First Session of the 39th Parliament, and Bill S-227, which was introduced in the Second Session of the same Parliament.

I spoke during both debates. I reiterate that I am in favour of this bill and I support its objective. For over 40 years, committed people have been concerned about the fate of this park, the jewel of the National Capital Region. The Gatineau Park Protection Committee rightly points out that even though Gatineau Park is considered the first national park in Quebec, it has never been given national status and is still the only federal park that does not come under the jurisdiction of Parliament. In contrast to national parks, its boundaries can be changed, park lands can be sold off and roads can be built through the park without Parliament's knowledge or approval.

However, there has been a new development that, I hope, will put an end to this highly unusual situation. In November 2007, the Office of the Auditor General of Canada presented a special examination report with numerous recommendations to the board of directors of the National Capital Commission. The report recommended that the National Capital Commission complete, on a timely basis, the Capital Urban Lands Master Plan to ensure that a coherent and complete planning framework is in place to guide management's decisions. The commission agreed with this recommendation and initiated a consultation process to help it define a vision, a concept and related principles.

We recently celebrated International Earth Day. On that occasion, the member for Ottawa Centre in the other house introduced Bill C-367, which has roughly the same objectives as Bill S-204. In short, the Gatineau Park Protection Committee, which is doing a very good job, is calling on parliamentarians to resolve this problem by having two bills presented, one in the Senate and one in the House of Commons.

I know that the minister responsible for the National Capital Commission, as well as the government, plan on implementing several recommendations contained in the Auditor General's report and in the related study.

These recommendations will encompass reform of the National Capital Commission and responsibility for Gatineau Park, among other things. I do not know the details or when these measures will be announced but the government's intentions and the two bills being studied in both chambers may be on a collision course. I believe that we should have the same intent but we run the risk of having three measures being studied at the same time. Therefore, I wish to continue my speech at second reading stage of Bill S-204 at a future date to take into consideration the government's decision, which I hope is imminent. For that reason, I request adjournment of the debate for the remaining time allocated to me.

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

(On motion of Senator Nolin, debate adjourned.)

[*English*]

STUDY ON PROVISIONS AND OPERATIONS OF THE NATIONAL DEFENCE ACT

FIFTH REPORT OF LEGAL AND CONSTITUTIONAL
AFFAIRS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Legal and Constitutional Affairs, entitled: *Equal Justice: Reforming Canada's System of Courts Martial*, tabled in the Senate on May 5, 2009.

Hon. George Baker: Honourable senators, regarding this report, I will take four or five minutes to congratulate Senator Angus, Senator Campbell, Senator Dickson, Senator Fraser, Senator Joyal, Senator Milne, Senator Nolin, Senator Rivest, Senator Wallace, Senator Watt, Senator Bryden, as well as two extra members of the committee, Senator LeBreton and Senator Cowan.

Honourable senators, sometimes, perhaps, we should be a body that has press conferences and issues press releases for some of our committee reports. This one is such an instance. It is a matter of urgency that someone do something about what is suggested in this committee report.

I was a part of the government back in the late 1990s that passed a law that allowed court martial courts to extend their jurisdiction to matters concerning the Criminal Code. Prior to that time, court martial courts dealt with disciplinary measures within the Canadian Forces, but matters concerning the criminal law were dealt with in civilian courts. We brought in a new law, but of course we never are able to cover all the circumstances that may arise, and herein lies one of our big problems today with our soldiers returning home from Afghanistan.

• (1530)

When honourable senators look at the decisions of the courts martial over the past year, they will discover that the courts considered minor matters, summary matters. If a soldier did not get up at 7:30 in the morning and the soldier was supposed to be up, the soldier might end up before a court martial court. In committee, we heard of a case where someone did not buy a ticket to a mess dinner in Petawawa, and a year and a half later that person was charged before the court martial court and had to return from duty in Afghanistan.

In committee, we also heard from the lawyers in a case by the name of *R v. Grant*. This case went right to the Supreme Court. Corporal Grant served in Afghanistan. When he came back, the first night back there was a dinner at the base in Canada. Alcohol was consumed, but Corporal Grant did not drink any alcohol at all. At midnight, he found himself outside the establishment on the base. Someone else, who had consumed in excess of 12 bottles of beer and what they called six-shooters, had gone outside of the dinner and had made a motion to Corporal Grant, questioning him, — according to the facts that were agreed to in the case,— and said, “Where did you get that jacket?” The jacket was from Afghanistan. In the process, the individual hit Corporal Grant in the shoulder and the side of the face, to which Corporal Grant responded with his fist. He was left-handed. A minor altercation developed after that.

However, here are the consequences of our failure when we passed the bill back in 1997, as a Liberal government. If there is an infraction by a soldier of disciplinary conduct, a disciplinary committee must be organized by the base commander within one year to deal with that reported infraction. If the committee is not organized within the year, then it is automatically referred to the court martial court.

A year and a half later, Corporal Grant discovered, while he was overseas again, that he was charged under the court martial court with that altercation that was described, after an investigation, as assault and some bodily harm. Of course, he then was brought back and brought before the court. The judgment was against him.

The judge wanted to send it back and said, “Look, this case does not belong in a court martial court. It should have been dealt with within the military.”

However, we did not allow for that possibility in our legislation. The court martial courts, as Professor Oliver will tell you, do not have inherent jurisdiction. In other words, they are restricted to what the law says they can do. We forgot to put that provision in the law.

It went to the Court of Appeal, and the Court of Appeal said that it is wrong to have our soldiers overseas all of a sudden confronted with a situation of being called back home to appear before a court martial court for some minor infraction, but the time had run out for the board to be held within the military. The Court of Appeal of Court Martials ruled that the matter should be sent back. Corporal Grant had his DNA sample extracted — because it is mandatory under our law for assault causing bodily harm or assault with a weapon, and DNA is taken automatically — and they ordered that DNA to be destroyed. However, they did not have the jurisdiction for that order. The case was taken to the Supreme Court of Canada. The Supreme Court of Canada did not grant leave to hear the case, with no reason. They never give reasons. They do not have to give reasons. They are the Supreme Court. We do not know why, but I suspect it was because the Court of Appeal did the right thing, although they did not have jurisdiction.

The committee has now made a recommendation to government to correct this problem in our legislation, and to allow two things in the first instance when the charge is laid. We incorporated the provision that a charge has to be laid within six months rather than assemble a board hearing within the military, and then the court martial court judge can accept a pre-trial argument to send it back to where it should have been in the first place.

Honourable senators, this matter is very important for our soldiers. When we look at the case law, it always says something like this wording from the *Grant* decision, paragraph 36 of the Court of Appeal: The charge was referred to the Court Martial because it was believed to be impossible to make the preparations for a summary trial before the limitation period ran out.

This wording is to correct hundreds of cases. Our soldiers serving overseas in Afghanistan are charged before a court martial court with a minor infraction. When we read some of the testimony, we see how they are affected by that situation — the great mental strain, anxiety and stress because they are charged.

Imagine a 20- or 21-year-old brought before a court martial, talking to their mother or father on the phone and having to tell them, “Yes, I am fighting over here in Afghanistan, but I now have to go before a court martial court.” Many of them do not understand what that means.

This committee has performed a great service in making this recommendation, and the government should follow up this recommendation and change the law, as the committee has recommended. As well, honourable senators, as I said at the beginning, sometimes we should issue press releases or have press conferences so that not only is the government on the spot but the people of Canada would look at this and say, “Senate, you are absolutely correct; this case is one where sober second thought should be initiated immediately on behalf of our soldiers in Afghanistan.”

Hon. Joan Fraser: I should note perhaps that, although the committee did not hold a press conference, it did issue a press release. With that, I move the adjournment of the debate for the remainder of my time.

(On motion of Senator Fraser, debate adjourned.)

• (1540)

**STUDY ON ISSUES RELATING TO FEDERAL
GOVERNMENT'S CURRENT AND EVOLVING POLICY
FOR MANAGING FISHERIES AND OCEANS**

**SECOND REPORT OF FISHERIES AND OCEANS
COMMITTEE AND REQUEST FOR GOVERNMENT
RESPONSE—DEBATE ADJOURNED**

Leave having been given to revert to Other Business, Reports of Committees, Item No. 1:

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Fisheries and Oceans, entitled *Rising to the Arctic Challenge: Report on the Canadian Coast Guard*, deposited with the Clerk of the Senate on May 4, 2009.

Hon. Bill Rompkey: Honourable senators, I move:

That the second report of the Standing Senate Committee on Fisheries and Oceans entitled *Rising to the Arctic Challenge: Report on the Canadian Coast Guard*, deposited with the Clerk of the Senate on May 4, 2009, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Fisheries and Oceans, the Minister of Transport, the Minister of Foreign Affairs and International Trade, the Minister of Indian and Northern Affairs, and the Minister of National Defence being identified as ministers responsible for responding to the report.

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I would have thought Senator Rompkey would say a few words on the matter but if he will not be speaking, I would not mind saying a few words on it myself.

(On motion of Senator Comeau, debate adjourned.)

(The Senate adjourned until Thursday, May 7, 2009, at 1:30 p.m.)

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