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Tuesday, June 16, 2009



THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Tuesday, June 16, 2009

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

Prayers.

[*Translation*]

AFGHANISTAN—FALLEN SOLDIER

SILENT TRIBUTE

The Hon. the Speaker: Honourable senators, before we proceed, I would ask you to rise and observe one minute of silence in memory of Corporal Martin Dubé, who died tragically on Sunday while serving his country in Afghanistan.

(Honourable senators then stood in silent tribute.)

[*English*]

SENATORS' STATEMENTS

WORLD ELDER ABUSE AWARENESS DAY

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, I was very proud yesterday to mark World Elder Abuse Awareness Day by launching our government's national public awareness campaign on this serious problem. The campaign, entitled "Elder Abuse — It's Time to Face the Reality," began appearing immediately. Senators may have seen the television advertisements last night during the news hour.

I think all senators would agree that it is appalling that any senior citizen in our great country should have to live in fear of abuse, neglect or mistreatment. It is simply unacceptable that a man who risked his life in war to defend our country should be assaulted by his caregiver; or that a woman who devoted herself to raising her children, whether in the home or in the paid workforce, should now have her pension stolen by her son.

Sadly, honourable senators, stories like these are more common and widespread than we think. In a recent survey, nearly one out of every four Canadians said they knew at least one senior who they suspected might be abused. Elder abuse, in all its ugly forms, is a betrayal of trust — trust between spouses, between parents and children, between a senior and a caregiver, or a senior and a new "friend" who turns out to be a scam artist.

Honourable senators, as a society that honours our seniors, we cannot and must not tolerate elder abuse. That is why our government took action and launched this important national awareness campaign. I repeat, it is entitled "Elder Abuse — It's Time to Face the Reality."

Through this campaign, we want to break down the wall of denial about elder abuse. We want to change attitudes and equip Canadians with the information they need to recognize abuse for what it is. We want to find ways not only to help the victims of abuse but also to prevent the abuse before it happens.

Our efforts do not stop with raising awareness. We also announced a call for proposals of projects through the New Horizons for Seniors Program. This program invites proposals from professional associations whose members come into frequent contact with seniors. The program will make funds available so that these associations can adapt and disseminate materials on elder abuse to their members. People who work with seniors every day — that is, caregivers, social workers, nurses, police officers — have a particularly important role to play in preventing and detecting elder abuse. They can help seniors at risk by giving them information about where to go for help. Our awareness campaign will provide that information.

Honourable senators, we should remember that, in many ways, life is getting better for most Canadian seniors. Through this campaign, my hope is that life will get better for even more seniors. I am extremely proud of the role our government plays in improving the lives of older Canadians. I am particularly proud of our leadership in the campaign against elder abuse and our continued commitment to seniors.

[*Translation*]

ASSISTED SUICIDE

Hon. Lucie Pépin: Honourable senators, like abortion, assisted suicide is an issue that angers and divides people. Very often, the emotion around assisted suicide dominates the discussion of this issue.

Last month, a woman in Trois-Rivières, a city in my senatorial division, allegedly committed suicide with her spouse's help. I pay tribute to her memory. The unclear circumstances around this death reopened the debate on assisted suicide, a debate that resurfaces occasionally but has not yet reached a conclusion.

Assisted suicide is certainly an extremely complicated issue, but we cannot keep on sweeping it under the carpet.

In recent years, a number of cases of assisted suicide have gone before the courts, and some have received more media attention than others. More than once, judges stated that such matters were more Parliament's responsibility than the courts'.

That was the opinion of the two judges of the British Columbia Court of Appeal who dismissed Sue Rodriguez's appeal in March 1993. In 2004, in the *Marielle Houle* case, the Superior Court judge stated that it was up to parliamentarians to legislate on this issue.

Most legislators are afraid of how the public will react, but the public is actually more open than we may think. In June 2007, according to an Ipsos-Reid poll, 76 per cent of respondents felt that terminally ill patients had the right to die.

The Canadian Hospice Palliative Care Association recently reminded us that Canadians take it for granted that specialized care will be available at the end of their lives. Yet only four in 10 Canadians receive the quality end-of-life care they need.

It is crucial that palliative care be improved and that informal caregivers receive better support, as the Special Senate Committee on Aging has suggested.

It is also crucial that we consider how to give people who so desire the opportunity to die under medical supervision.

I know that there is currently a private member's bill before the House of Commons that would amend the Criminal Code.

This bill sets out the conditions under which a person who is at the end of life or is suffering from a debilitating illness could be helped to die with dignity once he or she has expressed his or her free and informed consent to die.

This medical assistance would be provided under strict, safe conditions, to avoid prolonged suffering.

Such a law, modelled on the laws of Belgium and the Netherlands, would reduce suicide among people at the end of life, who would be reassured to know that they have this opportunity.

• (1410)

Every being has the right to die in peace and with dignity. However, we have to recognize that this is not always the case for everyone.

It is time to put the conditions in place so that Canadians who so desire can die without having to leave their loved ones to defend themselves in court or without having to die abroad, like Elizabeth MacDonald, a Canadian with multiple sclerosis who died in Switzerland with the help of the Dignitas organization.

[English]

QUESTION OF PRIVILEGE

NOTICE

Hon. Pamela Wallin: Honourable senators, pursuant to rule 43(7), I rise to give oral notice of a question of privilege.

Earlier today, pursuant to rule 43(3), I deposited written notice of the question with the Clerk of the Senate in the form of the following letter:

Dear Mr. Bélisle,

Pursuant to Rule 43 of the *Rules of the Senate of Canada*, I give notice that later today I intend to raise a question of privilege regarding the meeting of the Senate National Security and Defence Committee on Monday June 15th at 4:00 pm.

[Senator Pépin]

My privilege has been breached, as a Senator, as a member of the committee for National Defence and Security and with my role as Deputy Chair due to senate rules that have been broken:

- the Chair has disregarded a recent and clear directive of Internal Economy and breached Senate rules in the way he allowed the committee to deal with concerns regarding requests for contracts, which has undermined accountability of Senate finances and usurped the role of the Deputy Chair of the Committee;
- the Chair disregarded the rights of minority members of the committee and the process established in Senate rules for overturning a prior resolution of the committee;
- the Chair has altered the nature of committee activities planned, budgeted and approved by Internal Economy and the Senate, one effect of which is that the committee will not have translation services when it travels to military bases; and
- the Chair ignored a vote that should have resulted in the defeat of a motion, instead signing in another Liberal Senator after the vote was called and allowing the same motion to be moved a second time.

When appropriate, I will speak to this matter further.

[Translation]

SENATE REFORM

Hon. Marcel Prud'homme: Honourable senators, Senate reform came up for discussion again last week when the government made its third attempt to introduce a bill to limit terms in the upper House to eight years. The government plans to follow up on this bill with another proposing the election of senators.

I would not oppose common sense or thoughtful, logical Senate reform, but the government's proposed piecemeal Senate reforms are highly unlikely to amount to anything because they will encounter constitutional obstacles that, in the context of the existing Canadian federation, are insurmountable.

Instead of wasting parliamentarians' very precious time talking about unenforceable amendments that would have countless complex repercussions on our democratic system, the Prime Minister could acknowledge contemporary social values and demonstrate leadership and political maturity by making the Senate a model of equality between men and women.

The government leader, whose prerogative it is to select senators, both male and female, could work toward achieving male/female equality in the Senate by making sure that the institution's 105 seats are eventually, appointment by appointment, distributed as follows: 53 women and 52 men. I have often suggested that here, and it seems to me that people everywhere like the idea.

I need not remind honourable senators that 35 of our 102 senators are women, that we have three vacancies, and that we expect to have nine more vacancies by Christmas once five men and four women leave. By Christmastime this year, we could have a total of 43 women. More senators will be retiring soon, and by July 2012, we could have 53 women.

The under-representation of women in politics is an unacceptable blemish on our society as we begin the 21st century. Establishing gender parity in the Senate would send a strong message of encouragement about how important it is for women to take part in public life.

The Right Honourable Jean Chrétien fully grasped the importance of this during his successive terms as Prime Minister. He alone appointed some 33 women to the Upper Chamber. Considering the fact that, since 1930, since the Privy Council in London allowed women to be appointed, only 79 women have been appointed to the Senate — and I have known all of them — clearly, Mr. Chrétien was a pioneer in that regard.

The Right Honourable Brian Mulroney also set an example by appointing 13 women, surpassing the Right Honourable Pierre Elliott Trudeau, who appointed 12. Thus, a small gesture of good will on the part of the current Prime Minister would be enough to begin this necessary and fundamental change in the Senate. That would mark the real beginning of Senate reform.

Prime Minister Harper, the choice is yours.

[English]

CITY OF BRAMPTON

Hon. Lorna Milne: Honourable senators, I rise to congratulate my home city of Brampton. Brampton is a dynamic, multicultural place. It is home to a large and growing number of newcomers to Canada, who represent more than 175 distinct cultures and speak more than 70 languages.

In the 2006 Census, over 57 per cent of the total population of Brampton described themselves as visible minorities, and that number continues to grow. In fact, I am the visible minority in Brampton. I am proud to say that Brampton is a shining example of how much richer our cities and communities are because of Canada's diverse multicultural mosaic.

In recognizing the need to serve this diverse community, the City of Brampton has created a Multilingual Services Program, consisting of both interpretation and translation services. This program targets the needs of those who speak limited English, who are typically newcomers to Canada, as they settle into and integrate into the community. It is a bridging solution, allowing full access to municipal goods and services while the newcomers build proficiency in English.

A telephone interpretation service is now available in more than 150 languages, 24 hours a day, seven days a week. Translations of key selected documents will be available on the city's website soon in order to increase access to city service information.

The program also includes outreach activities, targeting newcomer communities. One such initiative is the new Emergency Services Introduction to New Canadians Program, ESINC, which introduces newcomers to Brampton's various emergency services. It is a joint effort between the City of Brampton, Peel Regional Police and Peel Paramedic Services. Uniformed and non-uniformed emergency services personnel deliver cooperative presentations on how to prepare for an emergency, who to contact in the event of an emergency, including an overview of 911, and what to expect from service providers when an emergency occurs. Handouts contain numerous crime, fire and accident prevention tips.

I salute the hard work and efforts of the City of Brampton to make this valuable resource available to all members of the community and to make Brampton a more accessible, open and welcoming community to everyone, especially our newest residents.

2009 STANLEY CUP CHAMPIONS

Hon. Jane Cordy: Honourable senators, dreams do come true. On Friday night, in the seventh game of the Stanley Cup playoffs, the Pittsburgh Penguins defeated the Detroit Red Wings to win the Stanley Cup.

In the olden days, when there were only six teams in the NHL, I was a Detroit Red Wings fan, but that all changed when Sidney Crosby, from Cole Harbour, was drafted by the Penguins. Sidney was a student at Colby Village Elementary School, where I used to teach. He was a serious, mature young man then, so it is not surprising to see his maturity and his leadership skills today at the grand old age of 21.

I am sure that most televisions in Dartmouth Cole Harbour were tuned in to watch the hockey game on Friday night. I am not saying that there is Crosby mania in Dartmouth Cole Harbour, but Cole Harbour Place, where Sidney began his hockey career, had a big screen set up for the game and they had to turn people away because of the crowds. *The Chronicle-Herald's* Saturday edition had a full front page with Sidney Crosby holding the Stanley Cup, and even a local church had "Congratulations, Sid" on the display board outside.

In three short years, Sidney Crosby has been remarkable. He has shown leadership and skill to help bring the Penguins first to the playoffs, then to the finals and, this year, to the Stanley Cup. However, he is not the only prominent player on the Penguins with a Nova Scotia connection. The goaltender, Marc-André Fleury, played his junior hockey with the Cape Breton Screaming Eagles. I had the pleasure of watching him play in the world junior gold medal game between Russia and Canada at the Halifax Metro Centre a few years ago. He certainly rose to the challenge in game seven. I am sure the last six seconds of the game felt like six hours to him.

• (1420)

Honourable senators, this summer will not be the first time that the Stanley Cup comes to Cole Harbour. In 2007, Joey DiPenta played for the champion Anaheim Ducks.

I congratulate the Pittsburgh Penguins on their championship. In February, some doubted whether they would even make the playoffs and, in June, they won the Stanley Cup. I also

congratulate their captain, Sidney Crosby, from Cole Harbour, Nova Scotia, who is the youngest captain ever to win the Stanley Cup. He is an excellent role model and a fine representative of the wonderfully talented young people we have in Nova Scotia.

Congratulations, Sidney!

THIRTIETH ANNIVERSARY OF THE HERBIE FUND

Hon. Consiglio Di Nino: Honourable senators, thirty years ago, under the leadership of Gina and Paul Godfrey, the Toronto community opened their hearts and wallets to give a child by the name of Herbie Quinones a chance at life. Herbie, from Brooklyn, New York, was born with a life-threatening and rare birth defect that made it hard for him to breathe.

Dr. Robert Filler, a surgeon at The Hospital for Sick Children, had developed a procedure that could help save Herbie's life. His family could not afford the cost of the operation. Gina sprang into action. She and Paul appealed to the community and raised money to bring Herbie to SickKids. Dr. Filler performed the operation without a fee and Herbie's life was saved. Torontonians responded so generously to help Herbie that, after medical and travel expenses were paid, a substantial balance remained. The Herbie Fund was born.

Thirty years later, with the help of many more generous donors, more than 600 children from 88 countries have been beneficiaries of this fund.

Honourable senators, on Friday, June 5, 2009, I was at The Hospital for Sick Children to help celebrate this anniversary. I met Herbie, now a healthy man, as well as the two "Herbie" children currently undergoing treatment at SickKids, Christal Echegini from Malaysia and Chanceasna Mon from Cambodia. I also met the team of "miracle workers" who have, over the past three decades, helped brighten the lives of 600-plus families and communities around the world.

To the doctors, nurses, staff and volunteers at SickKids, well done and thank you. To Gord Martineau of Citytv, a special thank you for the passionate commitment you have shown to this initiative. I wish to thank donors and others who have been involved in this wonderful initiative. Canadians and indeed many in the world owe you a debt of gratitude. In particular, I wish to thank Gina and Paul Godfrey who have done so well at making a real difference.

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a group of seventh- and eighth-grade students from École Saint-Joachim, in La Broquerie, Manitoba.

They are guests of the Honourable Senator Maria Chaput.

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

[Senator Cordy]

[English]

ROUTINE PROCEEDINGS

CHIEF ELECTORAL OFFICER

DRAFT REGULATIONS ADAPTING THE CANADA ELECTIONS ACT FOR THE PURPOSES OF A REFERENDUM Tabled

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the draft referendum regulations proposed by the Chief Electoral Officer pursuant to subsection 7(6) of the Referendum Act.

[Translation]

PUBLIC SAFETY

COMMISSION FOR PUBLIC COMPLAINTS AGAINST THE RCMP— 2008-09 ANNUAL REPORT Tabled

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators I have the honour to table, in both official languages the annual report of the Commission for Public Complaints against the RCMP for the 2008-09 fiscal year.

MAA-NULTH FIRST NATIONS TREATY

DOCUMENT Tabled

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Maa-nulth First Nations Final Agreement and related appendices.

[English]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

EIGHTH REPORT OF COMMITTEE PRESENTED

Hon. George J. Furey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, June 16, 2009

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

EIGHTH REPORT

Your Committee wishes to inform the Senate that on June 11th, 2009 your Committee adopted a revised *Senate Policy on the Prevention and Resolution of Harassment in the Workplace* (2009).

Therefore, your Committee requests that the Senate

- repeal the current 1993 *Policy on Harassment in the Workplace*; and
- adopt the revised *Senate Policy on the Prevention and Resolution of Harassment in the Workplace* (2009).

A copy of the *Senate Policy on the Prevention and Resolution of Harassment in the Workplace* (2009) will be forwarded to every Senator's office.

Respectfully submitted,

GEORGE J. FUREY,
Chair

(For text of policy, see today's Journals of the Senate, Appendix A, p. 984.)

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

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

LIBRARY OF PARLIAMENT

OPERATIONS OF PARLIAMENTARY BUDGET OFFICER
WITHIN LIBRARY OF PARLIAMENT—
THIRD REPORT OF JOINT COMMITTEE PRESENTED

Hon. Sharon Carstairs, Joint Chair of the Standing Joint Committee on the Library of Parliament, presented the following report:

Tuesday, June 16, 2009

The Standing Joint Committee on the Library of Parliament has the honour to present its

THIRD REPORT

In accordance with the First Report of the Committee adopted by the Senate on Wednesday, March 11, 2009, Standing Order 108(4)(a) of the *Standing Orders of the House of Commons*, and the motion adopted by the Subcommittee on Agenda and Procedure of the Standing Joint Committee on the Library of Parliament on Tuesday, March 24, 2009, the Committee has studied the operations of the Parliamentary Budget Officer within the Library of Parliament. The findings and recommendations of the Committee are outlined in this report.

Respectfully submitted,

SHARON CARSTAIRS
Joint Chair

(For text of report, see today's Journals of the Senate, Appendix B, p. 1017.)

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

Senator Carstairs: With leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Carstairs, report placed on the Orders of the Day for consideration later this day.)

[Translation]

THE SENATE

NOTICE OF MOTION TO RESOLVE INTO
COMMITTEE OF THE WHOLE TO RECEIVE
MS. KAREN E. SHEPHERD, COMMISSIONER
OF LOBBYING, AND TO PERMIT ELECTRONIC
AND PHOTOGRAPHIC COVERAGE DURING
COMMITTEE OF THE WHOLE PROCEEDINGS
AND THAT THE COMMITTEE OF THE WHOLE REPORT
TO THE SENATE NO LATER THAN ONE HOUR
AND THIRTY MINUTES AFTER
COMMITTEE OF THE WHOLE BEGINS

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That at the end of questions and delayed answers on June 22, 2009, the Senate resolve itself into Committee of the Whole in order to receive Ms. Karen E. Shepherd respecting her appointment as Commissioner of Lobbying;

That television cameras be authorized in the Chamber to broadcast the proceedings of the Committee of the Whole, with the least possible disruption of the proceedings;

That photographers be authorized in the Senate Chamber to photograph the witnesses, with the least possible disruption of the proceedings;

That the Committee of the Whole report to the Senate no later than one hour and thirty minutes after it begins; and

That when the Senate sits on Monday, June 22, 2009, that Rule 13(1) be suspended.

[English]

CANADA CONSUMER PRODUCT SAFETY BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-6, An Act respecting the safety of consumer products.

(Bill read first time.)

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

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

[*Translation*]

MAA-NULTH FIRST NATIONS FINAL AGREEMENT BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-41, An Act to give effect to the Maa-nulth First Nations Final Agreement and to make consequential amendments to other Acts.

(Bill read first time.)

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, with leave of the Senate, I move that the bill be placed on the Orders of the Day for second reading at the next sitting of the Senate.

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

Senator Comeau: Honourable senators, this is a very important bill. We want to give the committee responsible for studying this bill as much time as possible to do its work. We would like to proceed with this bill tomorrow, and we believe that senators across the aisle will like what they see in it.

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

Hon. Senators: Agreed.

(On motion of Senator Comeau, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.)

• (1430)

[*English*]

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Consiglio Di Nino: Honourable senators, with leave of the Senate, notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Foreign Affairs and International Trade have the power to sit at 3 p.m. today, Tuesday, June 16, 2009, even though the Senate may then be sitting, and that rule 94(5) be suspended in relation thereto.

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

Hon. Senators: Agreed.

(Motion agreed to.)

FISHERIES AND OCEANS

STUDY ON ISSUES RELATING TO FEDERAL GOVERNMENT'S CURRENT AND EVOLVING POLICY FRAMEWORK FOR MANAGING FISHERIES AND OCEANS—NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

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

That, pursuant to rule 95(3)(a), the Standing Senate Committee on Fisheries and Oceans be authorized to sit this summer as part of its travel plans, for the purposes of its study of issues relating to the federal government's current and evolving policy framework for managing Canada's fisheries and oceans, even though the Senate may then be adjourned for a period exceeding one week.

[*Translation*]

BANKING, TRADE AND COMMERCE

STUDY ON CREDIT AND DEBIT CARD SYSTEMS—NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Michael A. Meighen: Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That notwithstanding the Order of the Senate adopted on March 3, 2009, that the Standing Senate Committee on Banking, Trade and Commerce which was authorized to examine and report on the credit and debit card systems in Canada and their relative rates and fees, in particular for businesses and consumers, be empowered to deposit a report with the Clerk of the Senate between June 18, 2009, and June 30, 2009, inclusive, if the Senate is not sitting; and that the report be deemed to have been tabled in the Senate.

LEGAL AND CONSTITUTIONAL AFFAIRS

STUDY ON PROVISIONS AND OPERATIONS OF DNA IDENTIFICATION ACT—NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT

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

That notwithstanding the Order of the Senate adopted on February 26, 2009, the date for the presentation of the final report by the Standing Senate Committee on Legal and Constitutional Affairs on the provisions and operation of the *DNA Identification Act* (S.C. 1998, c. 37) be extended from June 30, 2009, to December 31, 2009.

OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING SITTING OF THE SENATE

Hon. Maria Chaput: Honourable senators, I give notice that at the next sitting of the senate, I will move:

That the Standing Senate Committee on Official Languages have the power to sit at 3:30 p.m., on June 22, 2009, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

[*English*]

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED
TO MEET DURING SITTING OF THE SENATE

Hon. Bill Rompkey: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Fisheries and Oceans have the power to sit at 5 p.m. today, Tuesday, June 16, 2009, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

VOTING AGE IN CANADA

NOTICE OF INQUIRY

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

I will call the attention of the Senate to issues relating to the voting age in Canada.

[*English*]

CANADIANS' SUPPORT
FOR NEW DIRECTION IN FOOD PRODUCTION

NOTICE OF INQUIRY

Hon. Mira Spivak: Honourable senators, I give notice that two days hence:

I will call the attention of the Senate to Canadians' support for new direction in food production.

QUESTION PERIOD

FINANCE

ECONOMIC STIMULUS PLAN

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. The official opposition supported the budget on condition that the government present periodic progress reports to Parliament. The stimulus funding we supported was to kick-start the economy and to create thousands of jobs. The accountability report tabled last week is not only scarce on details, it does not tell Canadians how much money has been spent or how many jobs have been created. We do not need to hear words like "committed," "authorized," "flowing," or "announced." We need to know how much money has been spent and how many jobs have been created.

My question is simple: Can the honourable leader tell me exactly how much money has actually been spent between April 1 and June 1 and how many jobs have been created?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): As honourable senators know, the \$4 billion infrastructure stimulus fund is up and running in every province; work has begun on many projects. We have announced over 1,500 projects from this fund. A detailed outline was released by the government last week. I urge honourable senators to go to the website actionplan.gc.ca. There is a wonderful map there with a bunch of shovels; one can access the map and it will show all the projects under way and what funding is available. I think it is obvious to Canadians from coast to coast in all the provinces and territories that money is flowing. The infrastructure fund projects are under way and, as the new President of the Federation of Canadian Municipalities said last week, "Things are starting to move very quickly. We're pleased about that."

Senator Cowan: Honourable senators, I remind the Leader of the Government that this is the same actionplan.ca that was the subject of an earlier complaint as far as accuracy, so I do not look to that website to provide the kind of detail that we want.

I shall repeat my question. I want to know how much money has actually been spent from April 1 to June 1, and I want to know how many jobs have been created.

I mentioned the words "committed," "authorized," "flowing," and "announced." The honourable senator added others that I cannot recall now, but none of them was "spent." I want to know how much money was spent between April 1 and June 1. If she cannot answer the question today, I would ask her to take the question as notice and provide the answer tomorrow.

• (1440)

Senator LeBreton: Honourable senators, I think Canadians understand well that all levels of government — municipal, provincial and federal — have committed funds, contracts have

been signed and jobs are already being provided. However, honourable senators do not have to take my word for it; Senator Cowan's own leader, on May 3, said:

It doesn't make sense to say we passed a budget in April and it's the first of May . . . we have to deal with it for a little bit of time to see if the measures we supported have, in fact, worked.

Then he said:

Listen, we voted a budget that contains (a) very substantial injection of stimulus into the economy . . . we voted for it in April. It's not coherent intellectually or economically for me to come out in May and request to have another \$30 billion put in . . . I am perfectly willing to come back in September or October.

All of a sudden, the honourable senator's own leader realizes that once provinces, territories and municipal governments make agreements, it is unrealistic to put a complete dollar sign on it.

As I said earlier, the \$4 billion infrastructure stimulus fund is up and running. Projects are underway. If honourable senators go to the website map, they can find out what is being spent in their own areas.

In addition to the Infrastructure Stimulus Fund, we launched the Knowledge Infrastructure Program on March 9, and have already announced many projects at colleges and universities. On May 29, we launched the five-year Green Infrastructure Fund by partnering with Yukon Premier Fentie on the Mayo hydro facility. Right here in Ottawa, an announcement was made at Carleton University. If the honourable senator wants to drive 15 or 20 blocks south of us to Carleton University, shovels are in the ground and projects are underway.

Senator Cowan: I take it that the answer to my question is that the leader either cannot or will not provide answers to my questions.

Senator LeBreton: Honourable senators, I did not say that at all. I only urged Senator Cowan to go to the website www.actionplan.gc.ca and look at the map. I did so myself, and it is interesting. I went into my own area to see what projects are underway. By the way, the ones listed on the map are the ones that I drive around via detours when I go home at night.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

ABORIGINAL SCHOOLS FUNDING

Hon. Robert W. Peterson: Honourable senators, it is well known that the condition of Aboriginal Canadians is of great importance to the members in this chamber. Being from Saskatchewan and having worked alongside First Nations individuals for many years, I pay close attention to these issues, particularly in relation to Aboriginal youth. That is why I was so alarmed when I heard about the Parliamentary Budget Officer's report on the funding requirements for First Nations schools. In his report, Mr. Page points out a \$170 million funding shortfall for Aboriginal schools in Canada.

Equally disconcerting, Mr. Page found that since the Conservatives took power in 2006, only eight new First Nations schools had been constructed; a fraction of the average 35 schools per year built in the period, 1990 to 2000.

My question is for the Leader of the Government in the Senate. If quality education is the key to helping Aboriginal communities improve their quality of life, as I am sure my honourable colleague would agree, how can the government be so passive in meeting these most basic educational needs?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, I was not aware of the report of the Parliamentary Budget Officer. I will be interested to see what he has to say, and I am sure the Minister of Indian Affairs and Northern Development will be also.

Honourable senators, Minister Strahl, and before him Minister Prentice, take this matter seriously. We worked on a tripartite educational agreement with First Nations and provincial governments in British Columbia and New Brunswick. In December, Minister Strahl announced a program that builds on them — the education partnerships program.

Also last December, the minister announced the First Nations Student Success Program. Through this program, schools will develop success plans, conduct student assessments and put performance management systems in place. Budget 2009 makes a significant investment in First Nations education and skills development. There is \$200 million for building new schools and renovating others, and since early March, many such projects have been announced across the country. On the skills development side, we are building on Budget 2007's support for the Aboriginal Skills and Employment Partnership, with an additional \$100 million over three years. There is also an investment of \$75 million in the new two-year Aboriginal Skills and Training Strategic Investment Fund.

I believe great strides have been made in this area, as in all areas with regard to our Aboriginal communities. I do not know the context of the report of the Parliamentary Budget Officer or what specific question he was asked to report on, but I can tell honourable senators that the government and the minister are extremely committed and have been working hard and cooperatively with Aboriginal leaders to provide education for Aboriginal youth as well as skills development.

As honourable senators know, part of our plan for the North and the Northern regions of the country in terms of our resources is to have these jobs made available to our Aboriginal communities.

Senator Peterson: The report was released on May 25 of this year, and I recommend it as required reading for the government.

HEALTH

H1N1 INFLUENZA VIRUS IN ABORIGINAL COMMUNITIES

Hon. Gerry St. Germain: Honourable senators, I have a question for the Chair of the Standing Senate Committee on Social Affairs, Science and Technology.

Honourable senators, there is great concern on both sides of this place in regard to the H1N1 virus that is so adversely affecting certain segments of our society, namely our First Nations peoples in Northeastern Manitoba and Northwestern Ontario.

Has the committee given any consideration to making any inquiries as a Senate committee, seeing that this particular committee deals with health issues? Not that it should be exclusive to Senator Eggleton's committee, but I wondered whether honourable senators had given that issue any thought as a committee.

Hon. Art Eggleton: Honourable senators, the committee has been dealing with Bill C-11, which deals with human pathogens and toxins. The committee has been engaged with that bill and the other items in its mandate from the Senate.

I thought that this particular matter would go to the Standing Senate Committee on Aboriginal Peoples because it has had a profound effect on that community. I think the matter needs the kind of examination that that committee can give it along with the understanding the Aboriginal Peoples Committee has about issues affecting our Aboriginal peoples.

Senator St. Germain: There is no question, honourable senators, that the committee takes the issue seriously. The only reason I asked Senator Eggleton the question is because, indeed, we deal specifically with First Nations people, but there may be something of a broader perspective that possibly Senator Eggleton would know about through the committee work he has done, as well as the work that he has done with Senator Keon and the various other members of the committee that may be able to assist the situation. There is great concern on both sides of this place.

Senator Eggleton: I understand Senator St. Germain's question, and I appreciate his concern. Everyone has a concern about this issue.

This subject has not been raised at the committee. As I said, the committee has a full agenda right now but recognizes, of course — all of us do — the urgency of this matter. This is a matter within the federal jurisdiction and it seems to be a matter that would be appropriate for the Standing Senate Committee on Aboriginal Peoples.

• (1450)

[*Translation*]

OFFICIAL LANGUAGES

FRANCOPHONE REPRESENTATION ON CANADA MEDIA FUND

Hon. Maria Chaput: Honourable senators, my question is for the Leader of the Government in the Senate.

The government has just announced the creation of the Canada Media Fund. Accordingly, a new board has been formed. Yet there is no one representing francophones outside Quebec sitting on that board.

The focus of this new fund is on ratings, which will become an important measurement of the objective. However, francophones, and especially francophones outside Quebec, have difficulty identifying with the concept of ratings.

The government also plans to create an advisory committee to guide the board's actions. Can the Leader of the Government tell the Minister of Canadian Heritage and Official Languages that a representative of francophone production outside Quebec must be included on the advisory committee as soon as possible?

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): At the beginning of the honourable senator's question, I do not know if she identified which council was set up and the representation on it. I am seeking clarification as to which council the honourable senator was referring.

[*Translation*]

Senator Chaput: The new Canada Media Fund fuses two existing funds. The government has created a board to manage the Canada Media Fund. Yet no members of that board represent francophones outside Quebec.

Furthermore, the government is also going to create an advisory committee to guide the board's actions. I would like the minister to ask the Minister of Canadian Heritage to ensure that there is someone on the advisory committee to represent the Francophonie outside of Quebec. It is too late to appoint a representative to the board, since it has already been formed.

[*English*]

Senator LeBreton: I thank the honourable senator for the clarification. I will take the question as notice now that I know the name of the body.

[*Translation*]

GOVERNMENT SUPPORT FOR LINGUISTIC DUALITY

Hon. Maria Chaput: My second question is also for the Leader of the Government in the Senate.

On Wednesday, May 27, I asked a question about the government's policy on linguistic duality. I also mentioned that some organizations in my community are weak and drained of resources and have difficulty planning because they are often waiting to see what they will receive. The minister asked me for details about the organizations, so that she could provide a more fulsome reply. Today I can give a specific example of an infrastructure project in Manitoba.

In the spring of 2007, the Manitoba Association of Bilingual Municipalities and the Economic Development Council for Manitoba Bilingual Municipalities considered a high-speed Internet project to give 50 to 60 communities in rural Manitoba access to this essential service. In September 2007, a funding application was submitted to the Municipal Rural Infrastructure Fund. One year later, in the fall of 2008, the Council was informed that this fund would be replaced by the new Building Canada Fund and that a new application would have to be

submitted. The new application and business plan were submitted in February 2009 to the Building Canada Fund with the support of the Government of Manitoba. In May 2009, the Council was informed that the project had been denied and that this infrastructure project would be submitted under a new infrastructure program subsidized by Industry Canada and a new funding formula called a public-private partnership or PPP.

Are these delays and changes reasonable? How can a community develop and flourish under such circumstances?

[English]

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): There is a lot of information about a specific project in this question. As honourable senators know, the Building Canada Fund and all of the various programs go through a process of working with provincial governments or municipalities in some cases. In most cases, they go through all three levels of government.

Senator Chaput has asked about a specific project. I do not know the status of the application or the reasons it did not receive approval for its funding. I will take the honourable senator's question as notice. Obviously, there are details I would not have with me for the purposes of Question Period.

FOREIGN AFFAIRS

STABILIZATION OF VIOLENCE IN THE DEMOCRATIC REPUBLIC OF CONGO

Hon. Mobina S.B. Jaffer: Honourable senators, the war in the Democratic Republic of Congo has been called a war against women. During this civil war, tens of thousands of women have been victims of rape as a weapon of war on a scale the world has never seen. Our Canadian mining companies are working in the Congo. We all benefit from the mining of coltan used for phones and BlackBerrys. I ask the Leader of the Government in the Senate to tell us what the Canadian government is doing to revisit the decision of the United Nations that has asked us to play a leadership role in stabilizing the situation in the Congo?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, I thank Senator Jaffer for her concern in these areas, which is to be applauded. As was the case with the previous question, I will have to refer this question to the Department of Foreign Affairs and International Trade for an update on the situation.

Senator Jaffer: The International Rescue Committee has estimated that approximately 5.4 million people have died in the Congo from August 1998 to April 2007. An estimated 2.1 million of those deaths have occurred since the formal end of the war in 2002. What role, then, are we playing at this time to stabilize and protect the citizens of the Congo?

I would also ask the leader if she could find out what the Canadian government has done. I know that the leader played a pivotal role in the guidelines created for gender-based persecution starting in 1992. How many Congolese women have been brought to Canada under this program?

[Senator Chaput]

Senator LeBreton: I will refer that portion of the question to the Minister of Citizenship and Immigration. The first part of the question will be referred to the Minister of Foreign Affairs. I will seek a response through a delayed answer.

HEALTH

H1N1 INFLUENZA VIRUS IN ABORIGINAL COMMUNITIES

Hon. Charlie Watt: Honourable senators, I have a question for the Leader of the Government in the Senate. Swine flu has put pressure on the Manitoba health system. I listened to a radio call-in show over the weekend from the North, including Nunavut and Nunavik, talking about what is happening in some isolated communities. The Minister of Health of Nunavut indicated that the situation is becoming more and more alarming every day, even in small communities. This morning, I read in a newspaper article that the outbreak is getting to the point where it may become uncontrollable in Manitoba.

Honourable senators, H1N1 is affecting our Aboriginal communities at a disproportionate rate. In Nunavik alone, at least 25 cases have been reported. The Chief Medical Officer of Health for Manitoba has said there is overrepresentation from the First Nations and Aboriginal populations in the most serious cases.

This is a serious matter. It needs to be looked at immediately before we lose complete control. What is this government doing to address the medical needs of Aboriginal people in Canada? What is being done to ensure that medical supplies are available to all affected communities?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I can assure honourable senators that the federal Minister of Health, Minister Aglukkaq — from Nunavut as well — is very involved in this file. This is a serious health issue.

Various health authorities have not been able to ascertain clearly the reasons why the virus is disproportionately affecting Aboriginal communities. There is currently a serious situation in Northern Manitoba.

• (1500)

Everyone has theories about the matter and health officials are seized with it. Minister Aglukkaq and her officials continue to work with the provinces, the Public Health Agency of Canada, the Department of Indian and Northern Affairs and Aboriginal organizations to ensure a coordinated response. The minister has been in regular contact with Minister Oswald of Manitoba Health. Health Canada has provided additional nurses to the community, and physicians are on site. Public Health Agency epidemiologists are also in the community.

Both federal and provincial officials are in Northern Manitoba to work directly with the Aboriginal leadership. Minister Aglukkaq had a conference call with Chief Phil Fontaine of the Assembly of First Nations on Friday. Officials are in contact with nurses in the community on a daily basis. The nurses and medical

officers in the communities are advising both federal and provincial health officials on additional resources needed; and they are working to bring those resources to the communities.

As Minister Aglukkaq said, this issue is serious. All of us are concerned. This issue is not a political matter; it is a serious health issue. All levels of government and Aboriginal leaders are working together to resolve this problem. No one would think for one moment that someone would not want to do everything possible to resolve this issue.

Officials in Winnipeg are trying to determine what conditions are contributing to these disproportionate incidences in our Aboriginal community. I assure honourable senators that officials from Indian and Northern Affairs Canada, Health Canada, Manitoba Health, and the Aboriginal leadership are seized with this issue and are working together to control this serious outbreak and the return to health of Aboriginal Canadians who live in those communities.

Senator Watt: Honourable senators, I thank the leader for her answer. Knowing the conditions in those communities, we all have a good idea what is happening and that housing shortages lead to crowded homes. Those conditions do not help and they are a contributing factor. It is important for us to put a monitoring system in place. The Standing Senate Committee on Aboriginal Peoples was created to be the voice of the Aboriginal people. I suggest that the chair of that committee take the responsibility to move the issue forward and invite officials to appear before the committee to provide evidence of what supplies are going into the communities. At times, what we have been hearing is not the reality. I suggest to the leader that perhaps we need to have a monitoring system in place.

Senator LeBreton: I thank the honourable senator. I have listened to many of the news reports as well. There seems to be some conflict of information. I have seen and heard Minister Oswald outline the efforts of the Manitoba government. She travelled to the affected communities to witness the situation first-hand.

The honourable senator is absolutely right in saying that much work needs to be done in Aboriginal communities. As honourable senators know, the government has taken major steps to provide a safer water supply system, although there is a long way to go yet.

There is a \$300-million market housing fund to build or renovate 25,000 homes on reserves. Going back to Budget 2006; \$300 million was established for housing in the North; and \$300 million to help provinces with off-reserve funding for housing. In Budget 2009, the Economic Action Plan, \$2 billion was provided to address the issue of social housing, including \$400 million in direct support for on-reserve housing and \$200 million for housing in the North.

Many of these projects are underway, or have been committed to. Minister Strahl has been working with various officials, not only in the provinces and territories but also in the Aboriginal community. I believe that improved housing is a priority for the government and the minister. There is no doubt that housing conditions may have contributed in a large way to the outbreak of H1N1. The government and the minister are well aware of the importance of moving as quickly as possible with the initiatives on proper housing.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table delayed answers to four oral questions: the first question was raised by Senator Fraser on March 31, 2009, concerning Canadian Heritage and Official Languages, CBC Funding; the second by Senator Tardif on April 23, 2009, concerning Canadian Heritage and Official Languages, the Destination 2010 website; the third was raised by Senator Jaffer on May 6, 2009, concerning Canadian Heritage and Official Languages, the Richmond Olympic Oval; and the fourth was raised by Senator Jaffer on May 14, 2009, concerning Justice, Omar Khadr.

TRANSPORT AND COMMUNICATIONS

2006 REPORT ON CBC RESTRUCTURING AND CBC FUNDING

(*Response to question raised by Hon. Joan Fraser on March 31, 2009*)

CBC/Radio-Canada's funding in the past ten years is as follows:

1999-2000	2000-01	2001-02	2002-03	2003-04
879.2	902.1	982.9	1,046.5	1,066.3

2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
1,036.5	1,097.7	1,114.1	1,104.0	1117.4	1052.6

Source: Public Accounts for 1998-99 to 2007-08. 2008-2009 Main Estimates and Supplementary Estimates (A) (B) + (C), 2009-2010 Main Estimates

On March 26, 2009, the Minister of Canadian Heritage announced the renewal in 2009-2010 of the \$60M for CBC programming. CBC is seeking Parliamentary approval of this allocation in the next upcoming Supplementary Estimates exercise.

CANADIAN HERITAGE AND OFFICIAL LANGUAGES

CANADIAN TOURISM COMMISSION WEBSITE

(*Response to question raised by Hon. Claudette Tardif on April 23, 2009*)

Hosting the 2010 Games is a major undertaking involving several stakeholders from multiple jurisdictions. Some of them have official language obligations, whether contractual or statutory, while others do not.

VANOC's official language obligations stem from the Multiparty Agreement, signed in 2002 with the Government of Canada and other key partners, and from different

contribution agreements containing provisions on official languages. VANOC is responsible, in these agreements, for delivering bilingual Games. The Department of Canadian Heritage has mechanisms in place to ensure VANOC meets its contractual obligations. However, in consideration of the established partnership and the short time which remains before the start of the Games, the Department prefers to support VANOC in its efforts to implement its official languages obligations.

The Department of Canadian Heritage supports the Minister of Official Languages in his role of coordinating all Government of Canada activities related to official languages. The Department also has a coordination responsibility with respect to the obligations included in Part VII of the *Official Languages Act (OLA)*, specifically those related to government support towards equal status of the English and French languages in Canadian society. This includes, notably, providing advice, sharing best practices, generating discussion on best ways to proceed, and collecting information for reporting purposes. An official languages unit exists within the Federal Secretariat for the 2010 Winter Games at the Department of Canadian Heritage which works with Games partners, including federal agencies and departments.

All federal institutions collaborating on the 2010 Winter Games will have to fulfill their linguistic obligations, as per the *OLA* and related policies, and are ultimately responsible for delivering services in both official languages. Each federal institution is therefore responsible, within its mandate, of the way it meets its obligations as described in the *OLA*. This is the case for the Canadian Tourism Commission (CTC), which is part of the Industry Canada portfolio. Information provided by the CTC on the 2010 Games is available in both official languages on the CTC website.

The Destination 2010 website, developed for the international media, is the result of a partnership between the CTC, Tourism British Columbia, Tourism Vancouver, Tourism Whistler and Tourism Richmond. Partnerships between federal institutions and organizations that are not subject to the *OLA* do not automatically confer linguistic obligations on the partners.

The CTC will add a French homepage on Destination2010.ca, providing French-speaking users with a direct link to the CTC website where content is available in both official languages.

CANADIAN HERITAGE AND OFFICIAL LANGUAGES

2010 WINTER OLYMPICS—BILINGUAL SIGNAGE

(Response to question raised by Hon. Mobina S.B. Jaffer on May 6, 2009)

The Government of Canada (GoC) is committed to the full incorporation of Canada's official languages in the planning, organizing and hosting of the 2010 Winter Games.

It is unfortunate that an opportunity to demonstrate the bilingual nature of Canada was missed with the Richmond Olympic Oval sign. VANOC has publicly expressed that it was an oversight on their part.

The GoC, through Canadian Heritage and its Sport Hosting Program, along with the Province of British Columbia, are contributing equally to VANOC's \$580M Capital Budget. This capital budget is to fund the construction of venues for the 2010 Olympic and Paralympic Winter Games.

The GoC and the Province of British Columbia have each contributed \$30M towards the Richmond Oval's overall budget of \$118M. The remaining budget is funded by the Oval's owner, the City of Richmond.

Under the agreement between VANOC and the City of Richmond, it is only when VANOC will take exclusive control of the sites for the Games period that all signage must be in both official languages.

JUSTICE

CASE OF OMAR KHADR

(Response to question raised by Hon. Mobina S.B. Jaffer on May 14, 2009)

Lieutenant Commander Bill Kuebler was dismissed by the chief defense counsel at Guantanamo Bay on April 3rd, 2009, but was re-instated four days later by Lieutenant Colonel Parrish, the presiding judge in the Khadr case. At a hearing on June 1st, 2009, Mr. Khadr initially expressed a desire to discharge all of his US defence counsel, but he also declined to represent himself. In order that Mr. Khadr not go unrepresented at this stage of the proceedings, Judge Parrish ordered, at Mr. Khadr's request, that LtCmdr Kuebler act as sole US defence counsel, pending discussions with Mr. Khadr's Canadian lawyers. There will be another hearing on 13th of July, at which time the matter should be resolved. Once the defence counsel issue has been resolved the military judge will address the Government's request for a further postponement of the proceedings.

Canada has always insisted that Mr. Khadr has access to competent counsel of his choice.

Foreign Affairs would also like to confirm that Canadian officials have carried out regular welfare visits with Mr. Khadr, and will continue to do so for as long as Mr. Khadr remains in US custody. The visits allow access to Mr. Khadr to assess his welfare and treatment, and to obtain information about his mental and physical conditions.

[English]

THE SENATE

TRIBUTE TO DEPARTING PAGES

The Hon. the Speaker: Honourable senators, let us say farewell to three of our departing pages. Jonathan Williams leaves the page program this summer to participate in internships with the Maritime Fishermen's Union and then with a non-governmental organization in India during the fall. He plans to finish his undergraduate studies in Paris. He will always be an active and informed citizen of Nova Scotia, Canada. He has learned valuable lessons while working in the Senate and is grateful for the opportunity to see the Canadian parliamentary system in action.

Bronwyn Guiton had the opportunity to work as a Senate page. The last few years have been both academically and professionally rewarding for her. In September, Bronwyn will return home to North Vancouver to conclude her post-secondary studies at Capilano University. She plans to attend the School of Library, Archival and Information Studies at the University of British Columbia for graduate work.

[Translation]

Éric Beaudoin has completed a two-year internship here in the Senate, which was an indelible experience. Next fall, he will begin studying for his master's degree in health services administration at the Université de Montréal. He hopes that his studies will lead to a career in Canada's hospital or government sectors.

He would also like to continue exploring the cultures and customs of the world by adding a few countries to his globe-trotter's passport.

• (1510)

[English]

ORDERS OF THE DAY

ROYAL CANADIAN MOUNTED POLICE SUPERANNUATION ACT

BILL TO AMEND—THIRD READING

Hon. Gerald J. Comeau (Deputy Leader of the Government) moved third reading of Bill C-18, An Act to amend the Royal Canadian Mounted Police Superannuation Act, to validate certain calculations and to amend other Acts.

He said: I think we should support this bill.

Senator Cowan: That is the best speech you have given all session.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: On debate.

Hon. Catherine S. Callbeck: Honourable senators, I would like to say a few words about Bill C-18 and also about the Standing Senate Committee on National Finance's report. It is a good bill; it provides for our valued RCMP members to have the same pension advantages as members of the other federal superannuation plans.

This bill passed committee without amendments but there was one observation. I would like to read that observation.

During the committee's examination of this legislation, it was brought to our attention that the six-month Royal Canadian Mounted Police cadet training period, which is not considered pensionable service, is an issue that requires further policy changes for the Government of Canada and the RCMP. Since 1994, cadets have not been employees of the RCMP and, as such, cannot contribute to the pension plan. In contrast, some other major Canadian police forces regard cadets as employees and thus contribute to their respective pension plans during the training period. The passing of this legislation would create an inequity between the RCMP cadets and some transferring police officers, as the latter will have the option to buy back prior service, including the training period, to transfer pension credits as cadets to the RCMP.

The committee therefore calls on the government and RCMP to undertake to consult with all stakeholders to consider policies that designate new cadets as employees of the RCMP, and determine if full retroactivity to post-1994 graduates is possible.

The committee asks the results of this review be reported back to the committee within 12 months.

That is the end of the observation. Prior to 1994, cadets were paid a salary and were deemed as employees of the RCMP. Now cadets are not employees and are provided with an allowance.

Under this legislation, when some — other police officers — join the RCMP, they will be able to take that pensionable service with them. They will be treated differently than our own RCMP cadets by having the advantage of their additional training time in calculating their pension benefits.

While this issue is outside the purview of this piece of legislation as it is written, we believe this policy is unfair. It is why we have asked the government and the RCMP to consider changing its policy to treat these cadets as employees. In doing so, the cadets will automatically be covered by the RCMP's superannuation plan. No further legislation will be required.

I look forward to the RCMP's response to this observation and urge honourable senators to support this bill at third reading.

Hon. Yonah Martin: Honourable senators, it is a pleasure to rise today to speak on third reading of Bill C-18, An Act to amend the Royal Canadian Mounted Police Superannuation Act, to validate certain calculations and to amend other Acts.

This bill makes several technical amendments to the Royal Canadian Mounted Police Superannuation Act. The principal changes would provide the required authorities to develop regulations expanding existing prior service provisions and to establish pension transfer agreements with other employers. Other related changes improve some administrative and eligibility provisions of the act, and validate certain historical calculations pertaining to part-time employment and the cost of elections for prior service with a police force that was absorbed by the RCMP.

The new prior service options would allow eligible plan members to purchase prior service under other Canadian pension plans in order to increase their pensionable service under the RCMP pension plan. The establishment of pension transfer agreements would allow the RCMP to enter into formal agreements with other employers to allow pension plan members to transfer the value of benefits earned under a former plan to a new plan.

The ability to consolidate pension benefits under a single plan can improve the value of prior service as the resulting pension benefit may be calculated based on a higher salary earned with the most recent employer. The result may also be improved survivor benefits or the opportunity to retire earlier.

The existing lack of pension portability under the RCMP pension plan has created unfairness among RCMP employees. The RCMP employs police officers and civilian members whose pensions are governed under the RCMP Superannuation Act, and public service employees whose pensions are governed under the Public Service Superannuation Act.

For years, the Public Service Superannuation Act has allowed eligible members to elect for prior service under other public and private-sector pension plans. It also has more than 70 pension transfer agreements in place.

In many cases, the regular and civilian members of the RCMP are working side by side with their public service colleagues, yet they do not enjoy the same level of flexibility when it comes to their pension options. Bill C-18 would address this unfairness and level the playing field for all RCMP employees.

Bill C-18 would also support the RCMP's recruiting efforts. In 2008, the Force launched its most aggressive recruiting campaign ever. The policing environment is quickly evolving as violent crime escalates and criminals become more sophisticated. RCMP officers respond to some 7,500 calls for service a day. That is more than 3 million a year. Never in the RCMP's 136-year history has Canada had a greater need for police officers to patrol its provinces and territories.

That is why recruitment remains a national priority for the RCMP. The recruitment process has been closely examined and many improvements have already been made. For example, non-essential tests have been eliminated, the validity period for tests has been extended and fewer pre-employment polygraph

questions are asked. Applicants can now check on the status of their file through a national toll-free number and can expect to be contacted by a recruiter at least once every 30 days. As a result, the whole process has been streamlined and RCMP cadet training positions are filled in a timely manner.

A modernized pension plan would support the RCMP's efforts to become an employer of choice in a competitive labour market. This is especially true in the case of the RCMP Lateral Entry Program. This program, which allows police officers from other forces to join the RCMP, is a way of recruiting experienced personnel at a significantly expedited rate and with reduced training costs.

A new recruit with no experience attends a 24-week training program at the RCMP Training Academy in Regina. On the other hand, a lateral entrant from another police force attends only a five-week training program at the academy designed to expose him or her to RCMP policies, procedures, protocol, history of the force and training specific to RCMP duties. The savings are significant, as the cost of training the new recruit is approximately \$38,000, while the cost of training the lateral entrant is only about \$12,000.

The RCMP Reform Implementation Council was set up in 2008 to oversee the implementation of the recommendations of the Task Force on Governance and Cultural Change. In its second report, released this past March, the council noted:

We strongly favour lateral entry as a way to enrich the RCMP workforce and to acquire essential skills and competencies and we urge that still more be done to facilitate it.

Honourable senators, support of Bill C-18 would do exactly that. The Lateral Entry Program would become more attractive to potential recruits once pension credits earned with the previous employer become transferable to the RCMP pension plan.

I also want to point out that pension portability, as it relates to pension transfer agreements, is a two-way option. Once an agreement is in place between two employers, the police officers and civilian members of the RCMP may take their earned pension credits with them when they decide to pursue employment with another organization.

• (1520)

This is a choice currently available to the public service employees of the RCMP and to employees of many public and private-sector pension plans in Canada. I think it only fair that the RCMP Pension Plan is modernized to offer the same fairness and flexibility to its members.

Finally, I take this opportunity to thank Senator Callbeck and all the honourable senators of the Standing Senate Committee on National Finance, particularly Senator Di Nino, for their attention and work on this bill in committee to date. I trust honourable senators will agree and will demonstrate their support of the RCMP by voting in favour of Bill C-18.

Hon. Joseph A. Day: Will the honourable senator take a question?

Senator Martin: Yes.

Senator Day: The question relates to the point that the honourable senator made a number of times during her presentation. I congratulate her on her presentation as sponsor of this bill.

Our Standing Senate Committee on National Finance studied the bill, and we were concerned about encouraging, to too great an extent, lateral transfers. The bill encourages that type of activity. However, in effect, that is saying it costs a whole lot less because they have already been trained by some other provincial organization.

The federal government is saying: "We will save a lot of money by raiding provincial police forces." That is surely not what we are looking for. I would like the honourable senator to comment on that.

The second point is the concern we had that those lateral transfers arrive as employees. Therefore, they receive pensionable time from the moment they are hired by the RCMP; they bring their pension with them and they continue to add to it. They will be working with recruits out of high school who will have to go through the longer training period and not have pensionable time. That is the concern we had.

Would the honourable senator encourage and comfort us by responding that the federal government is aware of these inequities and is looking into them?

Senator Martin: In terms of the lateral program, this bill focuses on modernizing pension portability for the RCMP. In all fairness, we want to give our officers fair access to whatever work they will be doing, and vice versa.

The RCMP, as the honourable senator knows, is reputable and well established. Therefore, anyone joining the force would do so with pride and honour. Again, this bill focuses on pension portability.

With regard to the honourable senator's concern about lower cost or any concern regarding the transfer, I do believe this bill does what it needs to do, which is to modernize the system and to allow the RCMP to recruit aggressively. As I mentioned, there is a need and there is a labour shortage. We want to ensure that we have a full force in the RCMP.

Hon. Pierrette Ringuette: As a member of the Standing Senate Committee on National Finance, I was very concerned in regard to this bill creating three different styles of pension buybacks. Let me mention, first, the cadet issue highlighted by Senator Callbeck.

Contrary to the Canadian Army or the Ontario police force, the cadets, from the day they start their training, are not considered employees. It is only a department policy. Therefore, the time that they would spend in Regina is not considered pensionable time.

The second tier that is being created with the lateral entrant provides an additional discrepancy in regard to how a new RCMP member can be treated within the pension plan. By way of example, the members of the Ontario police force are recognized as employees as of day one, as cadets or trainees. Therefore, if

they transfer to the RCMP as a lateral entrant, their training time is considered pensionable.

On the flip-side, recruits for the Sûreté du Québec have to go to Nicolet to train. That time is considered training time. They have to go through the cégep college process. They are students; they are not cadets or trainees. Therefore, that time is not pensionable. A two-tier system is being created regarding the category of lateral entrants.

Third, we are talking about ex-RCMP officers who come back to work. The officials who appeared before our committee told us that, as an example, if you work for the RCMP for ten years, leave for five years to work in the private sector, and come back at year fifteen, you can buy back those five years. Additionally, the RCMP — that is, the federal government — would put a proportion of those five years into the pension plan. That is another major discrepancy.

It has been stated that Bill C-18 creates fairness in regard to the RCMP Pension Plan. I would say that, on the contrary, it creates greater division in regard to accessing credit to pensionable years in the force.

Senator Martin: The honourable senator always speaks with such conviction. I appreciate the concern that she is expressing with this bill.

As Senator Callbeck noted regarding the cadet issue, I know that it was raised in committee. I apologize; I was not there for that discussion. However, I was briefed on that issue by my policy adviser, who attended.

In terms of Bill C-18, I will restate that the concern the honourable senator mentions does not necessarily fall within the scope of this bill. We are looking at pension portability and modernizing the RCMP pension system.

The cadet issue has been noted. As the honourable senator knows, they do receive a remuneration. It is a six-month period. As well, they do sign an agreement as they enter the program. Other concerns were noted, such as some of them may not complete the program and meet the requirements. This is something the RCMP will address, I am sure; it is something they will study. The work of the committee and the observations that were noted by Senator Callbeck will be taken under consideration.

I thank the honourable senator for her concern. This bill is focusing on modernizing the pension system and focusing on pension portability.

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

Hon. Senators: Question.

The Hon. the Speaker: It is moved by the Honourable Senator Comeau, seconded by the Honourable Senator Duffy, that Bill C-18 be now read the third time.

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

(Motion agreed to and bill read third time and passed.)

• (1530)

ENVIRONMENTAL ENFORCEMENT BILL

THIRD READING

Hon. Richard Neufeld moved third reading of Bill C-16, An Act to amend certain Acts that relate to the environment and to enact provisions respecting the enforcement of certain Acts that relate to the environment.

He said: Honourable senators, I am pleased to participate in third reading of Bill C-16, the Environmental Enforcement Act. We have before us an important bill that will contribute to improving enforcement of our environmental laws by proposing extensive amendments to the offence, penalty and enforcement provisions of nine environmental protection and wildlife conservation statutes under the authority of the Minister of the Environment, including the Canadian Environmental Protection Act, 1999; the Migratory Birds Convention Act, 1994; Canada's trade in endangered species legislation; and the Canada National Parks Act.

This bill fulfills a Conservative Party election commitment made to bolster environmental protection through tougher enforcement. The bill complements a number of other steps this government has taken to improve enforcement of environmental laws, including \$22 million, committed in Budget 2007 to increase the number of Environment Canada's enforcement officers by 50 per cent; and \$23 million committed in Budget 2008 for the implementation of an enhanced law enforcement program.

This bill does not alter the requirements currently in place for environmental compliance in Canada. However, it introduces important and innovative measures to ensure that sentencing achieves the goals of deterrence, denunciation and restoration, and contributes to the protection of our environment.

Bill C-16 achieves these goals by increasing fines, improving sentencing authorities and strengthening the tools available to our enforcement officers. The bill will introduce, for the first time, minimum fines for individuals and corporations to nine environmental statutes. Bill C-16 also increases maximum fines and obliges courts to order additional fines if satisfied that an offender has profited from the offence.

The bill also improves sentencing authorities by expanding the authority of courts to order offenders to undertake certain activities, including remediating harm caused by their offences and contributing to communities affected by environmental offences. To ensure the goals of deterrence, denunciation and restoration are all achieved, the bill directs all fines collected under the laws it amends to the Environmental Damages Fund, a special account in the Accounts of Canada, from where the funds will be available to community and other organizations for environmental restoration, improvement, research and development, and public education and awareness.

Additionally, the bill improves the tools available for enforcement, including expanded authority to designate analysts and broadened availability of "compliance orders," which can be used by enforcement officers to ensure immediate action is taken

to stop illegal activity. Moreover, the bill allows for quick and fair enforcement of minor violations through administrative monetary penalties.

Honourable senators, we have incorporated two observations that reflect some of the concerns we heard in testimony. First, we heard concerns that Bill C-16 may contravene certain of Canada's international obligations under the International Convention for the Prevention of Pollution from Ships, the International Convention on Civil Liability for Oil Pollution Damage, and the United Nations Convention on the Law of the Sea, particularly with respect to provisions that contemplate imprisonment of mariners convicted of various environmental offences.

This bill passed without amendment. We rely largely on the testimony of the honourable minister that prosecutions under respective acts will not proceed if such prosecutions contravene any treaty or international convention to which Canada is a signatory.

Second, Bill C-16 seeks to deter would-be polluters by strengthening enforcement provisions of the environmental statutes. In general, witnesses before the committee were supportive of the bill. However, some witnesses raised a specific concern regarding increased penalties for discharging waste into water.

Ships need to discharge waste as part of their normal operations. Currently, a lack of reception facilities at Canadian ports leaves mariners with no legal means to discharge waste. Recognizing that the provision of reception facilities is crucial for the effective implementation of pollution prevention treaties, the International Maritime Organization strongly encourages the provision of adequate reception facilities.

Witnesses appearing before the committee stressed the need for these facilities at Canadian ports, and the committee endorsed this view. Strong deterrence measures, absent realistic means of complying with the law, are unreasonable.

This government is sending a strong message — polluting and damaging our environment can no longer be considered as the cost of doing business. Polluters will be caught and they will face heavy fines. Corporate offenders will be listed on the public registry and will be forced to disclose their offences to shareholders. This bill and tougher enforcement will change the way people and businesses behave for the better and will contribute to a healthier environment for future generations. I encourage all senators to support this bill with the noted two observations.

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

Some Hon. Senators: Question!

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

(Motion agreed to and bill read third time and passed.)

[*Translation*]

CANADIAN AGRICULTURAL LOANS BILL

THIRD READING

Hon. Gerald J. Comeau (Deputy Leader of the Government) moved third reading of Bill C-29, An Act to increase the availability of agricultural loans and to repeal the Farm Improvement Loans Act.

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

(Motion agreed to, bill read third time and passed.)

[*English*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING

Hon. John D. Wallace moved second reading of Bill C-25, An Act to amend the Criminal Code (limiting credit for time spent in pre-sentencing custody).

He said: Honourable senators, it is a privilege for me to speak on Bill C-25, the Truth in Sentencing Act. Bill C-25 follows up on the government's commitment to limit the credit that a court may grant a convicted criminal for time served in presentencing custody. The Criminal Code allows a court to take into account the time an offender has spent in custody awaiting custody in determining the sentence to be imposed. However, the code does not say how to account for that time.

Although there is no mathematical formula for calculating this credit, courts have routinely apply a credit of two to one for the time spent in presentencing custody. Courts have also been known to give credit on a three-to-one basis and to grant less than a two-to-one credit. In other words, the court will deduct from the sentence it would otherwise impose, a multiple of every day a convicted offender has spent in remand.

I am sure we have all read newspaper accounts of sentences that seem to be far shorter than they should be. This situation is sometimes due to the fact that credit for time served before trial has been taken into account, but which is not always reported. The reader of that article may be left with the impression that the offender "got off" lightly.

Courts have stated that credit for time served takes into account overcrowding in remand facilities and the lack of programming in remand facilities, as well as the fact that time spent in remand custody does not count toward eligibility for full parole and statutory release. In some instances, higher credit, for example, three to one, has been awarded to take into account harsh conditions of pre-trial condition such as extreme overcrowding.

Courts have awarded less than two-to-one credit in some circumstances, for example, where the offender unlikely to obtain early parole due to his or her criminal record or because the time spent in remand custody was as a result of a breach of bail conditions.

Bill C-25 will provide a more consistent approach to this issue. Across the country, court cases are more complex, and therefore they are longer than they were in the past. When the accused is detained before trial and the trial dates are later and trials are longer, there will be longer stays in remand. The pattern now is that offenders are spending more time in remand, that is, before trial, than in sentenced custody.

• (1540)

The most recent data indicates that during a 10-year period, from 1996-97 to 2006-07, the remand population grew significantly and surpassed the number of adults being held in provincial-territorial sentenced custody. In 2006-07, there was a 3 per cent rise in the adult remand population in Canada, in contrast to a 3 per cent decline in provincial-territorial sentenced admissions. Over all, remand represents about 60 per cent of admissions to provincial-territorial facilities.

In terms of length of stays in remand centres, the available data indicates that in 1994-95, about one-third of those in remand were being held for more than one week. Ten years later, in 2004-05, those held for more than one week had grown to almost half, 45 per cent, of the remand population.

A number of factors have contributed to the growth in the remand population, but the practice of awarding credit for time served is an important one. Provincial Attorneys General and correctional ministers have encouraged the Minister of Justice to limit the amount of credit for pre-sentencing custody as one way to help reduce or control the growing size of remand populations.

As I noted earlier, another concern about awarding credit for time served is the lack of clarity about the sentence imposed. Explanations for the length of the sentence imposed are usually provided orally in open court at the time of sentencing, but there is currently no requirement for judges to explain the amount of credit awarded for this pre-sentence custody. As a result, the public does not have easy access to information about the extent of pre-sentence detention or how that influenced the actual sentence imposed. The impression is that offenders are getting more lenient sentences than they deserve because it is hard to understand how such sentences comply with the fundamental purposes of sentencing, that is, denouncing unlawful conduct, deterring the offender from committing other offences and protecting society by keeping convicted criminals off the streets. The practice of awarding two-to-one or even greater credit erodes public confidence in the integrity of the justice system and undermines the commitment of the government to enhance the safety and security of Canadians.

Honourable senators, for these reasons, the current practice of awarding two-for-one credit must be curtailed. With Bill C-25, the government is following through in its goal of providing more truth in sentencing and its commitment to ensure that individuals found guilty of crimes serve a sentence that reflects the severity of those crimes. Bill C-25 will provide the courts with guidance in sentencing by limiting the credit for presentencing custody to one-to-one in most cases.

However, this bill allows courts to award up to one-and-a-half days for every day spent in remand custody where circumstances justify doing so. Courts would then be required to provide reasons for granting more than one-to-one credit. The circumstances

justifying such a departure are not specified in the bill. Sentencing courts will decide on a case-by-case basis whether the credit to be awarded for time spent in remand custody should be more than one-to-one. For example, a court could grant up to one-and-a-half days for every day spent in pre-sentence custody where the conditions of detention in remand are extremely poor or where the trial is unnecessarily delayed by factors not attributable to the accused.

However, the possibility of courts granting up to one-and-a-half-to-one credit will not be allowed for those accused who are in pre-sentencing custody primarily because of their criminal record or because they violated their bail conditions. In those situations, the credit for pre-sentencing custody will be strictly limited one-to-one. No extra credit should be granted under any circumstances for repeat offenders or those who find themselves in remand custody because they could not abide by their release conditions. Bad behaviour should not be rewarded with credit for pre-sentencing custody.

This approach is also more consistent with the situation found in other common law countries where rewarding credit for pre-sentence custody is less generous than in Canada. For instance, virtually every U.S. state awards credit for pre-sentence custody on a one-to-one basis. This is the same for England and Wales, New Zealand and most Australian jurisdictions. Many jurisdictions do, however, take pre-sentencing custody into account in their post-conviction remission schemes so that the net credit is likely closer to a ratio ranging from 1.3-to-one to 1.5-to-one.

As I mentioned earlier, there was also gap in the law with the manner in which the determination of the credit for pre-sentencing custody and consequently the sentence imposed is reported. To fill this gap, Bill C-25 would require courts not only to note the sentence that would have been imposed before taking into consideration credit for presentencing custody, but also the amount of the credit granted and the sentence imposed.

Honourable senators, this bill accomplishes a number of important objectives. It delivers on the government's promise to provide truth in sentencing. It does this by providing courts with clear guidance and limits for granting credit for time served.

I believe that requiring courts to clearly explain the credit granted and the sentence imposed will result in greater certainty and consistency and will improve public confidence in the administration of justice. Canadians will no longer be left wondering about how a particular sentence has been arrived at in a particular case. It will also help to unclog our court system and avoid costly delays if there is more incentive to push for an earlier trial date.

Sentencing issues are complex and of enormous importance to the government. The government has worked closely with provinces and territories to deal with thorny issues of sentencing reform. Provinces and territories have pushed for amendments to the conditional sentencing regime and are supportive of this bill.

These are important changes for Canadians as well. Many feel that, too often, offenders slip through the fingers of the Canadian justice system without serving their time. Canadians have been

clamouring for this change. A recent Harris/Decima poll indicates that those who favour the elimination of the automatic two-for-one credit outnumber those who oppose it 58 per cent to 34 per cent. Canadians believe there should be more truth in sentencing. They believe that the sentence you get is the sentence you serve, and I agree.

Honourable senators, one concern expressed by some critics is that Bill C-25 is unfair because it does not adequately recognize that pre-sentencing custody often occurs in crowded institutions with a lack of opportunities for education and treatment. However, it is not the intention of the government that accused persons be encouraged to remain in remand longer than is absolutely necessary. Rather, the intention is to have accused persons proceed to trial with as little delay as possible and, if convicted and given a custodial sentence, that they be sent to prisons that offer more opportunities for education and treatment.

Critics of Bill C-25 have also noted that the time spent in pre-sentencing custody does not count towards full parole eligibility and statutory release and that credit for time served compensates for this otherwise dead time. The practice of awarding generous credit for pre-sentence custody cannot rest on the foundation of a statutory release and parole system that has itself been subject to criticism and which could be changed in the future.

The approach taken in Bill C-25 should encourage good conduct by accused persons while on bail. It could also encourage them to seek an early trial, where possible, or, where appropriate, to enter an early guilty plea. Above all, it will lead to greater certainty and consistency across Canada regarding the relationship between the sentence imposed on an offender and credit for pre-sentence custody.

• (1550)

Time and time again, Canadians have said they want a strong criminal justice system. They want quick and decisive action to tackle crime. The government is committed to protecting its citizens by making laws that will keep our streets and communities safer. Several key pieces of legislation have been introduced to achieve this objective. The government has a long list of accomplishments in tackling crime over the past two years, and Bill C-25 should be added to this list.

Honourable senators know — because we are studying several crime bills — that the government has: proposed reforms to address organized crime contained in Bill C-14; introduced measures to provide mandatory sentences for serious drug offences in Bill C-15; and proposes to repeal the faint hope clause for future murderers in Bill C-36. Bill S-4, recently passed by this chamber, seeks to protect Canadians against the rapidly increasing crime of identity theft. Bill C-42 was introduced to restrict further the availability of conditional sentences for specific offences punishable by a maximum sentence of 10 years or more. Bill C-25, together with the initiatives I have referred to, is a clear demonstration of the government's commitment to take concrete action on crime.

As noted, Bill C-25 is supported by provincial and territory attorneys general and correctional ministers. Bill C-25 was supported by all parties in the other place who ensured that this

bill was referred to us as quickly as possible. I respectfully urge all honourable senators to ensure the approval of Bill C-25 without delay.

Hon. Sharon Carstairs: Would the honourable senator accept some questions?

Senator Wallace: Yes.

Senator Carstairs: Honourable senator, the argument is a clear one. Those who commit a crime should serve the sentence that they have been given by the courts. However, many of our offenders are spending time in remand centres that provide woefully inadequate care and no rehabilitation, which is part of our penal system in this country. Can the honourable senator tell me if the government has any plans to provide additional funding to improve the remand centres in Canada so that the right balance of rehabilitation and punishment will occur?

Senator Wallace: Honourable senators, the responsibility for those detention centres involves provincial, territorial and federal responsibility. Through the consultation process that led up to and supported this bill, the situations that the honourable senator described are well recognized at all three levels of government. There is no question that it is recognized that with potentially even more offenders in custody, there is a need to upgrade the quality of the facilities. There is also an emphasis on treatment. It is a matter of rehabilitating, not simply punishment. Rehabilitation is a very important part of our justice system. That is recognized and all of that is under review.

Senator Carstairs: My second question has to do with the speed of trials. If someone remains in a remand centre, it is because they have not gone through the trial procedure. I am told there are several reasons for that, not the least of which is the inability to get Legal Aid lawyers for many of those who have been accused of crimes. It is generally known in this country that criminals, for the most part, do not tend to be the brightest individuals who walk the face this earth. Therefore, they often have not been financially successful and need to have Legal Aid lawyers. What reform is this government contemplating with respect to ensuring that appropriate legal counsel is available through Legal Aid to those who have been accused?

Senator Wallace: The issue of Legal Aid lawyers is a provincial responsibility and it is one that is always under review. It has been an issue in my home province of New Brunswick. As part of the ongoing funding discussions over a host of areas between the federal and provincial governments, undoubtedly Legal Aid is one of those issues on the table. The fact of the matter is that it is the provinces that have responsibility to provide those Legal Aid lawyers.

A significant issue that continues to come up is the existing two-to-one and three-to-one credit for pre-trial custody. It has become a defence strategy to delay the trial. They realize that when all is said and done, they may well change their plea to guilty or they stand a high probability of being found guilty. However, they are receiving two or three days of credit for every day served while they delay the trial date.

One can imagine what effect that is having on overcrowding in the detention centres. That is major incentive to move this legislation along to have those who commit crimes serve their sentences. There is latitude under this bill for not only a one-to-one credit while in pre-trial custody. It can go to 1.5-to-1. However, it will be much more strictly controlled than it is today. Again, that is backing up the court system the way it is being used as a technique by many defence lawyers. It is one that must end.

Hon. Joan Fraser: I have a factual question if Senator Wallace will permit.

Senator Wallace: Yes.

Senator Fraser: The honourable senator said in his remarks that the two-for-one credit is one of the most important reasons for the increase in the number of people now held in remand custody. This is an immensely complicated issue and the honourable senator seems to have more certainty about it than some others I have heard. What is the basis for that statement? Are there statistics from the Canadian Centre for Justice Statistics to explain that?

Senator Wallace: I have certainty about that, but I do not have statistics at hand. I have certainty for two reasons. First, I am generally familiar with defence tactics. Second, it is based upon logic. If you are a defendant and you realize that you are likely to plead guilty rather than go to trial, you can postpone making your election to plead guilty or not guilty knowing that every day you sit in custody will count for two days in the event you change your plea. It is logical; we know what will happen.

To answer the honourable senator's specific question, I have no statistics at hand. However, I have no reservation in saying that this strategy is well known by defence lawyers.

[*Translation*]

Hon. Céline Hervieux-Payette: The honourable senator referred to a certain shortage. There is a lot of talk right now about job creation.

When preparing a bill, we must also plan for its enforcement. The reality in Quebec is that there is a shortage of judges and Crown prosecutors. Your comments seem to indicate that it is the defence lawyers who are slowing things down. We must be careful before reaching such a conclusion. Legal professionals have indicated that the problem is due more to the shortage of officers of the court and the fact that those officers cannot enforce the many sections of the acts and amendments to the Criminal Code presented by the honourable senators who sit on the other side of this chamber.

• (1600)

We must first ascertain whether we have the means to enforce the law. Passing a law is one thing but ensuring that it is enforced is another.

I would like the honourable senator to tell me if financial studies have been done with respect to the hiring of staff — judges and other judicial officials — in order to ensure that, when a law is amended, it can subsequently be enforced.

[English]

Senator Wallace: I thank the honourable senator. If the honourable senator interprets it this way, I have overstated it. I would not say the main reason for bringing this bill forward is to deal with what I describe as a defence strategy to delay entering a plea and allowing this two-to-one credit to exist. I would say it is a consequence of the current circumstance and is to be taken seriously. The question I was responding to dealt with overcrowding.

Obviously, having the resources to administer justice is always critically important. The honourable senator is right in saying those resources include judges, defence attorneys and Crown prosecutors. The main focus of the bill is to do the right thing to protect the public and to set a standard in this country to ensure that if people commit crimes and endanger the lives and safety of Canadians, they will pay a price. We believe that price should be tied closely to the sentence that a judge, who hears the entire case, determines.

Yes, there is a consequence for behaviour that is not acceptable in society. There is no question in my mind that this bill will benefit and enhance the safety of all Canadians. Safety is the primary focus of this bill.

[Translation]

Senator Hervieux-Payette: I have a supplementary question. If greater safety could be guaranteed by not handing down reduced sentences, we would have to conclude that judges do not take this into account.

The honourable senators on this side of the Senate believe that the judge's determination of the sentence should take this phenomenon into account. I believe that our justice system is based on a case-by-case assessment and that judges have some discretion in this regard.

In Quebec, when the Criminal Code sets out a maximum sentence, it is customary to take delays into account even if the person was incarcerated before the trial. I believe that the Criminal Code is applied in the same manner in Quebec as it is in the rest of Canada.

I wonder if the honourable senator thinks that this practice means that, in terms of safety, we are back to the old myth that the more restrictions we have in the Criminal Code, the safer citizens will be. That is not true.

[English]

Senator Wallace: Honourable senators, the public receives greater protection when there is a greater downside risk to those who want to commit crimes. Does it deter everyone? Probably not. Does it have an effect on some? Yes, it has, I am sure. The time that convicted felons spend in custody means that they are not on the street. To that extent, it is logical to say then that greater protection is afforded to the public.

Coming back to the honourable senator's point about the discretion that judges have, the purpose of this bill is not to remove entirely the discretion of judges in considering sentencing

and, in particular, how to deal with the time spent in presentencing custody. As I mentioned, the one to one ratio can be increased to one and a half to one. A judge may take into account the existing conditions of detention. For example, a lack of programming to help rehabilitate a person can be taken into account in determining whether the one-to-one ratio could go to a one and a half- to-one ratio. It would be the case as well if the accused, in the opinion of the judge, did not deliberately attempt to delay the trial and to subvert the process.

With those factors, a judge may increase the one to one ratio. The goal is not simply to have a black-and-white system. Judges must have logic and reasonableness, and I suggest to the honourable senator that Bill C-25 provides that logic and reasonableness.

Hon. George Baker: Honourable senators, I have been asked to say a few words on this bill, after which it will be referred to committee for detailed study so that our judges will know the meaning and intent of the proposed legislation.

Honourable senators, from time to time I check to know which branch of Parliament our judges quote these days. It is easy to check by electronic means through QuickLaw and WestlaweCARSWELL. There will be a great deal of examination in committee on the intent of the words in this bill. One would think that if a judge were looking for the meaning of a particular word or section, or for the intent of the government, the judge would turn to the committees of the House of Commons more frequently than they would turn to the committees of the Senate.

I checked about four hours ago the number of times that a judge has gone to the debates in committees of the House of Commons as compared to committees of the Senate. Many people say that the Senate accomplishes tremendous work in its committees.

The count is as follows: In the last 15 years, judges of the provincial courts, the provincial Supreme Courts, the Court of Appeal, the Federal Court, the Federal Court of Appeal and our quasi-judicial bodies referenced the House of Commons and its committees 631 times to seek information on legislation. Judges referenced the Senate and its committees to seek the same information 769 times.

Hon. Senators: Hear, hear!

Senator Baker: Judges referenced the Senate and Senate committees 138 more times than they referenced the other place and its committees. If one were ever looking for a reason for the continuation of this institution, it lies in those figures.

Hon. Senators: Hear, hear!

Senator Baker: Perhaps a certain senator should seek in his motions before the Senate to eradicate the other place.

• (1610)

It is very interesting material. I am not referring to either the number of times that a senator or a member of the House of Commons has been referenced in our courts. It is really surprising.

Just the other day, I noticed that a senator who is sitting in this place right now was called by the B.C. Supreme Court to be a witness thereto. On February 2, 2009, the judgment came down in *R. v. Beren and Swallow*, 2009, BCSC 429.

This senator was not charged with anything. He was there for his expertise when he sat on a committee of the Senate. The senator I am referring to, in case he is getting nervous, is Senator Nolin.

He gave evidence. Through his evidence, the subsections were struck down in the regulations, which were brought in — oops, that was when the Liberals were in — under the medical access regulations of the Controlled Drugs and Substances Act. The judge concluded, at paragraph 128:

I find both of those subsections constitutionally invalid.

That was the determination of the British Columbia Supreme Court, based on the evidence of Senator Nolin.

The most quoted senator, the most quoted member of Parliament in legislation over the past 15 years, because of the work the person has done in committee, is Senator Nolin.

Hon. Senators: Hear, hear.

Senator Baker: This past year, in *Canadian National Railway v. USWA Local 204*, Senator Nolin was referenced. In *Alberta Queen's Bench (Human Rights and Citizenship Commission) v. Kellogg Brown & Root (Canada) Company* — Senator Nolin. The Ontario Arbitration Board referenced him in Kenora Association for Community Living. The list goes on.

Honourable senators, the reason for the references to the committees of the Senate is that when judges seek the purpose of legislation, years ago, as Senator Nolin knows — and many honourable senators here who are lawyers know, as well as the chair — you would go to the Interpretation Act to look for meanings of words. Then along came the academic publications on the interpretation of legislation. Then, recently, on legislative intent, Professor Ruth Sullivan — she now has a prominent appointment here with the government — said in her book, which is quoted quite often: “Where the purpose of a provision is explained or its meaning discussed during the enactment process, and the legislation is then passed on that understanding, the explanation or discussion offers direct, if not conclusive, evidence of the legislature’s intent.”

In other words, you go back to whoever moved the motion and you look at that to find out the intent behind that particular enactment. That is why we should continue to exercise due diligence in our committees of the Senate and to maintain that standing, which far overshadows that of the lower chamber, the House of Commons.

I am supposed to say a couple of words about the legislation. Let me do it this way.

Honourable senators, the way it is now, an enactment in the Criminal Code states that a judge can give consideration to the time that you spend in custody, and that is all there is. In other words, a judge will give one for one, if you are in custody awaiting your trial.

As Senator Wallace said, 60 per cent of everyone in prison in Canada today have not been convicted of anything. Fifteen years ago, it was 35 per cent.

How did it get up to 60 per cent? We are almost totally responsible because we passed sections of the Criminal Code that say there is a reverse onus on certain offences. In other words, for trafficking in controlled substances, under Schedule 1, you have to give the reasons and prove to the judge why you should be released. There are various sections there. These are new provisions. When a reverse onus is on, it is very difficult to convince a judge that you should be released on bail.

As far as Senator Wallace’s reference to the lawyer who says to his client, “Stay in jail, because you will get a two-for-one credit,” I think most of those lawyers were unsuccessful at the bail hearing and probably were using that as an excuse more than anything else.

Let me cut to the chase on this particular bill. I will give this example for honourable senators’ consideration. Judge Power of the Ontario Superior Court of Justice, in *R. v. Levesque*, was confronted with a situation, as judges are every day, of having a prisoner before him convicted of a crime — in this case, of assault, possession of a firearm and violating a condition of release.

The story given on this particular gentleman is that he was in remand in a regional facility in which three prisoners were being held in a room 8 feet by 8 feet with only two beds. He was there for a couple of years. The poor fellow testified that he was always in a room with prisoners who were much bigger than he was, and guess who got the beds? He had to sleep on the floor. The judge was left with a situation.

As well, it is normal that when someone is in a remand centre, they are not given the same privileges as a prisoner. In other words, they do not have AA available to them. They do not have the normal programs available to them. That is why we slowly got onto two to one; there were no programs.

However, beyond that, there is severe overcrowding. The term used is “triple bunking.” It is used right here in Ottawa and in Toronto, as well as in Alberta. The case law is filled with the term triple bunking. In other words, you have three people and you only have one bunk. That is the condition of the detention centres that are holding these individuals.

Then you are brought to court for your bail hearing. Where are you brought to? In this particular case I was referencing, you are brought to a facility called the overnight cell at the lock-up. What is the lock-up? The lock-up has bars around it and you are put in there with drunks and people left there from the overnight crowd who are waiting for their required appearance before the judge. That is in the law.

There is no such thing as knocking on the door and saying, “Miss, can I use the washroom?” The washroom is in the cell. The lights are on 24 hours and you are there waiting for three or four days for your bail hearing.

The judges have looked at all of that evidence and have said, "It is not only two to one, because you have been on remand for two or three years; it is now three to one because your conditions were extraordinary."

• (1620)

Therefore, the judge is left with that problem. What does the judge do? The judge, as all judges do, looks first to his Court of Appeal. As Senator Wallace said, the Court of Appeal of Ontario gave a famous judgment just a few years ago in which they determined this:

It seems to me that lately, the issue of credit for pre-trial custody is taking on a life of its own. Unchecked, it can skew and even swallow up the entire sentencing process. In short, it may be time to revisit the manner in which credit for pre-trial custody is assessed.

That is the Ontario Court of Appeal, backed up, as Senator Wallace said, by every minister of justice in Canada who met and said, "Look, it has to be one and a half. We have to do away with this system."

However, Justice Power then goes on. This is his Court of Appeal. He is supposed to do what that Court of Appeal says. He cannot go against the Court of Appeal. What does he do? He embarks upon an examination of the United Nations Standard Minimum Rules for the Treatment of Prisoners. He references, then, another judge of the Superior Court of Ontario, who used the same standard, where it was brought up in detail.

When you go back to that judgment in *R. v. Kravchov*, the Ontario Court of Justice, it is an extensive examination of the UN Charter. It says that in 1975, Canada's delegation officially endorsed the rules. This was at the UN Congress on Crime Prevention. There was agreement to embody the rules within both federal and provincial legislative frameworks. We did not do it.

Then the judge said, "See 50 years of human rights developments in federal corrections put out by Correctional Service Canada in August 1998."

The judge looked at the UN standards and said that we are not meeting those standards. Then the judge concluded, as every judge does when he looks at an international convention, and he says at paragraph 46 that "the standard minimum rules are not legally binding on this court."

That is true: We ratified an international agreement; it is not legally binding in Canada. We have ratified it and signed it, but it does not become law in Canada unless you implant it into your domestic law.

He says, "They do provide the court with a further benchmark recognized by both the world community and the representatives of this country by which to measure the Crown's assertion that overcrowding and triple-bunking have become so common as to be no longer exceptional and deserving of enhanced credit towards sentencing."

[Senator Baker]

He goes on to conclude that the system, in effect, in the province of Ontario is a violation. His words are, "Finally, in my opinion, the overcrowding of the regional detention centres" — in this province of Ontario — "brings the administration of justice into disrepute." Judge after judge has done that.

We are left with a bit of a problem here because we have all of the ministers of justice in the nation demanding the one and a half. We have the Court of Appeal of Ontario saying that it must be revised. We have our judges who deal with the day-to-day problems in the courts referencing the UN convention and suggesting that there be a three-to-one credit instead of a two-to-one.

We should go to the Standing Senate Committee on Legal and Constitutional Affairs, which is quoted quite often. Practically every committee in this Senate has been quoted in case law over the past 15 years. The Legal Committee is perhaps quoted the most. We will do a good examination of this bill when it gets to committee.

Hon. Larry W. Campbell: Will the senator take a question?

Senator Baker: Yes.

Senator Campbell: I note the lateness of the time. However, I worked for a considerable time as a Mountie and as a coroner. My question is simple: How does the honourable senator know so much about cells?

Senator Baker: It is just from my reading. I have never been in one.

Senator Wallace: Having listened to Senator Baker's question, I am wondering: Would a yes or no suffice?

The Hon. the Speaker: Let me bring clarity here. We are on debate and we are on Senator Baker's time, which is 45 minutes. Are there questions and comments for Senator Baker?

Senator Wallace: I have nothing further.

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

Hon. Senators: Question.

The Hon. the Speaker: It is moved by Senator Wallace, seconded by Senator Keon, that this bill be read the second time.

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Wallace, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

BUSINESS OF THE SENATE

COMMITTEES AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. W. David Angus: Honourable senators, with leave, could we revert to motions?

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

Hon. Senators: Agreed.

Senator Angus: Honourable senators, this evening, the Standing Senate Committee on Energy, the Environment and Natural Resources is receiving a special briefing on environmental matters in Australia from the High Commissioner of Australia and other senior officials from that great country.

Hon. Gerald J. Comeau (Deputy Leader of the Government): May I suggest, with leave, that those committees that had been scheduled to sit this afternoon and evening be allowed to sit at the hour at which they were scheduled to sit, even though the Senate may then be sitting?

The Hon. the Speaker: Is there agreement in the house that all committees be allowed to sit this afternoon and this evening, notwithstanding that the Senate may be sitting?

Hon. Marcel Prud'homme: I have said it often and I will repeat it. I am always reluctant to say "no" to an honourable senator. I will say "yes," but I do not like the precedents that are being set. Some day, there will be so many committees that there will be no one in the house to continue debate.

Having said that, of course I will say "yes."

The Hon. the Speaker: So ordered.

THE ESTIMATES, 2009-10

SUPPLEMENTARY ESTIMATES (A)—NINTH REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. Joseph A. Day, Chair of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, June 16, 2009

The Standing Senate Committee on National Finance has the honour to present its

NINTH REPORT

Your committee, to which were referred Supplementary Estimates (A), 2009-2010, has, in obedience to the order of reference of Tuesday, May 26, 2009, examined the said Estimates and herewith presents its report thereon.

Respectfully submitted,

JOSEPH A. DAY
Chair

(For text of report, see today's Journals of the Senate, Appendix C, p. 1090.)

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

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

• (1630)

CANADA—PERU FREE TRADE AGREEMENT IMPLEMENTATION BILL

TENTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE PRESENTED

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. Consiglio Di Nino, Chair of the Standing Senate Committee on Foreign Affairs and International Trade, presented the following report:

Tuesday, June 16, 2009

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to present its

TENTH REPORT

Your committee, to which was referred Bill C-24, *An Act to implement the Free Trade Agreement between Canada and the Republic of Peru, the Agreement on the Environment between Canada and the Republic of Peru and the Agreement on Labour Cooperation between Canada and the Republic of Peru*, has, in obedience to the order of reference of Tuesday, June 9, 2009 examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

CONSIGLIO DI NINO
Chair

Observations to the Tenth Report of the Standing Senate Committee on Foreign Affairs and International Trade (Bill C-24)

In reviewing Bill C-24, the Standing Senate Committee on Foreign Affairs and International Trade is concerned that the bill, and the agreement that it enacts, puts Canadians in a number of sectors at a competitive disadvantage with other countries, specifically the United States of America.

The committee recommends that the Minister of International Trade undertake a review of the *Canada-Peru Free Trade Agreement*, *The Agreement on the Environment* and *The Agreement on Labour Cooperation* five years following its implementation to evaluate the trade

implications for Canadian exporters, and, if necessary, put forward a plan for undertaking further bilateral negotiations with the Republic of Peru to enhance the agreement.

At a minimum, in all future free trade agreements, Canada should seek to obtain a provision as that found in Appendix I, section 2 (d)(ii) of the Tariff Schedule for Peru in the *United States-Peru Trade Promotion Agreement*. That section allows the United States to automatically obtain any beneficial agricultural-related provision negotiated by Peru and other countries in the future. The Canada-Peru agreement does not include such a clause; therefore Canada will fail to benefit from future trade measures adopted by Peru that will otherwise benefit other countries.

Given the importance of trade for the prosperity of Canadians, it is also recommended that the Government of Canada ensure that our best negotiators, either inside or outside of the federal government, represent Canada in trade proceedings to obtain stronger and more effective trade agreements.

It is the view of this committee that trade priorities should be excluded from Canada's decisions regarding disbursing foreign aid.

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

(On motion of Senator Di Nino, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-26, An Act to amend the Criminal Code (auto theft and trafficking in property obtained by crime).

(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.)

CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. John D. Wallace moved second reading of Bill C-15, An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts.

He said: Honourable senators, I am pleased to speak today on Bill C-15, An Act to amend the Controlled Drugs and Substances Act. The bill was passed by the House of Commons with few

amendments. It was studied by the House of Commons Standing Committee on Justice and Human Rights, which heard from the Minister of Justice and officials from the Department of Justice, as well as a range of stakeholders including representatives of law enforcement.

This bill should be viewed within the context of Canada's National Anti-Drug Strategy, which the Prime Minister announced in October 2007. Moreover, this bill follows through on one of the government's key priorities, that is, to tackle crime and, particularly, organize the crime.

As honourable senators know, the National Anti-Drug Strategy comprises three action plans, including a plan for combating the production and distribution of illicit drugs. This action plan contains a number of elements, including ensuring that strong and adequate penalties are in place for serious drug crimes.

This bill falls within this action plan. Bill C-15 proposes a number of mandatory minimum penalties to ensure that appropriately high sentences are imposed on those who commit serious drug offences.

Honourable senators, I wish to be clear: This bill is not about applying mandatory minimum penalties for all drug crimes. It introduces targeted mandatory minimum penalties for serious drug crimes and ensures that those who carry out these crimes will be penalized. This bill proposes to send a clear message that Canadians do not accept the commission of serious drug crimes.

According to the Criminal Intelligence Service, Canada's 2008 national criminal intelligence estimate, there are upwards of 900 organized crime groups operating across Canada. A great many of these criminal organizations are involved in serious drug crimes, through the importation, trafficking or production of drugs.

Honourable senators, this bill is aimed at tackling the problem of drug crimes, particularly drug trafficking and drug production, both of which occur in all regions of Canada. Over the last decade, the production and distribution of marijuana and synthetic drugs have dramatically increased, resulting in a serious problem in some regions of Canada, often overwhelming the capacity of law enforcement agencies. These illegal operations pose serious health and public safety hazards to those in or around them. They produce environmental hazards, pose cleanup problems and endanger the lives and health of communities. They are lucrative businesses and attract a variety of organized crime groups. Significant profits are available with little risk to operators, and these profits are used to finance other criminal activities. Thus, this bill is also about combating organized crime and its involvement in drugs.

Canadians want the government to take action against serious drug crimes. This government believes it is time to ensure that those who commit serious drug offences be dealt with seriously and that appropriate penalties be imposed on these offenders. To this end, Bill C-15 proposes a number of amendments to the Controlled Drugs and Substances Act.

The offences being targeted are trafficking, possession for the purpose of trafficking, production, importing, exporting and possession for the purpose of exporting drugs. The drugs that

would be covered are Schedule I drugs such as cocaine, heroin, methamphetamine, and Schedule II drugs such as marijuana. The scheme would not apply to possession offences or to offences involving less serious drugs such as diazepam, which is Valium.

Overall, the proposals represent a tailored approach to mandatory minimum penalties for serious drug offences and would operate as follows. For Schedule I drugs — that is, drugs such as heroin, cocaine or methamphetamine — the bill proposes a one-year minimum sentence for the offence of trafficking or possession for the purpose of trafficking in the presence of certain aggravating factors. These aggravating factors are that the offence is committed for the benefit of, at the direction of or in association with organized crime; the offence involves violence or the threat of violence, or weapons or the threat of the use of weapons; or the offence is committed by someone who was convicted in the previous 10 years of a designated drug offence. If youth are present, or the offence occurs in a prison, the minimum is increased to two years.

In the case of importing, exporting and possession for the purpose of exporting, the minimum penalty is one year if these offences are committed for the purpose of trafficking. A one-year minimum penalty will also be imposed if the offender abuses his authority or his position or if the offender, having access to a restricted area, uses that access to commit these crimes.

The minimum penalty will be raised to two years if these offences involve more than one kilogram of a Schedule I drug. A minimum of two years is provided for a production offence involving a Schedule I drug. The minimum sentence for the production of Schedule I drugs increases to three years where aggravating factors relating to health and safety are present. These factors are that the person used real property that belonged to a third party to commit the offence; the production constituted a potential security, health or safety hazard to children who were in the location where the offence was committed or in the immediate area; the production constituted a potential public health hazard in a residential area; or the person placed or set a trap.

• (1640)

For Schedule II drugs, that is marijuana, cannabis, cannabis resin, et cetera, the proposed mandatory minimum penalty for trafficking and possession for the purpose of trafficking is one year if certain aggravating factors such as violence, recidivism, or organized crime are present. If factors such as trafficking to youth are present, the minimum is increased to two years. For the offences of importing or exporting and possession for the purpose of exporting marijuana, the minimum penalty is one year imprisonment if the offence is committed for the purpose of trafficking.

A one-year minimum penalty will also be imposed if an offender abuses his authority or his position, or if the offender, having access to a restricted area, uses that access to commit these crimes.

For the offences of marijuana production, the bill proposes mandatory penalties based on the number of plants involved. In the case of the production of five to 200 plants, if the plants are cultivated for the purpose of trafficking, it is six months.

This minimum number of plants was raised to five plants from one plant because of an amendment proposed in the other place by the Justice Committee. Production of 201 to 500 plants, one year. Production of more than 500 plants, two years, and production of cannabis resin for the purpose of trafficking is one year. The minimum sentences for the production of Schedule II drugs increased by 50 per cent where any of the aggravating factors relating to health and safety that I have just described are present.

The maximum penalty for producing marijuana would be doubled, from seven to 14 years imprisonment. Methamphetamines, as well as the date-rape drugs GHB and Rohypnol, would be transferred from Schedule III to Schedule I, thereby allowing the courts to impose higher maximum penalties for offences involving these drugs.

Honourable senators, this bill also gives the courts the discretion to impose a penalty other than the mandatory minimum on a serious drug offender who has successfully completed a court treatment program.

Lastly, honourable senators, I should point out that this bill was amended to add a new section to the act, that is section 8.1, requiring that a parliamentary committee undertake a comprehensive review of the provisions and operations of the bill two years after it comes into force.

This government has made the safety and security of Canadians a priority. I am confident that Bill C-15 is a strong and measured response to the threat posed to Canadians by serious drug crimes. I urge honourable senators to support the passage of Bill C-15 into law as quickly as possible. Canadians expect nothing less from us.

Hon. Lorna Milne: Will the senator accept a question?

Senator Wallace: Yes.

Senator Milne: Perhaps Senator Wallace can explain to us how throwing a person in jail for a mandatory minimum of six months for possession of as little as five marijuana plants will make our streets safer?

Senator Wallace: I thank the senator for the question. I believe all of us are well aware of the scourge of drugs and the effect they have, not only on Canadian society but worldwide. I know each of us as parents have gone through those worries with children and grandchildren. When we hear stories that drugs are being sold in and around schools it raises the hair on the back of our necks. You wonder how we can deal with this scourge. This must stop. We must do something to address this situation.

There are a number of ways that we can do this, but I certainly think as a government, and as parliamentarians, we must send a clear message to drug producers and traffickers. I suppose there could be debate as to where you start it, but the point is if people are going to engage in the production and trafficking of drugs and endanger the lives of our children and grandchildren, then there will be a heavy price to be paid for those activities.

I hope that the message will sink in to those who consider engaging in those types of activities. Those who ignore the law, at least they will be off the streets and not selling those drugs to our citizens. In that case, we will be providing better protection than we are providing to our citizens today.

Senator Milne: Honourable senators, removing the discretion of a judge to listen to the evidence and to use his own judgment on what is the best sentence does not seem to be the best answer to this problem. Throwing more people in jail, unfortunately, even for as little as six months, is sending them to university on how to commit crime. I believe the honourable senator will find that when we have evidence before the committee, they come out of jail far more adept in what they were doing than before their incarceration.

Senator Wallace: Am I to take your statement to the conclusion that we should not jail offenders because they may come out of jail worse than when they went in. That should go against the grain of the rules of our civilization. We stand by our rules. If you flaunt those rules and decide to endanger the health and lives of our citizens, there is a price to be paid. As in life, there are never perfect answers.

For those who find themselves in custody, find themselves behind bars, we have a responsibility, no question, to try to help to rehabilitate them. Absolutely that cannot be ignored. I agree with the honourable senator that little is served in the end if they return to the streets in worse shape and more inclined to commit crimes than when they went into jail. That is part of the process. However, I think there must be a strong message, if you commit the crime, if you are going to endanger our citizens and sell drugs to our children, then you will pay the price.

For the honourable senator to say we are entirely taking away the discretion of the judges in sentencing is an overstatement. I know there are those who have arguments against any form of minimum sentence regardless of the type of crime. I certainly do not agree with that argument. I believe minimum sentences do serve a purpose. Therefore it is a question of where our priorities are. On this side of the chamber, our priorities are providing further protection for citizens and this is part of it.

Senator Milne: There is no doubt about it; the feeling at least on my part on this side of the chamber is certainly different from the feeling on your side of chamber. I have grave concerns about some teenager, who is 16 years or older but who is thrown into jail for a mandatory minimum of six months because he has six marijuana plants in his parents' garage. Honourable senators know that he will not receive any kind of training or rehabilitation while he is in there for that short period of time. It does not happen. He will come out angry at society, angry at everyone who is doing just about anything whatsoever, and it does not make our streets safer. I agree with Senator Wallace, we must do things that make our streets safer but surely, the honourable senator is open to reason on this matter.

Senator Wallace: I think all of us are always open to reason. Just on the point Senator Milne has made and not to confuse this issue, we are not talking about possession of marijuana, we are talking about production of marijuana for the purpose of trafficking meaning someone is growing plants for the purposes of trafficking, that is selling them to other people. If someone is going to engage in that, there is a price to be paid.

• (1650)

Hon. Joan Fraser: Honourable senators, I do not have the bill before me. However, as I listened to Senator Wallace, I think he also tied the offences — and I am talking in particular now about the five-plant level — to organized crime in some way.

I will ask Senator Wallace to refresh our memories of the definition of “organized crime.” I was looking for it in another context earlier today, but I do not have it with me and my memory is poor. I seem to recall that “organized crime” can mean as few as five people. As I was listening to Senator Wallace, I found myself wondering about the case of five people who decide to form a little co-op and grow their own plants rather than buying them from the friendly neighbourhood branch of the Colombian distribution system.

I am not sure how these provisions all hang together. I am sure the honourable senator understands the drift of what I would like to know more about. Can Senator Wallace explain it to us?

Senator Wallace: The bill is directed in part to organized crime activity; there is no question about that. However, it is not restricted to organized crime. If that is one of the aggravating factors that I described in my presentation — that is, if organized crime is involved in the commission of the offence — then the penalty can be greater than it would otherwise be.

I thought maybe Senator Fraser was stating that I had suggested that anyone who was growing five plants for the purpose of trafficking would be construed automatically as organized crime. The point is that there are provisions in this bill that deal with organized crime. The penalties are more severe if organized crime is involved in production for the purpose of trafficking, but there are those who could be involved in those activities who would not meet the definition of “organized crime.”

Hon. Sharon Carstairs: Honourable senators, the last time we had serious problems with organized crime tended to be over alcohol. It was during prohibition. We legalized alcohol once again, and the crime disappeared. There was no profit to be made on the selling of alcohol when someone could go down to the local liquor control board and buy their alcohol, so the criminals left that “crime” because it was not justified anymore.

I was reminded of that situation when I read *The New York Times* from this weekend. There was a strong editorial about the need to legalize drugs to end, once and for all, the drug cartels and the power of the drug cartels. We have had a Senate report in this chamber that made a similar and strong recommendation. People like the late Bill Buckley made the same kind of recommendation.

Can Senator Wallace tell the chamber why the government has chosen to go this route rather than the route of legalization to deal with those drug traffickers?

Senator Wallace: If honourable senators on the other side of the chamber are of the view, and feel strongly, that the possession, trafficking and production of illegal drugs should not be an offence in this country, then I agree with honourable senators that they will never agree with this bill. That would be obvious.

[Senator Wallace]

All I can say to honourable senators is that is not where honourable senators on this side of the chamber are coming from. We are not advocates for the legalization of possession, production and trafficking of illegal drugs. I think that view should be apparent from this bill. If members opposite are of the view that possession, trafficking and production of illegal drugs should not be an offence, then I can see why they have problems with the bill.

Senator Carstairs: Honourable senators, with the greatest respect, the committee of the Senate that recommended that approach was chaired by one of your members.

Having said that, the reality of the situation is that many — and I am not speaking for this side in a position on this bill whatsoever — internationally renowned experts say that if we want to deal with drug traffickers and the drug cartels, then we should move to a system where people purchase drugs and where we have a non-profit motive as the basis of that purchase of drugs.

My question is this: Has the government seriously examined those alternatives which have, for the most part, interestingly enough, come from the far right wing?

Senator Wallace: Honourable senators, I do not have a report and analysis to which I can refer, but I can say this with great certainty: The present position of our government is not to legalize the production and trafficking of illicit drugs. If that is the position of senators opposite, then so be it; that is not our position. Undoubtedly, to reach the point of bringing forward a bill of this nature, it is self-evident that we do not support the legalization of drug trafficking and drug production. I am glad we do not.

Hon. Tommy Banks: Honourable senators, I have three little questions for Senator Wallace. There are medical users of marijuana who sometimes buy rather than grow their marijuana. They buy it from someone who has produced it and who purveys the marijuana to the person who has a licence to use the marijuana medically.

First, can Senator Wallace tell us now whether the situation I have described, and others similar to it, are somehow excluded from the act?

Second, can Senator Wallace ensure that, since marijuana is included in what he has described as dangerous drugs, the government will ask the committee to consider the characteristics of marijuana that have caused it to be included in the same legislation as narcotic drugs? We have been unable to find any such rationalization.

Third, will the government be careful to call before the committee penologists who might be able to answer some of the questions that Senator Wallace raised about whether we should send everyone to jail? That is a good question. The efficacy of doing so, particularly with respect to marijuana, but also in relation to some other kinds of crime, is a subject that needs to be addressed carefully. These subjects are studied extensively, with surprising statistics resulting from them when penologists are

asked these questions. I hope that the government will take those arguments into effect when it considers proposing witnesses to appear before the committee.

Senator Wallace: I am sorry; what is Senator Banks' first question, again?

Senator Banks: It is about a purveyor of marijuana to a medical user.

Senator Wallace: If someone has the legal right today, for health reasons, to be in possession of, or to purchase, marijuana, nothing in this bill that I see will change that.

Senator Banks: My question is about the person who sells it to that person. For clarification, my question is not about whether the person who has the legal permission to use marijuana will be charged for possession of it. My question is what happens to the person who sold that marijuana to that person?

• (1700)

Senator Wallace: If someone has the legal right to be in possession of marijuana for medicinal purposes, it came from someone. If it does not meet a qualification within the Criminal Code then, yes, I suppose they would be guilty. If, however, the Criminal Code now enables that person, a doctor, to provide that marijuana to a person for health reasons, then I see nothing that would change that situation. It is a question of what exists today and to the extent to which someone is able to provide that, a doctor or otherwise, under the Criminal Code. I see nothing in here that would change that.

Senator Banks: As a general rule, the doctor who has provided a prescription or the legal right to a person to use marijuana for medicinal purposes, for the alleviation of suffering, does not provide the marijuana. The patient, if I can put it that way, ordinarily does not buy marijuana from a doctor. He goes somewhere else to buy it. The person who has that permission to possess and use marijuana for medicinal purposes goes to a person who sells the patient marijuana.

My question is about the person who did the selling, not the patient, because the patient has the permission to have the marijuana. Assume that he did not grow it himself. He bought it from someone. Is that "someone" caught by this legislation?

I remind the honourable senator about the other two questions about the characterizations of marijuana that cause it to be included in legislation along with narcotic drugs and whether penologists will be consulted in the study of this legislation.

Senator Wallace: I thank the honourable senator.

If there is a need to have further explanation of how someone is able to come into possession legally of marijuana for medical reasons, that is a legitimate question to be addressed at committee, and I will certainly ensure there is someone capable of answering that question. I would try to go further with it, but I have gone as far as my level of knowledge can take me on that question. We will deal with that at committee.

As to the honourable senator's question about whether experts should be presented at committee to deal with the broader issue of whether marijuana should be included as a Schedule II or Schedule III drug, I rather doubt that, since that is not the purpose of this bill. This bill accepts the fact that marijuana is a prohibited drug. The bill we are dealing with is based upon that fact. What the honourable senator is raising is perhaps a question for another day, but I would not see that being raised as part of the review of this bill.

The honourable senator made a statement. I would hope that he is not attributing it to me or that he took from what I said that everyone should be thrown in jail. That is not the idea. Obviously, we support minimum sentences for what are categorized as serious drug offences in this bill. However, there is a strong need for rehabilitation, and there is no question that our Correctional Service of Canada recognizes that and resources are made available to deal with that side of the problem as well. It is not simply a matter of locking everyone up. However, there is a minimum price to be paid for violating laws, and beyond that, we have an obligation to aid in rehabilitation, and that is important.

Senator Banks: My final supplementary has to do with the last question. This bill contemplates minimum sentences in certain circumstances. I am familiar, having been part of Senator Nolin's study, with the side of society that argues for imprisonment of people who make or sell drugs. However, I am also familiar, from the same study, with penologists, people who are intimately familiar with the efficacy — with the effects, not revenge and not even protection from society — of minimum penalties or in some cases jail at all, as a means of dealing with the problem. I wonder whether that side of society and science, in this case specifically penology, will be heard at the government's behest at the committee hearings so that the members of the committee are able to balance the arguments.

Senator Fraser: On a point of clarification, Your Honour.

The Hon. the Speaker *pro tempore*: I believe Senator Banks asked a question of Senator Wallace.

Senator Fraser: I am trying to clarify the situation to which Senator Banks refers, if I may, Your Honour. Is Senator Wallace agreeable?

Senator Wallace: Yes, that is fine.

Senator Fraser: As a point of clarification and a reminder to all senators, neither the government cannot nor an individual senator can call witnesses to a committee. It is the job of the committee, normally acting through its steering committee, to do that.

If this bill is referred to the Standing Senate Committee on Legal and Constitutional Affairs, I am confident the committee will do what it has always taken pride in doing, that is, it will hear an array of witnesses. The committee will hear an array of witnesses so that committee members can be confident that they have heard the opinions and expertise pertinent to the legislation before them. I think it a little unfair to require of Senator Wallace a commitment that any given witness will be heard.

Senator Banks: Thank you.

(On motion of Senator Tardif, debate adjourned.)

THE ESTIMATES, 2009-10

MAIN ESTIMATES—EIGHTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report (second interim) of the Standing Senate Committee on National Finance (*2009-2010 Estimates*) presented in the Senate on June 11, 2009.

Hon. Joseph A. Day moved the adoption of the eighth report of the Standing Senate Committee on National Finance.

He said: Honourable senators, as Senator Baker has briefly spoken on a previous matter, I will take his cue and provide a little background to this report.

Honourable senators will know that we treat supply bills in a manner different than the normal type of bills that come through from the House of Commons. In fact, we are studying, and we have been studying, the Main Estimates, and we continue throughout the year to follow the mandate given to us in studying the Main Estimates.

- (1710)

The first report that our Standing Senate Committee on National Finance gave, an interim report on the Main Estimates, was with respect to interim supply in late March for the period from April 1 to June 30. Honourable senators will recall that supply was larger than normal to provide the government with the money to organize the stimulus package and deal with the economic downturn. Interim supply was approximately \$27 billion.

This report that we are giving will be the pre-study for the supply bill when it arrives. It is for the balance of the funds outlined in Main Estimates, the government's expenditure plan for fiscal year 2009-10.

Honourable senators will know that the government expense plan appears in these Main Estimates as Part I. In Part II, the entire Main Estimates are itemized by agency and department. The schedules appear in Part II attached to the supply bill when it comes. It is our responsibility to ensure that the schedule attached is the same as that we pre-studied. If it is, and we can assure honourable senators of that, we can move quickly in dealing with the supply bills because the items have been studied extensively.

Honourable senators should be aware of other parts of Main Estimates. Part III is a report of the plans and priorities of each department. Part III is available for honourable senators to review and to understand what the department hopes to achieve over the next year. It is a valuable document. A year and a half later, the departmental performance report is produced. It is the department's analysis of how well it met its plans and priorities over the previous fiscal year.

Another bit of general background to keep in mind is that there are statutory items in the Main Estimates and in the government's plan. For statutory items, we have given government the authorization to spend on those statutes in previous bills that were passed. We will not vote on those statutory items when the supply bill comes. We will vote only for the voted appropriations in these supply bills. The other items are there for information.

We have \$235 billion in this particular Main Estimates for this fiscal year. Main Estimates for 2009-10 are \$14.7 billion greater than Main Estimates for the previous fiscal year. The increase is 6.2 per cent over the previous year. Main Estimates are divided into two aspects. The voted appropriations are \$86 billion. Honourable senators have already voted for \$27 billion, leaving a balance of approximately \$58 billion. We will authorize the government to spend \$58 billion when we vote on that supply bill for main supply for the rest of this fiscal year. In addition, honourable senators, \$150 billion in expenditures are statutory authorities and they are for information purposes only.

Not all of Budget 2009 items are accounted for in these Main Estimates. However, all the items announced in earlier budgets or fiscal updates are included. We were advised by one of our witnesses who works for the Department of National Defence, in preparing their estimates and their need — each department goes through this process — that to be in the Main Estimates, it is necessary to submit their request to Treasury Board in October of the year previous to have it approved.

In other words, all departments needed to submit their information by October 1, 2008. Then in January, along came the budget. It changed a lot of things. The Main Estimates that we saw in March did not reflect much of what was in the budget. This year was a particularly significant year. Those items are picked up in supplementary estimates. Last year, and again this year, we have been advised there will be three supplementary estimates — Supplementary Estimates (A), Supplementary Estimates (B), and Supplementary Estimates (C).

We have already received Supplementary Estimates (A). I will be speaking on that item tomorrow. Supplementary Estimates (A) starts to reflect some of the budget items. The Standing Senate Committee on National Finance is trying to follow the stimulus package and the \$3 billion that Treasury Board was given to use in the first three months of the year to start matters moving. We also try to follow the \$22 billion that the government announced in the budget. Against that task, we also try to find where the deficit is coming from.

Honourable senators will recall that in October of last year, it was announced that there will be no deficit. In the January budget, it was announced that there would be a \$33.7 billion deficit. In the second economic update released late last week, the deficit is \$50.2 billion.

An Hon. Senator: And we ain't seen nothing yet.

Senator Day: Some of the predicted deficit comes from increased expenditure, and some of it comes from a significant reduction in revenue that the government predicted from reduced corporate taxes and income taxes.

The committee is trying to follow all these numbers on behalf of honourable senators. Throughout the year, we will follow government expenditures to try to determine where the various figures come in and where authorization has been given. Authorization is the most important area, honourable senators. We are asked to authorize expenditures.

For example, we want to ensure that programs advertised for housing have been authorized, and that there is money to cover them. We have been told that some programs relate to income tax from this fiscal year. Income tax is paid only when we file our income tax in April of next year for 2009. Therefore, government is not in a hurry to obtain that authorization. It will come in one of Supplementary Estimates (B) or Supplementary Estimates (C). There has been extensive advertising of the program already. Honourable senators can decide for themselves whether they believe that to be the way we want to go, but that is the way matters are progressing at this time.

I want to bring a couple of other items to honourable senators' attention with respect to expenditures and payment type. Of the full amount of \$236 billion that I mentioned earlier, \$50 billion of that is transfers to provincial governments for equalization and other programs. That money is gone with virtually no control by the federal government other than the contracts and the memoranda of understanding in place. Fifty billion dollars is transferred to other levels of government.

An additional \$54 billion is transferred to people through Employment Insurance, Canada Pension Plan and supplementary pensions. Total transfers are \$139 billion out of a total budget of \$235 billion.

• (1720)

The public debt charge is another extremely important item for us to follow. We are increasing our public debt this year by \$50 billion, at least. We had paid it down to approximately \$430 billion. Over the next two to four years, it will go up by \$100 billion or \$200 billion. Interest rates are low at this time, and the public debt charge is \$32 billion. When we double that and interest rates begin to rise, the accumulated annual deficit will be such that you can imagine how much discretionary expenditure will be lost by the government. It is extremely important that we watch expenditures and ensure that deficits do not become institutionalized and repeated year after year, as has happened in the past.

Honourable senators, in the eighth report, your committee has pointed out a number of areas for your consideration. I will not review each of them but I want honourable senators to be aware that for each quarter and each year, we invited officials of certain departments or agencies to appear before the committee to talk about their expenditures. We wanted to know about the Canada Food Inspection Agency and their budget of \$503 million per year. Where did that go? What did it entail? That information is outlined in our report. We wanted to know about the listeria outbreak and the role of the Canadian Food Inspection Agency. We had heard stories and read newspaper articles that the changing role of the Canadian Food Inspection Agency resulted in fewer inspectors on the ground. We were assured that was not the case and that the first line of defence is the manufacturer,

which makes sense because manufacturers must have safety inspection within the manufacturing unit. The CFIA inspector ensures that the rules are being followed and that they have a good safety inspection system in place. If they learn something in one place, they pass it to all of the manufacturers in that industry.

Another group that we brought before the committee spoke about expenditure restraint. We did not bring in the major public service unions because there is pending litigation with respect to the reduction in annual salary increase to 1.5 per cent, which is contrary to collective agreements that they had entered into. We spoke to groups that were not involved in litigation. Concern about a growing gap between certain areas of the public service and the private sector was brought to the attention of the committee. It was suggested that the gap be corrected as soon as possible.

Representatives of Canada Mortgage and Housing Corporation appeared before the committee. We were interested in knowing what activities they were involved in. When we heard from them on the Main Estimates, we learned about their program of buying mortgages, which we thought we had better discuss. We heard from them on the Supplementary Estimates (A) as well, and there will be more outlined in that regard.

Honourable senators, we heard from officials from Atomic Energy of Canada and Public Sector Integrity Canada, on which there is some very good information in our report. Honourable senators will see that AECL's budget went down by one third and that the two MAPLE reactors intended to produce 50 per cent of the world's isotopes were cancelled for two reasons: technical challenges and finances.

Honourable senators might wonder if there had not been such a significant reduction in AECL's budget, would they have cancelled those MAPLE reactors and would we be without isotopes at this time. Honourable senators, consider the millions that were spent on those reactors. That subject deserves further investigation.

Honourable senators, I see that my time has expired so I urge quick passage of this report.

Hon. Irving Gerstein: Honourable senators, I have a question for Senator Day.

The Hon. the Speaker *pro tempore*: Senator Day's time has expired.

Senator Day: I would ask for five minutes.

The Hon. the Speaker *pro tempore*: Five more minutes.

Senator Gerstein: Senator Day, I greatly appreciate your comments. As always, the clarity that the honourable senator brings to it is wonderful for all colleagues. It is with interest that I heard the honourable senator say that the supply bills will be coming to the Senate. Can the honourable senator assure colleagues that they will come?

Senator Day: I can assure the honourable senator that they will come to the Senate.

Senator Ringuette: It will be sooner or later.

Senator Day: If the supply bills do not happen to make it here on Friday night, for whatever reason, they will come under the next government, in due course. I can assure honourable senators of that.

Senator Murray: Meanwhile, of course, there are always Governor General's warrants, are there not? That matter has elicited the interest of the Standing Senate Committee on National Finance traditionally.

The Hon. the Speaker *pro tempore*: Honourable senators, I am sorry to interrupt. Does Senator Murray have a question?

Senator Murray: No. I have a speech to make.

The Hon. the Speaker *pro tempore*: Are there more questions for Senator Day?

He has two minutes remaining.

Hon. Pierrette Ringuette: Does the deficit of \$50.2 billion mentioned earlier by the honourable senator include the non-repayable loan of \$12 billion to the auto industry?

Senator Day: I thank the honourable senator for the question. We have been asking questions about this arrangement and it is not clear. It is my understanding that Mr. Flaherty believes that \$8 billion of the \$12 billion is unlikely to be repaid. Therefore, \$8 billion is included in the \$50.2 billion deficit.

Senator Ringuette: The \$8 billion is not included in the \$50.2 deficit mentioned by the Minister of Finance as of June.

Senator Day: I believe it is included, but we will ask additional questions in that regard.

Hon. Lowell Murray: Honourable senators, I will begin where my friend Senator Ringuette and Senator Day left off. I had planned to speak to the General Motors bail-out, in particular. It is not in the Main Estimates, as my friend knows; it is not in the supplementary estimates; and we do not know where or when it will appear, although appear it must. I understand that it is charged on the Canada account of the Export Development Corporation and, of course, will have to appear somewhere eventually.

As I understand, the amount to General Motors from the federal government is \$7.1 billion and from the Ontario government it is \$3.5 billion. The Prime Minister has indicated that he is much more confident about having the loan portion paid back, which would be a total of \$1.5 billion, than he is about recouping our investment and obtaining 11.7 per cent of the common shares of General Motors.

• (1730)

Indeed, my understanding is — and Senator Day has alluded to this situation in a more general way — that the government is writing off the entire investment for budgetary purposes, not the loan. We shall see what appears in the estimates in due course.

[Senator Day]

It seems to me to be prudent of the government to write off this investment for deficit purposes. The government is committed, by the agreement, to dispose of these shares — a minimum of 5 per cent per year, with a minimum of 30 per cent to be disposed of within three years and a minimum of 65 per cent of our shares to be disposed of within five years — at whatever the market will pay. Unless there is a bull market and General Motors shares go through the roof, I think the government is only being prudent in assuming that we will take a beating on this investment.

I think most Canadians, including the government, are at best conflicted — that is the new modern word, “conflicted” — about the GM bailout. Nevertheless, I think most of us understand why the government thought GM had to be bailed out. However, it is a case where Parliament has fallen down badly in its responsibility of due diligence.

I saw a column a few days ago by Chantal Hébert in the *Toronto Star* that put it well. She says, under the headline “MPs — all of ‘em — mum on GM”:

An orchestra looking for federal assistance to finance a tour would have to document its application with more paperwork than what has so far been brought to the fore to back up the pertinence of bailing GM out.

A little bit later in the article, she says:

Since the bailout was announced, a cone of silence has fallen over it in the House of Commons.

Indeed, I have reviewed the questions in the House of Commons and all of them that have been asked in that place are peripheral to the main issues raised by the bailout. In what sense is the national interest served by the bailout? What role will the government play in the future of this company, given the multibillion dollar investment? Is GM too “big to fail”? Are there other companies or industries that are “too big to fail”? What are the implications of this failure? Talk about moral hazard. What is the likelihood that GM will be back with another claim on the public purse?

I have seen a quotation attributed to the Prime Minister recently in which he says, “We must never do this again.” One hopes he is right, but what would be the appropriate response of the government to another such plea by GM or by other industries? How can the interests of the taxpayers be protected? Are there guidelines that the government should adhere to?

We have it on the authority of David Dodge that the present recession will “fundamentally alter the nature of capitalism.” If that is the case, perhaps we better get ahead of the curve; perhaps we should talk to Mr. Dodge and see what he means by this statement.

I do not think we can expect the House of Commons to take on this issue in any profound way. The Senate should address it, starting now. I remind my friend, the Chair of the Standing Senate Committee on National Finance, that he still has the Main Estimates on the continuing agenda of the committee. Preparatory work can be done over the summer; an outline of

the main questions to be examined can be refined; a limited number of prospective witnesses can be identified, including the government, management, unions and those policy experts that have completed serious work on this item and have different perspectives on it.

The study need not be interminable. They can aim at a good report before Christmas; but somehow we need to fill the information gap that exists, and the understanding of where this policy is taking us. We need a lot more work on that subject, and I think that the Standing Senate Committee on National Finance is the group to take on that study in the fall.

I mentioned the Export Development Corporation a minute ago, and that the money for this bailout of GM is coming from their Canada account. I think we all know, and have been reminded in a recent report by the Standing Senate Committee on Foreign Affairs and International Trade, that the Export Development Corporation has had its mandate greatly expanded to include a lot of domestic activity that they were not hitherto involved in, and they have been given a great deal more money — or at least authority to lend, give, or whatever they do with it, a great deal more money with government guarantee. They have a lot more financial authority than they had.

Some of this authority has a two-year limit. However, we notice — and I think the Foreign Affairs Committee pointed out — that the government can, by order-in-council two years’ hence, extend the period during which EDC is active in the domestic arena.

I saw a publication by EDC this very morning in which they said that EDC has greatly expanded “our risk appetite.” That kind of statement strikes terror into the heart of a real fiscal Conservative, as distinct from the high rollers on the government benches. It seems to me that the Standing Senate Committee on Banking, Trade and Commerce, which would normally have the activities of EDC under their purview, ought to take on this study.

An organization like EDC, with an expanded mandate such as it has, the possibility of an extension of that expanded mandate and a great deal of expanded financial authority, ought to be bird-dogged by a parliamentary committee such as Banking, Trade and Commerce, before they go hog wild. Honourable senators know what the impulse is of an organization that is given this kind of authority and this kind of funding. I think close attention must be paid to their activities over the next little while.

I have a few words to say about the public finances in general. I think we all know that the Canadian economic and fiscal forecasts, whether by the government or the private sector, have been on a rollercoaster ride since last autumn. The milestone dates are November 27, the economic and fiscal forecast and the government’s November statement; December 17, when the Department of Finance provided a briefing, which we obtained under Access to Information, for the minister’s advisory committee headed by Carole Taylor; January 27, the budget; and May 26, when there was what the media referred to as “an impromptu fiscal update” from the Minister of Finance, in which he gave his latest deficit forecast, now at \$50.2 billion.

Through each of those milestones, every time the forecast was revised, economic growth forecasts had to be revised downward, revenue forecasts likewise were revised downward, unemployment forecasts were revised every time upward and federal program spending was revised every time upward. We are now at a \$50.2 billion report card.

In November, and again in January, the government provided budgetary forecasts not only for this year, but for the next four years to 2013-14, when, in both the November and January documents, the government forecasted a return to a surplus position.

• (1740)

Those economic and fiscal forecasts for the four years beginning in 2010-11 will have had to be revised considerably downward because of the deterioration in the position for this year. A deterioration of this extent is bound to have an effect on the forecast for the coming four years. However, I have not seen anything by way of a revised forecast for the coming four years. I have looked on the Department of Finance website and elsewhere, and it just is not there.

I draw the attention of honourable senators to that because, as far as I know, the government continues to insist that we will be in surplus by fiscal 2013-14. Further, they continue, so far as I know, to preclude resort to any tax increase to get us out of the fiscal hole that we are in by 2013-14.

I thought that last position was, frankly, unrealistic in November, delusional in January and irresponsible in the universe created by a \$50 billion deficit this year. No serious person in this country should believe any political official of any party who rules out tax increases as one element in redressing our budgetary position.

If the government, for its part, continues to insist that we can achieve budgetary balance four years from now without recourse to tax increases, Canadians will be led to a well-founded suspicion that what the government really intends in the aftermath of a successful election — if that happened — would be the gutting of federal programs and the imposition of spending cuts so drastic and so permanent as to make Paul Martin's 1995 budget look like a give-away program. In other words, having overspent in their first few years, they would revive the anti-government ideology of their Reform Alliance forbears and take a chainsaw to federal programs.

I do not think that Canadians will hold it against the government that, at a time of international financial and economic upheaval, we have had to revise and re-revise fiscal and economic forecasts several times in a relatively short period of six months. However, these revisions must be accompanied by a revised fiscal plan with credible analysis and forecasts.

What is the combination of economic growth, revenue growth, spending restraint — and there will have to be spending restraint — and tax increases that will be needed to balance the budget by 2013 or 2014, or is the achievement of balance to be delayed to a date later than 2013-14?

[Senator Murray]

I believe these are questions to which we should have an answer. I believe the credibility of the government is in much more danger — and this would have economic as well as political implications — from fudging the facts than it is from having to revise forecasts and plans that were made in good faith on the basis of the information available to the government at a given time.

The Hon. the Speaker *pro tempore*: Continuing debate?

Senator Murray's time has expired. Is the honourable senator asking for more time?

Senator Murray: If there is a question to be asked.

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

Senator Ringuette: I want to go back to the issue of GM and our 11.7 per cent of common shares. If we seem to have hope in this business by investing to the tune of billions of dollars and 11.7 of the shares, I do not see why we would write it off.

I see that we should be investing. I do not see that the auto industry in Ontario should be viewed in a short-term perspective of five years. For me, this does not make any sense. That is why I do not think that the shedding of those common shares should be done expeditiously.

I also think we had early signs. Last summer, GM, Chrysler and all of them removed their subsidies from auto leasing. That was the first sign. They created a surplus of vehicles through the process of auto leasing. They needed the cash, so they withdrew from that.

Parliament has been mute on this issue. The federal government has also bought, not only insured mortgages from CMHC, but \$12 billion worth of auto leasing. Who did auto leasing? The auto industry subsidies did, for probably about 90 per cent of the cases.

Senator Murray, in reality, if one looks at the \$12 billion in auto leasing buy-backs and another \$12 billion in non-repayable "common shares," why are we making such an investment?

Senator Murray: The government can and does speak for itself on why it is being done. In the case of General Motors, it was headed toward and is now in bankruptcy, as we know. To have let it completely shut down would have meant a very considerable loss of employment, both directly and indirectly. The Prime Minister has said, and I think he is probably right, that six-figure jobless rate would have been created in this way.

It is not for me to speak for the government; there are others here who can do that. However, it was also clear that the United States government was riding to the rescue of General Motors and that if Canada wanted to protect the 19 per cent share of production that takes place on this side of the border in what really is an integrated North American industry, we would have to come to the table. Come to the table we did, with the Province of Ontario.

The honourable friend seems to think that things will turn up in the stock market, and I certainly hope she is right. It may well be that General Motors shares will recover and that we will have cause to regret our agreement to dispose of our common shares within five or six years, or whatever it is, at whatever price the market dictates. That part of the agreement too, I suspect, is not far removed from the agreement made between the parent General Motors and the Obama administration.

This agreement was clearly part of the negotiations between Canada, the United States, the Province of Ontario and the company involved. I do not think I could be more helpful and certainly not more informative than that.

However, the honourable senator is right about the EDC. I have not had a chance to read it here, but they are in auto leasing and that sort of thing. Here is what the EDC said in their spring 2009 auto sector report:

In response to the higher demand for financing services from companies in the auto sector having difficulty accessing credit, EDC has created a \$200-million financing pool for higher risk lending to auto parts suppliers and toolers —

— that is, not leasers —

— with viable long-term business models, but for which adverse credit conditions are constraining operations.

I have not had a chance to read all of this, but I will send it over to the honourable senator and she can study it at her leisure.

• (1750)

Hon. Anne C. Cools: Honourable senators, there are several things I would like to say. The first thing I would like to note, and to express, is my disappointment that the government is not fielding a speaker on this very important report of the National Finance Committee. I do not understand it. I have only just discovered that the government is not speaking to it.

The Speaker was just about to put the question. If the government is fielding a speaker, I would be happy to listen to him or her, and then make my few comments after.

The Hon. the Speaker: Honourable senators, is there further debate?

Senator Cools: I was just noting, honourable senators, that this is a most important report, and I will not recite the particular set of parliamentary obligations we have to discharge in respect of voting supply of the remainder, so to speak, of the Main Estimates. Honourable senators know that I have worked very hard for many years on these particular questions. I wish to see if I could encourage the government to make a response.

Senator Murray has raised very important questions, as did Senator Day. I thought Senator Ringuette's questions were extremely insightful.

I would like to make the point that Parliament cannot be and should not be mute on these questions and that a full-fledged and a wholesome debate should be taking place on many of these issues in this report. I was expecting — and this is one of the

reasons I have stayed here so late — to hear before this house today the government's presentation on this whole phenomenon of the bailouts and the auto industry. As we know, these questions are weighing heavily on all of our minds.

In any event, the question before us is coming to a vote momentarily, but I would like to encourage senators that at the time the supply bill is before us that perhaps this debate can continue, as I said, in a more wholesome way.

Honourable senators, I would like to emphasize the point that the whole purpose of Parliament is all about public expenditure and the control of the public purse. As Senator Day and others have said this evening, in respect of the relationship between the mains and the supplementaries, it seems that supplementaries are displacing the mains in government's financial planning. That must be corrected at some time. Perhaps the Finance Committee should engage in a study on that point alone.

In any event, honourable senators, I am looking forward to the debate on the supply bill, the appropriations act itself. I would also like to say, honourable senators, that if this house decided that it needed an order of reference for the Standing Senate Committee on National Finance to study the phenomenon of the auto industry and the government's bailout of it, I would be happy to move such a motion. I believe Canada would be very well served by such a study. I would also add that it would be very timely, because the entire continent, not just Canada, but Canada and the United States of America are musing and pondering with a high degree of uneasiness, these stupendous and enormous bailouts of the system, particularly that of the auto industry.

If governments truly believe that they are doing the correct thing, and they seem to truly believe it, then they should put their evidence before us so that we can all be involved and all can understand the conceptual framework and the evidence on which they are basing these decisions. Just put them before us.

I wanted to express in a very extemporaneous way my concern for the economic and financial state of this country. I belong to that group of thinkers who is of the opinion that this economic crisis is far from over and that the solutions are still not totally within our reach. However, having said that, I thank you, honourable senators.

I thank Senator Day especially for his explanation of the process of how the Senate Finance Committee in particular manages these supply bills and I encourage him to keep on making those statements, particularly in an era such as today, when there are so many new senators, and when too few senators pay too little interest in this extremely important matter. There is something very wrong when a government comes to the house and asks for billions of dollars with very little explanation. There is something very wrong. We should look at that some time as well.

Hon. Sharon Carstairs: Honourable senators, it is clear from the statements that Senator Cools has just made that Senator Cools is back. Those of us who have had some knowledge of what she has gone through over the past year are absolutely delighted that she has returned to health, and that her feistiness is back in evidence.

Some Hon. Senators: Hear, hear!

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

Some Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to, on division.)

CANADA ELECTIONS ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Dawson, seconded by the Honourable Senator Cook, for the second reading of Bill S-236, An Act to amend the Canada Elections Act (election expenses).

Hon. Consiglio Di Nino: Honourable senators, I am pleased to participate in the debate on Bill S-236, An Act to amend the Canada Elections Act (election expenses), introduced by the Honourable Senator Dawson. I am pleased Senator Dawson is here so that he can critique my comments.

Senator Dawson has stated that the purpose of his bill is to correct a loophole that was created with the passage of the fixed election date legislation. However, I think Senator Dawson is being too modest. By regulating the spending of political entities outside of an election period, Bill S-236 represents a significant change to our political financing regime. In fact, any bill that proposes to limit political expression should be looked at very carefully.

[*Translation*]

As Senator Dawson clearly stated in his speech, Bill S-236 provides that any advertising expenses incurred by candidates or parties in the three-month period prior to an election period must be included in election expenses, on which limits have been imposed.

The bill has a broad scope. This measure will apply to any form of advertising, whether brochures distributed door to door or television ads.

• (1800)

Although this bill does not prohibit advertising campaigns prior to an election period, it will greatly discourage parties and candidates from running them. I will provide some examples.

The bill establishes a three-month pre-election period, which is three times the length of the election period itself, which is rather long. However, if the government tables a budget, delivers a

Throne speech or makes announcements in the three months prior to an election, Bill S-236 will restrict the ability of candidates and parties to give their opinions on the policies of the governing party.

Despite this very long pre-election period, the bill does not provide for an increase in the election expenses limit, which is currently established for a period of one month, which means that it will apply to a four-month period.

[*English*]

The Hon. the Speaker: Honourable senators, it is now six o'clock.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I would advise His Honour that if he were to ask for the assessment of the house, I believe he would find there is consensus that we not see the clock.

The Hon. the Speaker: Is it agreed, honourable senators, that we not see the clock?

Hon. Senators: Agreed.

[*Translation*]

In light of this, Bill S-236 could force the parties and candidates to make considerable changes to their strategy, since it will restrict their ability to communicate with the public as an election campaign approaches.

[*English*]

Let me now turn to Senator Dawson's stated rationale for his bill. He suggested that his bill is the "missing piece" of fixed election date legislation. His argument, as I understand, is as follows: When elections are held according to a fixed-date schedule, parties and candidates may be inclined to begin campaigning earlier.

If I accepted my colleague's reasoning, I would expect to find that his bill applies only when an election is held on a fixed election date. His premise does not hold otherwise. As we have seen in the last two parliaments, minority governments can fall at unpredictable times; yet, this bill is not limited to elections held on fixed dates.

The consequences of this discrepancy are considerable. Candidates will be discouraged from communicating important ideas to their constituents. Parties will be discouraged from sharing new policy proposals with Canadians or challenging another party's political decisions. Parties and candidates will always be concerned that any spending they undertake in the pre-writ period will lessen their ability to communicate with voters during an election campaign. In short, Bill S-236 could have a serious and chilling effect on political expression, a fundamental principle of democracy.

Let me now turn to another concern with the bill. In addition to regulating spending by political parties, the Canada Elections Act also regulates the amount of money third parties can spend in an election period. Spending limits for third parties reflect the

principle of giving a fair voice to all third parties on the public stage, rather than allowing those with deep pockets to crowd out the smaller voices.

An additional aspect of third-party spending limits is to allow a candidate or a party to respond to multiple advertisements by third parties, while at the same time campaigning against competing political players.

The bill before us upsets this balance. It restricts spending by candidates and parties but not by third parties. As a result, the bill will allow a sustained and expensive negative ad campaign by a third party to be launched against the leader of a party, each one of its candidates, as well as the party itself without accommodating the spending room that would be necessary for a candidate or a party to respond.

Any response by a candidate or a party would be counted against what they would otherwise be entitled to spend during an election campaign. In other words, Senator Dawson's bill would allow for "big money" to enter the political stage in the form of third-party advertising.

Honourable senators, if pre-writ spending limits are necessary for fixed-date elections, as Senator Dawson suggests, we would expect to find these spending limits in other jurisdictions that have fixed-date elections. Eight provinces and territories currently have fixed-date elections: Ontario, British Columbia, Newfoundland and Labrador, New Brunswick, Prince Edward Island, Saskatchewan, Manitoba and the Northwest Territories. However, only British Columbia has legislated pre-writ spending limits. Pre-writ spending limits are by no means a necessary extension of fixed election dates. Even the B.C. regime differs in some important aspects from the proposals in Bill S-236.

First, it sets out a shorter pre-writ period of 60 days, not three months; second, it applies only in the case of elections held on the fixed-date election schedule; third, it establishes a separate pre-writ spending limit for parties and candidates, rather than extending the election period spending limit to the pre-writ period; and fourth, it regulated pre-writ spending by third parties.

However, we should take note that the Supreme Court of British Columbia has already found parts of the B.C. regime to be unconstitutional. The court ruled that the pre-writ spending limits for third parties were unjustified limitations on freedom of expression.

While the spending elements on political parties were not directly challenged before the court, the decision should remind us that we need to carefully examine any proposal that seeks to limit freedom of political expression.

Before concluding, honourable senators, I would like to discuss the government's position on political financing, which I am afraid Senator Dawson may have mischaracterized in his speech at second reading. Senator Dawson suggested that Bill S-236 is an extension of our electoral laws that seek to remove big money from politics. Our law regulates who can give and how much they can give to a political party or candidate. Only individuals can contribute and they may only donate up to \$1,100 a year, which is

subject to cost of living changes. All corporations, unions and associations are prohibited from making political donations. This means that politicians and parties must reach out to their constituents for support, thereby ensuring that they are not beholden to big money.

While Senator Dawson repeatedly emphasizes "big money," let us not forget the source of money now held by a party or a candidate; it comes from thousands of individual citizens making contributions ranging from a few dollars to \$1,100. To suggest that citizens supporting a party amounts to "big money," I am sure all senators will agree, is an unfair characterization. It is their choice to support one party or another, one candidate or another. The success of one party in reaching out to Canadians should not be branded as the corruption of "big money."

Some in this place may not like the way in which some parties use their funds between elections or even during elections, but these are choices that parties make in communicating their message to Canadians. It is up to Canadians to decide at the polls whether or not they agree with a party's approach or message.

Let us not forget about the broader phenomenon that troubles our democracy. Canadians are increasingly disengaged from the political process. Sadly, fewer show up to vote and even fewer feel connected with political parties than previous generations. There is no simple solution to these challenges, but I hope honourable senators will agree that discouraging parties, leaders and candidates from communicating with Canadians would undermine efforts to reverse this trend.

In conclusion, I think that Bill S-236 raises many serious questions and concerns. For the sake of our democracy, we should always carefully examine measures that restrict political expression. With all due respect to my honourable colleague Senator Dawson, it seems to me that this bill is more about political gamesmanship than serious electoral financing reform. I am confident that colleagues in this chamber will recognize the many flaws of this bill.

• (1810)

[*Translation*]

Hon. Dennis Dawson: Will Senator Di Nino take a brief question?

Senator Di Nino: Yes.

[*English*]

Senator Dawson: I think if the honourable senator looks carefully at a few words from his speech and carefully examines the bill, he will find flaws. Would it not be a nice way to finish the honourable senator's speech by proposing that the bill be sent to committee so that it can be studied? We could then try to take the flaws out of the bill and take an opportunity to look at how we can improve the legislation and the situation with these predetermined election dates. We can try to package this legislation so that it recognizes the fact that theoretically — theoretically, because the honourable senator knows that it did not happen in practice — we do have fixed election dates.

Senator Di Nino: I have two responses to the honourable senator's question. First, I will not take that responsibility from the sponsor of the bill because it is his right to decide whether the bill goes to committee. Moreover, other colleagues may wish to engage in debate. I do not think we should take that right away from them, either.

The Hon. the Speaker: Is there further debate?

(On motion of Senator Gerstein, debate adjourned.)

[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, a few days ago, I requested leave to suspend debate on this bill for the remainder of my time to allow for the introduction of another government bill.

I am now reviewing the text of the bill. I expect to discuss this bill again before the Senate adjourns for the summer. We will soon have enough information about Bill S-204 to study it in committee.

Therefore, I would like to adjourn debate on this bill for the rest of my time.

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

Hon. Senators: Agreed.

(On motion of Senator Nolin, debate adjourned.)

[English]

PATENT ACT

BILL TO AMEND—SECOND READING

Leave having been given to revert to Senate Public Bills, Item No. 12:

On the Order:

Resuming debate on the motion of the Honourable Senator Goldstein, seconded by the Honourable Senator Cordy, for the second reading of Bill S-232, An Act to amend the Patent Act (drugs for international humanitarian purposes) and to make a consequential amendment to another Act.

Hon. Stephen Greene: Honourable senators, today I welcome the opportunity to speak to Bill S-232, An Act to Amend the Patent Act (Drugs for International Humanitarian Purposes). As honourable senators may know, this bill seeks to change certain fundamental aspects of Canada's Access to Medicines Regime. In 2004, the then Liberal government introduced legislation to establish this regime by amending the Patent Act and the Food and Drugs Act. Shortly thereafter, Bill C-9 received Royal Assent with the unanimous support of both the house and the Senate and all parties.

The stated purpose of Canada's Access to Medicines Regime is to support the humanitarian objectives of facilitating access to lower cost, Canadian-made generic versions of patented drugs and medical devices, while at the same time respecting international trade rules and maintaining the integrity of Canada's patent system. It is important to note that products exported under Canada's Access to Medicines Regime must meet the same rigorous health and safety standards as those authorized for the Canadian market. This legislation is to ensure that developing and less-developed countries in need receive pharmaceutical products that are safe, effective and of good quality.

We recognize that the humanitarian concerns that formed the foundation of Canada's Access to Medicines Regime in 2004 continue to exist today, and we remain committed to supporting this regime. We also recognize that many people in developing and less-developed countries continue to suffer from serious health problems such as HIV/AIDS, tuberculosis, malaria and other diseases. In this regard, we are engaged in a long-term, comprehensive approach to addressing the situation.

Canada's Access to Medicines Regime is one part of this approach, but there are many others, including Canada's commitment to the Global Fund to Fight AIDS, Tuberculosis and Malaria. The government has contributed more than \$500 million to the Global Fund to Fight AIDS, Tuberculosis and Malaria so far. We have also pledged another \$450 million to this initiative over the next three years, for a total of almost a \$1 billion. Another important part of the government's approach to fighting diseases in the developing world is in the area of vaccinations. Currently, the government is working with the Bill and Melinda Gates Foundation to fund the development of an HIV/AIDS vaccination.

Honourable senators, all these examples demonstrate the government's continued commitment to improving public health in the developing world. That said, there are significant concerns with Bill S-232 because it proposes to eliminate many of the key operational elements of Canada's Access to Medicines Regime. It proposes to replace these elements with a broad approach that could have serious negative implications for continued pharmaceutical investment and growth in Canada.

Another concern is that many of Bill S-232's proposed changes to Canada's Access to Medicines Regime may not be in keeping with the spirit or the letter of the World Trade Organization decision on which our regime is based.

I will now focus on how Canada's Access to Medicines Regime currently meets our international obligations and maintains the integrity of Canada's patent system. I will also discuss how the

proposals in Bill S-232 could disrupt this fine balance — a balance, which I might add, has resulted in Canada being the only country of the nine that have implemented the World Trade Organization decision to have successfully authorized an export of HIV/AIDS drugs to a country in need. This export was in September 2008, when the Canadian drug manufacturer, Apotex Inc., sent approximately seven million tablets of an HIV/AIDS therapy to Rwanda, which had requested that drug in that amount.

Let me now take you step by step through this success story.

As per World Trade Organization rules, before any drugs can be exported under a regime such as Canada's, that implements the 2003 decision, an eligible importing country must notify publicly its intention to use the regime to import the medicines. Rwanda provided this first-ever notification to Canada on June 19, 2007, requesting to import 260,000 packs, or seven million pills, of the triple-combination HIV/AIDS therapy manufactured by Apotex Inc. Once Rwanda provided its notice, the wheels for Apotex Inc. to file an application for authorization under Canada's Access to Medicines Regime were set in motion.

As required, Apotex Inc. began seeking voluntary production licences from the relevant Canadian patent holders, namely, the brand-name pharmaceutical companies of Boehringer Ingelheim, GlaxoSmithKline and Shire Biochem, as well as the Welcome Foundation. Once the licences were in place, Apotex filed the first-ever application for export under Canada's Access to Medicines Regime on September 4, 2007, with the Commissioner of Patents. This application sought authorization for Apotex Inc. to ship its previously approved HIV/AIDS therapy to Rwanda, as per the country's request.

• (1820)

Less than three weeks later, Apotex's application was granted by the Commissioner of Patents, on September 19. On the Canadian side, the process was remarkably fast — from July 19 to September 19, 2007, or two months. This demonstrates, honourable senators, that Canada's regime works and that the list of pre-approved drugs makes the application process go quickly.

It should be noted that in the particular case of Rwanda, an authorization to export under Canada's Access to Medicines Regime was not enough to allow Apotex to ship under its HIV/AIDS therapy to the developing country. Under Rwanda's own drug procurement rules, two other steps had to be completed before the drugs could be sent. First, the Rwandan Ministry of Health had to issue a public tender for the procurement of the HIV/AIDS drug, and second, Apotex had to win the process. This took about eight more months. Finally, after manufacturing, the first shipment of tablets of the HIV/AIDS therapy was sent to Rwanda in September 2008.

The WTO decision, which I mentioned, was the source for Canada's Access to Medicines Regime and was the result of years of intensive international negotiations. Canada and other World Trade Organization members spent years finding and refining a solution to the problem regarding certain international patent obligations that were a barrier to the export of needed medicines from countries like Canada with pharmaceutical manufacturing capacity to countries like Rwanda with little or no such capacity.

In August 2003, all members of the World Trade Organization, both developed and developing, agreed to waive two patent obligations in order to improve access to patented drugs and medical devices for people in less-developed countries who needed them. Canada moved swiftly to put the legislation in place to satisfy its new WTO obligations. In 2004, the legislative framework for Canada's Access to Medicines Regime received Royal Assent in order to facilitate access to those patented products. This was done, in part, by including a pre-approved list of drugs that are eligible to be exported under the regime to respond to the public health needs of developing and least-developed countries.

Honourable senators, it should be noted that this list can be amended, and has been twice, by the government since 2005 when Canada's Access to Medicines Regime came into force. The first time was to add the very HIV/AIDS therapy that Apotex exported to Rwanda, and the second was to include an antiviral drug used for the prevention and treatment of an influenza virus.

One of the concerns with Bill S-232 is that it proposes to eliminate this list and significantly expand the scope of patented products that are eligible for export. This goes well beyond our WTO obligations and could result in products being exported that are not actually needed to address public health problems in the importing country. This was not the intention of WTO organization members in reaching the August 2003 decision.

A second concern with Bill S-232 relates to the quantity of patented products that can be currently exported under Canada's Access to Medicines Regime. Members of the World Trade Organization agreed in 2003 that an authorization to export under the decision must be limited to the quantity of drugs requested by the country in need. Canada's Access to Medicines Regime faithfully gives effect to this agreement by requiring that the quantity of products authorized for manufacture and export under its framework align with the amount requested by the importing country. Bill S-232 proposes to eliminate this requirement entirely.

A third concern with Bill S-232 is that it would significantly weaken the measures in Canada's Access to Medicines Regime that are intended to prevent diversion of exported products from their intended destination. It would also eliminate important provisions in the regime that were meant to ensure that it is used for the humanitarian objectives of facilitating access to medicines in the developing world and not for commercial purposes. Abandoning these provisions would send a confusing signal to the global pharmaceutical industry, which relies heavily on the presence of a strong, stable and competitive intellectual property regime to protect innovation and stimulate investment. Bill S-232 creates dangerous loopholes.

Amending Canada's Access to Medicines Regime along the lines proposed in this bill could affect Canada's long-standing role as a leader in implementing the World Trade Organization decision. It could also affect the stability and certainty of Canada's intellectual property regime for pharmaceuticals, which is essential for continued investment and growth of the industry.

In 2007, the government completed a statutory review of the regime. As part of this process, it reviewed all public input on the regime. That input included the extensive written submissions

received in response to a 2006 consultation paper on the regime, expert testimony heard at separate hearings by the Standing Committee on Industry, Science and Technology in the other place, as well as input from developing countries at a workshop organized by non-governmental organizations. In December 2007, the Minister of Industry tabled a report in Parliament of the results of that review, concluding that insufficient time had passed and insufficient evidence had accumulated since Canada's Access to Medicines Regime came into force in 2005 to warrant making changes to the regime at that juncture.

While the government remains committed to a long-term, comprehensive approach to fighting public health diseases in the developing world and supports the underlying humanitarian objectives of Canada's Access to Medicines Regime, it is my view that the case for making legislative or regulatory changes to the regime, at least right now, has not been made. The fact that Canada is the only country to date to successfully authorize an export under the WTO decision that was agreed to by all members demonstrates that our regime can respond to a developing or least-developed country's request in a timely manner for needed medicines. The government hopes that other eligible importing countries will come forward with requests for products under this regime. In the meantime, we remain committed to fighting diseases and improving public health conditions across the world.

It is for these reasons that I urge all honourable senators not to support Bill S-232.

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

Hon. Senators: Question.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

REFERRED TO COMMITTEE

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

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

INCOME TAX ACT EXCISE TAX ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Eggleton, P.C., for the second reading of Bill S-227, An Act to amend the Income Tax Act and the Excise Tax Act (tax relief for Nunavik).

The Hon. the Speaker: Honourable senators, I advise the house that should Senator Watt speak now, it would have the effect of closing debate.

• (1830)

Hon. Charlie Watt: Honourable senators, today I am exercising my right of final reply in order to have this very important Bill S-227 sent to committee.

The precursor to this bill was Bill S-229 introduced in June, 2007. I have worked on this for the benefit of Nunavik residents who are geographically isolated from the rest of Quebec and who are suffering financial hardship because of the high cost of living in their northern communities.

This bill is extremely important to the region and it is important to the people I serve. I would like this bill to make it to committee in order for senators to have an opportunity to learn more about the economic hardship that is facing my people and the hopelessness that is smothering our youth.

Inuit are team players. We come from a background of cooperation. We have a culture of working together. Our survival in the Arctic depended on our ability to trust our neighbours and to care for each other.

I have brought this bill to you, honourable senators, so that our peers who serve on the Standing Senate Committee on National Finance will be able to review the data and interview witnesses who are expert in this field.

Honourable senators, the relationship between Inuit and the Crown is relatively new. We have a different history than that of the First Nations. This bill is an opportunity for the Senate to examine the high cost of living and the low purchasing power of the Inuit and northern residents.

I am asking for this bill to be examined by the Standing Senate Committee on National Finance because it is critical that the Inuit voice be heard.

Honourable senators, I am the only Inuk in this chamber. I ask you, in the spirit of cooperation, to let this bill be examined by the committee and let the concerns of tax-paying Inuit be heard.

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

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Watt, seconded by the Honourable Senator Eggleton, that this bill be read the second time.

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

Some Hon. Senators: No.

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Would those honourable senators in favour of the motion please say “yea”?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Would those honourable senators opposed to the motion please say “nay”?

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Is there agreement on the length of the bells?

Hon. Terry Stratton: Thirty-minutes.

The Hon. the Speaker *pro tempore*: The vote will take place at 7:02 p.m. Call in the senators.

• (1900)

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

YEAS
THE HONOURABLE SENATORS

Bacon	Fraser
Baker	Furey
Banks	Hervieux-Payette
Callbeck	Joyal
Campbell	Kenny
Carstairs	Losier-Cool
Chaput	Mahovlich
Cools	Massicotte
Corbin	Mercer
Cordy	Moore
Cowan	Munson
Dawson	Pépin
Day	Ringuette
De Bané	Robichaud
Downe	Rompkey
Dyck	Smith
Eggleton	Tardif
Fairbairn	Watt
Fox	Zimmer—38

NAYS
THE HONOURABLE SENATORS

Brazeau	MacDonald
Champagne	Manning
Cochrane	Martin
Comeau	Meighen
Di Nino	Nancy Ruth
Dixon	Nolin
Duffy	Oliver
Eaton	Prud'homme
Fortin-Duplessis	Raine
Gerstein	Rivard

Greene
Housakos
Johnson
Keon
Lang
LeBreton

St. Germain
Stratton
Tkachuk
Wallace
Wallin—31

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

REFERRED TO COMMITTEE

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

(On motion of Senator Watt, bill referred to Standing Senate Committee on National Finance)

STATE IMMUNITY ACT
CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

On the Order:

Second reading of Bill S-233, An Act to amend the State Immunity Act and the Criminal Code (detering terrorism by providing a civil right of action against perpetrators and sponsors of terrorism).

Hon. David Tkachuk: Honourable senators, as you know, this bill was introduced a short time ago. In the meantime, a bill with the same principle has been introduced by the government in the House of Commons. A private member's bill has also been introduced from a Liberal member in the House of Commons. I will wait to see how all of this washes out. I would like to adjourn debate for the balance of my time and rewind the clock.

The Hon. the Speaker: I would remind honourable senators that the bill on the Order Paper for second reading has yet to be moved. It stands on the Order Paper in the name of Senator Tkachuk. In order for it to remain on the Order Paper, it would be helpful if the honourable senator would move second reading of the bill and then adjourn the debate.

Senator Tkachuk: I would like to move second reading of this bill.

The Hon. the Speaker: Senator Tkachuk is asking that debate be adjourned in his name. Is it agreed that the bill stand adjourned in the name of Senator Tkachuk?

(On motion of Senator Tkachuk, debate adjourned.)

• (1910)

CANADA ELECTIONS ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion by the Honourable Senator Murray, P.C., seconded by the Honourable Senator Atkins, for the second reading of Bill S-202, An Act to amend the Canada Elections Act (repeal of fixed election dates).

Hon. Wilfred P. Moore: Honourable senators, I am happy to support Senator Murray's bill in his efforts to repeal a law that has no place in a Westminster system and one that has been discredited widely, even by its own proponent, the Prime Minister. When Mr. Harper was the leader of the opposition, he came out in favour of fixed election dates. The main justification he articulated was the need to curtail the excessive powers of prime ministers, in particular in relation to Parliament, which is supposed to be an authority over the executive, not the other way around. That is one of the few areas where Mr. Harper and I agree. In the Office of the Prime Minister, there has been a gradual accumulation of power over parliamentary life that undermines the proper functioning of responsible government.

Let me say a few words about my position with respect to fixed elections. In my view, Canada already has a time frame imposed on the life of a Parliament. It is the five-year limitation found in section 50 of the Constitution Act, 1867. The change to a four-year time frame amounts to tinkering.

Some Hon. Senators: Order.

Senator Moore: The idea that the prime minister's authority would be removed has been shown to be an illusion. Indeed, I agree with Senator Murray's assessment that section 1 of the legislation is a loophole wide enough to accommodate the calling of an election by any prime minister in any circumstance. Even if we believe that the legislation is sound, we have always known that a majority government can manoeuvre around it by keeping its members of Parliament away from a vote, thus engineering its own defeat in the House of Commons.

Finally, my main reason for opposing fixed election dates is that it puts the country on a permanent election footing of the kind seen in our neighbour to the south. This election footing has a serious impact on all parties in Parliament by distracting them from the real work of governing the nation, and forcing them to tailor every position, every vote and every press release through the distorting lens of the campaign trail. It has been commonplace to describe Parliament these days as "dysfunctional." That means the other place, not Parliament, is dysfunctional, at least in the eyes of Mr. Harper. Yet, as we all know, the other place may be unable to function only upon the government losing the confidence of the House. It is not the decision of any prime

minister; the house decides whether it can function. With the fixed election proposal, the government, in a single stroke, took all the things that are wrong with our parliamentary system and magnified them.

While I share the view that the office of prime minister has excessive powers, I do not see the power to call general elections as being among them. My proposed legislation, which has been referred to committee, addresses the power of the prime minister to manipulate the timing of by-elections and the excessive authority that the prime minister has over filling vacancies in both Houses. What a revealing hypocrisy that the government would brag about its fixed election legislation, which has turned out to be an illusion, while vigorously opposing meaningful changes that would actually curtail the powers of the prime minister with respect to by-elections and Senate appointments.

As Senator Murray said, the Prime Minister might not have broken the law, but he broke his word. I agree with Senator Murray's assessment in his opening remarks at second reading when he said:

The bill that we passed into law is a facade. It is misleading; I would almost say it was intended to mislead. In any case, it is of no force or effect.

Obviously, the Prime Minister has revealed that he never believed the arguments he articulated in relation to fixed elections. When Mr. Harper was leader of the opposition, I thought he was serious. I thought he believed that fixed elections were a good idea. I disagreed with him, but it seemed as though he meant what he said. As it turns out, he meant none of it. Then again, why should we be surprised? This is but another example of Mr. Harper breaking his word. Need I remind honourable senators of his broken promises with regard to income trusts and the Atlantic Accord? Suffice it to say, the pattern is well established. Even if we buy the weak excuses offered, which amount to nothing more than variations on the theme "the devil made me do it," and even if we forgive the Prime Minister the exuberance that caused him to swallow himself whole for his short-term political interests, even then we must accept one fact that has become indisputable as a result of the Prime Minister's behaviour: The fixed elections law is a dead letter. It is a meaningless entry that does nothing more than clutter the statute books and add to the confusion about how a Westminster system with responsible government is supposed to function. Senator Murray's Bill S-202 will erase the mistake and save the Prime Minister from future embarrassment. Honourable senators, the government's willingness to disregard its own law for short-term ends is truly only a small indicator of a larger pattern that permeates almost everything in the government's highly partisan agenda. The legislative program of this government is designed to serve its communications interests in the permanent campaign footing they have imposed on Canada.

Honourable senators, I cannot let this opportunity go by without drawing the attention of the Senate to another pattern of behaviour that has become more and more acute in recent times. The government in this place has adopted a stance with respect to Senate public bills that is hostile. Through persistent adjournments, the government has erected a road block unlike anything we have seen before. The work of the Senate, according

to the practice of the Deputy Leader of the Government in the Senate, is to be put on hold until the government has had an opportunity to have its officials analyze our initiatives. Then, we are to wait further while the government can find a volunteer in its caucus who will agree to act as “critic.” Then, we are to wait a few more weeks while staff changes in government departments oblige analysts to start over. Then, we are to wait further once this caucus volunteer comes forward because the volunteer needs to be briefed, presumably so that he or she will know what to think. Then, we wait further until the erstwhile critic prepares a speech and delivers it.

Senator Murray moved second reading of Bill S-202 on January 29. That was more than four months ago. The government has been adjourning the item ever since. This is not debate; it is obstruction. They engage in this pattern of obstruction, while having the gall to accuse the Senate falsely of obstructing government bills.

Honourable senators, this house is noted for its collegial atmosphere and its muted partisanship, but the government of late has tested courtesy and collegiality well beyond the breaking point. It is time that we stopped tolerating the unacceptable obstruction that masquerades as research and speech preparation. It is time that courtesy and respect once again became a two-way street in this place. It is time to send Bill S-202 to committee.

(On motion of Senator Comeau, for Senator Brown, debate adjourned.)

[Translation]

STUDY ON APPLICATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

THIRD REPORT OF OFFICIAL LANGUAGES COMMITTEE ADOPTED AND REQUEST FOR GOVERNMENT RESPONSE

On the Order:

Resuming debate on the consideration of the third report of the Standing Senate Committee on Official Languages, entitled *Francophone Arts and Culture: Living Life to its Fullest in Minority Settings*, tabled in the Senate on June 4, 2009.

Hon. Maria Chaput: Honourable senators, I propose:

That the third report of the Standing Senate Committee on Official Languages entitled *Francophone Arts and Culture: Living Life to its Fullest in Minority Settings*, tabled in the Senate on June 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 Canadian Heritage and Official Languages being identified as minister responsible for responding to the report.

The Hon. the Speaker: If the honourable senators will agree, we can deal with the debate on the report and on the motion at the same time. Is it agreed?

Hon. Senators: Agreed.

• (1920)

Hon. Andrée Champagne: Honourable senators, it gave me great pleasure and satisfaction to participate in the meetings leading up to the official languages committee report tabled a few days ago. However, I have to say that the chair of the committee, Senator Chaput, provided an analysis that was, at times, more partisan than the excellent report itself.

As one might have expected, most of the witnesses told us that they would be happier and their lives easier if the government gave them more money. French in minority communities is clearly having a hard time.

With so many people dedicated to this work, often on a volunteer basis, the committee expressed the hope that, once the minister receives proposals that meet the established criteria, it might take less time to approve them and disburse the funds.

It is also clear that cultural organizations that have proved their worth, particularly those working with the community sector, should be able to count on multi-year funding. That would make it easier for them to plan their activities. Let us hope that the minister hears our plea.

It really bothered me that, in her speech, Senator Chaput did the same thing Senator Tardif did the week before and brought up the issue of the CBC's problems, which she said would only end up hurting French-language minority communities. I think it is unfair to take advantage of these temporary difficulties to blame the government by repeating inaccuracies we have been hearing from all kinds of journalists.

The government did not cut CBC/Radio-Canada's budget. Once again this year, the government gave the broadcaster \$1.1 billion, just as it has done since 2006. It is CBC/Radio-Canada's other income from advertising that has declined because of the economic crisis.

But it bears repeating that despite its financial difficulties, the corporation is not exempt from its responsibilities toward Canada's official language minorities. The department will do its job; in other words, it will keep a constant and critical eye on the corporation's decisions and the outcome of those decisions.

Furthermore, as senators are well aware, the official languages roadmap provides the government's biggest budget ever to help Canadians living in minority language communities. Our committee's report, as tabled in the Senate, is a good way for people to find out more.

Honourable senators, I invite you to read it carefully over the summer, but today, I invite you to adopt it.

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

Hon. Senators: Question!

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

[English]

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

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

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Fisheries and Oceans, entitled: *Crisis in the Lobster Fishery*, tabled in the Senate on June 9, 2009.

Hon. Bill Rompkey: I move:

That the fifth report of the Standing Senate Committee on Fisheries and Oceans entitled *Crisis in the Lobster Fishery*, tabled in the Senate on June 9, 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 and the Minister of Human Resources and Skills Development being identified as minister responsible for responding to the report.

He said: Honourable senators, I might say a few brief words. Immediately after our committee released this report, the government made an announcement concerning the lobster fishery but that announcement's focus was on the marketing of lobster. While that announcement was welcome, the committee feels that other actions should be taken as well. Specifically, the committee feels that in these tough times, immediate changes to the Employment Insurance program must be implemented to address the problems created by low lobster prices.

We recommend that EI fishing benefits be extended by five weeks, and that the government allow fish harvesters to qualify for EI based on 2008 earnings. Currently, fish harvesters, including those in lobster, are eligible for benefits based on earnings, rather than hours worked.

These are two of the main recommendations. I do not have to go over with honourable senators the importance of the lobster fishery or the crisis that it faces at the moment. This is a high-end species, and in view of the collapse of other species, it is increasingly important.

To preserve the long-term viability of the industry, fishery association representatives from a number of regions told the committee that a better balance between harvesting capacity and available resources is required. In light of such comments, the report calls for the development of a comprehensive plan for the fishery, including voluntary fleet rationalization to reduce

fishing capacity where needed. Under such a framework, the federal government should contribute to the cost of removing lobster licences from the fishery.

Honourable senators, the day after we tabled this report, the government made an announcement on funds for the lobster fishery, but I believe the funds were allocated to marketing. In view of the low price of lobster, the committee feels that the marketing of the product is not the most pressing issue. We feel that the extension of Employment Insurance is pressing, and we urge that on the government.

The Hon. the Speaker pro tempore: Continuing debate?

• (1930)

[Translation]

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, Senator Cochrane is not here at present. I would like her to have the opportunity to give us her comments on this report, so I ask that the debate stand adjourned in her name.

(On motion of Senator Comeau, for Senator Cochrane, debate adjourned.)

[English]

**INTERNAL ECONOMY, BUDGETS
AND ADMINISTRATION**

SEVENTH REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion by the Honourable Senator Cook, seconded by the Honourable Senator Hubley, for the adoption of the seventh report of the Standing Committee on Internal Economy, Budgets and Administration (*amendments to the Senate Administrative Rules*), presented in the Senate on May 28, 2009.

Hon. Tommy Banks: Honourable senators, I took the adjournment of this debate because I was not sure of the nature of the motion which I have now come to understand better than I did. I, therefore, move the adoption of the report.

The Hon. the Speaker pro tempore: Continuing debate?

Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Cook, seconded by the Honourable Senator Hubley, that the seventh report of the Standing Committee on Internal Economy, Budgets and Administration presented in the Senate on May 28, 2009, be adopted.

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

(Motion agreed to and report adopted.)

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

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

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Fisheries and Oceans, entitled: *Nunavut Marine Fisheries: Quotas and Harbours*, tabled in the Senate on June 4, 2009.

Hon. Bill Rompkey: Honourable senators, I move:

That the fourth report of the Standing Senate Committee on Fisheries and Oceans, entitled *Nunavut Marine Fisheries: Quotas and Harbours*, tabled in the Senate on June 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 being identified as minister responsible for responding to the report.

Honourable senators, the main recommendations in this report are related to infrastructure and quota. There are two zones off Nunavut, 0A and 0B. In 0A, the people of Nunavut who are contiguous to that zone get all of the quota. However, in the zone to the south, which is 0B, they get about 20 per cent of the quota. We feel this is unfair to the people there. Additionally, it is in contradiction of policy followed elsewhere where people adjacent to the resource receive the primary share of the quota.

Therefore, we believe the quotas off Nunavut should be revised and that the people who live in Nunavut, and the fishers who prosecute that fishery, should get the lion's share of that quota, particularly if there will be increases.

The second important point is with regard to infrastructure. We were struck by the absence of harbour facilities in Nunavut. Those of us from the Atlantic are used to having wharves and breakwaters in all of our communities. We found none in Nunavut. I suspect that when Senator Comeau was there earlier he found the same thing.

Our recommendation is that a program be put in place to construct harbour facilities such as wharves and breakwaters. Otherwise, there is no way value can be added to the catch. The catch is essentially offshore. Offshore ships provide some royalties and some jobs, but they do not provide the maximum benefit to the people who live on the shore.

There was a joint Nunavut-Canada report in 2005 or 2006, as a matter of fact. It recommended that seven harbours be constructed in Nunavut. So far, only one, in Pangnirtung, has been advanced and has obtained funds. I am not sure that the construction is going ahead even now.

It is very important that a special program be instituted because there is no money in the Small Craft Harbours budget to begin construction of those wharves and breakwaters in Nunavut and

various communities of Nunavut so the people who live on shore can reap the primary benefit from the resources off their shore.

(On motion of Senator Cochrane, debate adjourned.)

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

**BUDGET AND AUTHORIZATION TO ENGAGE
SERVICES AND TRAVEL—STUDY ON RISE OF CHINA,
INDIA AND RUSSIA IN THE GLOBAL ECONOMY
AND THE IMPLICATIONS FOR CANADIAN
POLICY—EIGHTH REPORT OF COMMITTEE ADOPTED**

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Foreign Affairs and International Trade (*budget—release of additional funds (study on China, India and Russia)—power to hire staff and travel*) presented in the Senate on June 2, 2009.

Hon. Consiglio Di Nino moved the adoption of the report.

He said: Honourable senators, I am happy to simply say that this is the continuation of our report. We prepared a budget, submitted it to the Standing Committee on Internal Economy, Budgets and Administration, and it is now before the Senate for consideration. I am happy to answer any questions.

The Hon. the Speaker pro tempore: Continuing debate?

Hon. Tommy Banks: I have a question for Senator Di Nino.

The Hon. the Speaker pro tempore: Would Senator Di Nino accept a question?

Senator Di Nino: Absolutely.

Senator Banks: Could the honourable senator give us a short "thumbnail" on the number and nature of the staff included in this motion?

Senator Di Nino: The report, obviously, includes expenditures for travel. As the honourable senator knows, travel is usually budgeted in respect of the whole committee, which is 12. It is unlikely that 12 will go. It is normally a much smaller number.

The staff who will be accompanying the committee when it travels will be the clerk and one researcher; two people.

Senator Banks: I understand that Senator Di Nino is not actually hiring staff because the staff you have described do not need to be hired. Am I right?

Senator Di Nino: We will not be hiring unless someone quits in the meantime. Our intention is to take our current clerk and researcher. There are two researchers from the Library of Parliament. One of them will be travelling. I am not sure which one because of scheduling.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by Senator Di Nino, seconded by Senator Oliver, that the eighth report of the Standing Senate Committee Foreign Affairs and International Trade Canada be adopted.

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

(Motion agreed to and report adopted.)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIFTH REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*amendments to the Rules of the Senate—Conflict of Interest Code for Senators*) presented in the Senate on May 27, 2009.

Hon. Donald H. Oliver moved the adoption of the report.

He said: Honourable senators, I am pleased to speak today to the fifth report of the Standing Committee on Rules, Procedures and the Rights of Parliament. Honourable senators will recall that, during the Thirty-ninth Parliament, our Standing Committee on Conflict of Interest for Senators undertook a comprehensive review of the provisions and operation of the *Conflict of Interest Code for Senators*.

This study led to the fourth report of the committee, which was presented to the Senate on May 28, 2008, and adopted the following day. The Standing Committee on Conflict of Interest for Senators recommended multiple amendments to our code, which were aimed, in the committee's own words, "to adjust, improve and refine the provisions of the code."

• (1940)

Among the amendments proposed by the committee is the obligation for a senator to abstain from debate in the Senate and committees when he or she has made a declaration of private interest on the matter being discussed.

The committee also recommended that such a senator withdraw from the committee for the duration of the proceedings on the matter.

Other amendments to the code pertained, for example, to declarations of private interest made at in camera committee meetings and retractions of declarations of private interest made out of abundance of caution but which should not remain.

These and other amendments to the code require that consequential amendments be made to our *Rules of the Senate*, and the Standing Committee on Rules, Procedures and the Rights of Parliament has undertaken a study in this respect in the current session.

[*Translation*]

The amendments to the *Rules of the Senate* proposed in the fifth report are necessary in order to permit points of order to be raised and to allow the Speaker to decide upon them. They also include preventive measures in our *Rules of the Senate*, which, for example, would prohibit a senator from voting on an issue for which he or she has made a declaration of private interest.

[*English*]

The first set of amendments proposed by the Rules Committee deal with declarations of private interest and their retractions. Proposed amendments to the rules would ensure that they are recorded in the Journals and, in addition, in the minutes and proceedings of the committee when made in committee. Declarations and retractions made at in camera meetings are to be valid only for the meeting at which they are made, unless authorization to publish them in the minutes and proceedings has been granted. These proposed amendments mirror the provisions of the code of conduct in this respect.

The code prohibits a senator from voting and participating in debate on a matter for which he or she has made an unretracted declaration of private interest. Also, the senator must withdraw from the committee for the duration of the proceedings on the matter. The fifth report of the committee proposes that these prohibitions be included in the rules.

Your committee also proposes a mechanism whereby the Speaker should announce the names of senators present who have made and not retracted a declaration of private interest on a matter for a recorded vote. Their names would, therefore, not be called during the vote except to abstain. Chairs of committees would abide to a similar procedure.

It is with great pleasure, honourable senators, that I submit this report to the Senate.

(On motion of Senator Comeau, debate adjourned)

FOURTH REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*question of privilege regarding a Government of Canada website*) presented in the Senate on May 13, 2009.

Hon. Donald H. Oliver moved the adoption of the report.

He said: Honourable senators, on March 26, 2009, the Honourable James S. Cowan, Leader of the Opposition in the Senate, raised a question of privilege in the Senate chamber. Senator Cowan argued that the following passage, then posted on the Government of Canada website entitled Canada's Economic Action Plan, actionplan.gc.ca, infringed upon his privileges as a senator. The second paragraph of that website read as follows:

While the House of Commons has passed this legislation, the Senate must still approve the Act for it to become law. Senators must do their part and ensure quick passage of this vital legislation.

Honourable senators, I am pleased to speak today to this fourth report of the Standing Committee on Rules, Procedures and the Rights of Parliament. Parliamentary privileges are fundamental components of our system of government and Constitution. They ensure that the judicial and executive branches of government do not interfere with the work of the legislative branch. In this respect, parliamentary privileges are necessary to guarantee the autonomy and independence of the Senate. Parliamentary privileges are, therefore, one way in which the fundamental constitutional separation of powers is respected.

Parliamentary privileges have roots in England of the Middle Ages and in the struggle of the Commons against the interference of the monarch and his or her courts. They have been part of our Constitution since 1867, and former British colonies before 1867 also enjoyed the necessary privileges for the accomplishment of their duties and functions.

There are various aspects of parliamentary privilege. Among others, each senator has complete freedom of speech during the proceedings of the Senate and its committees, ensuring that he or she may not be prosecuted for what is said in the chamber and committees.

Senators are also free from being arrested in civil actions. This immunity exists because the Senate has the:

. . . pre-eminent claim to the attendance and service of its Members, free from restraint or intimidation particularly by means of legal arrest in a civil process.

Exemption from jury duty serves a similar purpose, and so does the exemption from appearing as a witness in civil, criminal and military matters before a court of law.

Collectively, our House of Parliament also enjoys the power to discipline, the power to regulate for its own internal affairs, the authority to maintain the attendance and service of its members, the right to institute inquiries and to call witnesses and demand papers, and the right to administer oaths to witnesses.

All these privileges are necessary for the Senate and its senators. Without them, our institution and our individual members would not be able to fulfill their legislative and deliberative functions and hold the government to account. They are also necessary to ensure that the dignity and authority of senators and this institution are sustained.

Behaviour that is offensive to the Senate may not, in and of itself, constitute a breach of parliamentary privileges unless the work of the Senate has been obstructed or impeded. It nonetheless may be a matter of possible contempt where the behaviour offends the authority and dignity of the Senate. That fact was explicitly recognized by our Honourable Speaker in his March 31 ruling on the matter, which led to the fourth report of the Standing Committee on Rules, Procedures and the Rights of Parliament. The issue in these circumstances is whether or not the Senate is faced with a “purposeful attempt to distort and misrepresent the Senate’s work.”

Our parliamentary jurisprudence provides examples of such cases. For example, the Honourable Speaker of the other place held, in a ruling rendered on October 29, 1980, that:

. . . to amount to contempt, representations or statements about our proceedings or of the participation of members should not only be erroneous or incorrect, but rather, should be purposefully untrue and improper and import a ring of deceit.

More recently, on February 24, 1998, our Speaker stated that, though certain circumstances may not lead to a contempt of Parliament because a statement was not purposefully misleading, departmental officials should pay great care in providing accurate information with respect to the proceedings of our chamber.

It is a fact that laws cannot be enacted until they have passed both Houses. While departments of government have a legitimate duty to keep citizens informed about changes to the law, that duty should never conflict or appear to conflict with the pre-eminent constitutional responsibilities of Parliament. In seeking to advise our fellow citizens of proposals to amend the law, government officials should never forget this basic fact.

Our Speaker once again, stated this principle in his March 31 ruling.

In view of our traditions surrounding parliamentary privilege, I wish to conclude my remarks by outlining what the Rules Committee has done with respect to the question of privilege that was referred to it on April 1, 2009.

Honourable senators will recall that this question of privilege originated from inaccurate information about the proceedings in the Senate that had been posted on a government website.

• (1950)

Though our Speaker ruled on March 31 that there was “no” prima facie question of privilege, the chamber, on appeal of this decision, held the contrary and the matter was consequently referred to the committee.

On April 28, 2009, Mr. Laurent Marcoux, Acting Director General of Operations, Communications and Consultations, Privy Council Office, appeared before the Rules Committee. Mr. Marcoux explained the circumstances that led to this regrettable error and expressed his sincere regrets for this mistake throughout his testimony. He also testified as to the remedial measures that had been adopted by his office immediately after the event. In a subsequent communication, Mr. Marcoux informed the Rules Committee of the further remedial measures put in place by his office.

It has been a pleasure, honourable senators, to speak to the fourth report and submit it as the Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament for the due consideration of honourable colleagues.

(On motion of Senator Tardif, debate adjourned.)

BUDGET IMPLEMENTATION BILL, 2009

STUDY ON ELEMENTS DEALING WITH EMPLOYMENT INSURANCE—SIXTH REPORT OF NATIONAL FINANCE COMMITTEE— DEBATE SUSPENDED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on National Finance, entitled: *The Budget Implementation Act, 2009*, tabled in the Senate on June 11, 2009.

Hon. Joseph A. Day moved the adoption of the report.

He said: Honourable senators, I will try to touch on a few of the highlights in this rather extensive report on Bill C-10, budget implementation. This is the first budget implementation from the budget of January of this year. We are told there will be others — at least one more in addition to the estimates that I talked about earlier — that we will be required to deal with in anticipation of the supply bill the first of next week. Another way that the government obtains permission to implement aspects of the budget and to request funds to do that which they have outlined they would like to do is through budget implementation.

Honourable senators will recall that Bill C-10 came to us back in March and our committee dealt with it on March 10 and 11. That was four or five days after the bill came to the Senate. The committee sat for eight hours and heard from 15 witnesses. The decision to pass the bill was made by all parties because the bill contained a provision that provided five extra weeks for the unemployed. It was therefore critical that the bill get passed and not get lost.

Honourable senators, had we been able to continue our study of Bill C-10, we would have been able to tell you that a pilot project was in place that could easily have been extended ministerially without passing the bill, and it would have allowed for the five-week extension. It was in existence for areas of the country with unemployment of 10 per cent or more, but it could easily have been extended ministerially to all unemployed as a pilot project. The pilot project had been extended twice already.

We voted for this out of ignorance, quite frankly. I think we all should remember that because it is a very good lesson. There are often unintended consequences when we rush into something.

At the time this bill was passed, we were all concerned about not meeting the promises we had made. I had received at least 10,000 messages on this bill, so I know honourable senators received an equal number, particularly with respect to the navigable waters portion of Bill C-10.

Honourable senators, promises were made to those people, so I am very pleased that we were given the opportunity of doing a post-study of the bill instead of a pre-study. For a while, it was difficult for us to get witnesses. However, as time went on and they saw that we were doing good, thorough work on the bill, they anticipated that we would come forward with a good report that would be given proper and due consideration. In the end, the National Finance Committee did have good witnesses, and we proceeded to deal with certain portions of the bill.

Portions of the bill went to other Senate committees. Part 7, navigable waters, was referred to the Standing Senate Committee on Energy, the Environment and Natural Resources. Part 12, competition, was referred to the Standing Senate Committee on Banking, Trade and Commerce. Part 11, equitable compensation, was referred to the Standing Senate Committee on Human Rights. All the other portions went to the National Finance Committee. In the eight hours of previous hearings, we did some work on those other aspects of the bill and we were able to lend our findings to the other committees.

In all, we heard 35 witnesses over 18 hours of meetings. We were unable to study two parts of the bill because we did not have time. One was with respect to equalization. Senators will recall that equalization was resolved once and for all last year, yet here we are less than a year later and the formula has been changed again. We felt that we would be doing an injustice to this subject without consulting the provinces that are impacted by this change. Our committee will undertake to follow up on that matter in due course because we have studied equalization previously.

The second area has to do with national securities regulations and is perhaps better studied by the Banking Committee. It would require extensive study and all of the stakeholders — all of the provinces — would have to be consulted or we would be doing an injustice to that subject.

The report is 44 pages long. It ends with a good number of observations and recommendations. Let me touch on a few of the points, if I may.

The first is with respect to the Canada Student Financial Assistance Act amendments that appeared in the bill. The student representatives who appeared before the committee made several observations on aspects of Bill C-10 that affected students. Of particular interest was their concern with provisions for a temporary three-year expansion of the Canada Graduate Scholarships Program and then it dies.

They were also concerned that the money for the Social Sciences and Humanities Research Council, according to the language of the budget, was to be focused on business-related degrees. They felt that the government should not be involved in determining the particular subject to which the money should be allocated. They felt that it was handled well in the past, so they would prefer to see it remain that way.

We learned that the changes introduced in yet another new formula would place a ceiling on equalization payments. There is a new formula for Ontario, being a recipient province. That will require further study.

On the amendments to Investment Canada, one of the witnesses, Mr. George Addy, Chair of the Policy Committee, Canadian Chamber of Commerce, regarding this particular legislation said:

It had good news and bad news. The good news is that they have increased the threshold —

— this is for the takeover of Canadian companies by foreign companies —

— which now is the scope so that you focus only on big deals. The bad news, in our view, is the national security amendments.

There is, without definition, a prohibition to a takeover if it is deemed to interfere with national security. He said that to establish that exception without explanation causes many problems for the industry.

• (2000)

I told you about the pilot project, honourable senators, with respect to the five weeks. That pilot project was cancelled by this legislation; however, the legislation that gives five weeks only goes to September 12, 2010, and then it is over. The five weeks we all voted for are over September 12, 2010, so, the extension was for just a year and a half.

We have suggested, assuming that the economy is still where it is today or is not fully recovered, that the five-week project that had been in place for a good number of years should be reintroduced and carry on following the expiry of that particular extension of the legislation.

Honourable senators, it is this area on which I would like you to focus.

(Debate suspended.)

QUESTION OF PRIVILEGE

SPEAKER'S RULING RESERVED

The Hon. the Speaker: Honourable senators, it being eight o'clock, pursuant to rule 43(8), I must call upon Senator Wallin on a question of privilege. When that is concluded, we will come back to Honourable Senator Day.

Hon. Pamela Wallin: Honourable senators, I rise because I believe that the ongoing conduct of Senator Kenny in his role as chair of the Standing Senate Committee on National Security and Defence constitutes a contempt of the Senate, contempt for this senator, my Senate colleagues, the practices of the Senate, the courtesies of the Senate and the Senate itself.

Allow me to cite Marleau and Montpetit, page 52:

Any conduct which offends the authority or dignity of the House, even though no breach of any specific privilege may have been committed, is referred to as a contempt of the House. Contempt may be an act or an omission; it does not have to actually obstruct or impede the House or a Member, it merely has to have the tendency to produce such results.

It is also my belief that the privilege of the Senate, the Standing Committee on Internal Economy, Budgets and Administration, the Standing Senate Committee on National Security and Defence, and the members of those committees, including my own privileges both as deputy chair and as a member of the National Security and Defence Committee, have been breached in several ways by actions of the chair and certain other senators.

Senator Kenny and his colleagues have disregarded a clear and recent directive of the Standing Committee on Internal Economy, Budgets and Administration, on March 12, 2009, that all requests for committee contracts for consulting and personnel services be signed off by both the chair and the deputy chair of the committee — I will not read them all into the record — and that if the chair and the deputy chair of the originating committee do not agree, that the matter will be presented to the steering committee, and if the matter is still not resolved, it will then be presented to the steering committee of the Standing Committee on Internal Economy, Budgets and Administration for resolution.

Senator Kenny, as chair of the National Security and Defence Committee, and I, as deputy chair, received draft requests for contracts for four consultants from the clerk of the committee on May 27, 2009.

On June 8, I personally hand delivered to the chair of the committee a copy of the amendments I wished to propose, aimed at ensuring that the contracted consultants would be available to serve all members of the committee regarding committee business. The chair did not respond and made no effort whatsoever to come to any agreement regarding the wording of the requests for contracts.

At the meeting of the National Security and Defence Committee on Wednesday, June 10, Senator Banks, with prior knowledge of the chair but with no notice to Conservative members, moved that the requests for contracts for the proposed consultants be approved now by this committee and deemed signed, as they were authorized by the chair on May 28 in light of the approval of the budgets containing those amounts that were approved by the Senate on May 27.

We believe this motion flies in the face of the process laid down by the Internal Economy Committee. A majority of committee members cannot simply vote to bypass the requirement for the deputy chair to sign requests for contracts, and the committee cannot simply deem the deputy chair to have signed such documents.

The directive from the Internal Economy Committee was, I understand, created in response to accountability issues that have arisen in the past and because Senate committees do not technically contract their own consultants; rather, the contracts are between consultants and the Senate itself.

My question of privilege is that the motion brought before the National Security and Defence Committee on June 10 should never have been moved by Senator Banks or received by the chair. It defies the authority of the Internal Economy Committee over matters of Senate finance. It usurps my role as deputy chair, and it undermines the financial accountability of the Senate as a whole.

My second point concerns the way the vote on the motion was handled by the chair and others present. The chair called the question on the motion and asked for a show of hands by those in favour. He then counted Senator Mitchell among those voting in favour of the motion, even though Senator Mitchell was not at the time a member of the committee. He is not a regular member

of the committee and had not been signed in as a replacement for any regular member. That is clear from the publicly available transcripts of the proceedings.

Then the chair stated on the record that he would call the question on the motion again, "once I give her the form." This refers to the chair giving the clerk of the committee a form making Senator Mitchell a replacement member of the committee. However, the question had clearly already been called, voted on, and the votes in favour had been counted. The question could not be called a second time on the same motion.

When Senator Tkachuk argued that Senator Mitchell's vote could not be counted because he was not a member of the committee at the time of the vote, the chair asked Senator Banks to move his motion again, after Senator Mitchell has been signed in as a member. It is clear from the public transcripts that the motion was moved, the vote was called, the show of hands took place and the votes were counted all before Senator Mitchell was signed in as a member of the committee. The votes must therefore be deemed defeated by a tied vote with four members in favour and four opposed.

Just to make this clear: the chair actually tried to sign up another member of the committee after a vote had been called while a show of hands was in progress. In the Senate, once a vote is called, a senator cannot enter the chamber to have his or her vote counted, and the same principle must surely apply in committees. This arrogance and the contempt for civil behaviour and for the rules of this place are troubling.

It is also the case, we believe, that a motion, once voted on, cannot be moved again and subjected to another vote simply because you do not like the result of the first vote.

Rule 63(1) states the following:

A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, unless the order, resolution, or other decision on such question has been rescinded as hereinafter provided.

This rule should also be respected by Senate committees. Nevertheless, at yesterday's committee, Senator Banks again moved his motion. Senator Tkachuk again raised a point of order, based on the fact that the motion contravened the March 12, 2009 directive of the Internal Economy Committee. The chair overruled this point of order and allowed the motion to proceed to another vote.

It is evident the *Rules of the Senate* and its committees have been flouted and the directive of the Internal Economy Committee has been defied, and, in doing so, they have breached the privilege of the National Security and Defence Committee, the Internal Economy Committee, the members of those committees and all honourable senators. My own rights and responsibilities as deputy chair of the National Security and Defence Committee have been taken from me.

This is by no means the only instance of such abuse by the chair and other members of the National Security and Defence Committee. In fact, it is sadly common.

To explain my next concern, I will have to go back again to the committee's meeting of March 2, at which Senator Moore moved

That the Subcommittee on Agenda and Procedure be composed of the chair, the deputy chair, and one other member of the committee, to be designated after the usual consultation; and

That the subcommittee be empowered to make decisions on behalf of the committee with respect to its agenda, to invite witnesses, and to schedule hearings.

That motion was adopted by a majority of the committee. Nevertheless, at the June 15, 2009 meeting, the Standing Senate Committee on National Security and Defence heard Senator Banks move:

That notwithstanding the motion that this committee adopted on March 2, 2009, the Subcommittee on Agenda and Procedure be composed by five members: the chair, the deputy chair, the Honourable Senator Banks, one other senator to be designated by the deputy chair and one other senator, to be designated by the chair.

It is clear from the wording of this motion that it involves the rescission of the March 2 motion. It goes far beyond simply adding two members to the subcommittee. This motion actually reconstitutes the entire membership. It reappoints the chair and the deputy chair as members of the subcommittee, which would not be necessary if the initial resolution was not rescinded.

• (2010)

It also explicitly names Senator Banks as the third member of the subcommittee, which overturns the principle contained in the initial resolution that the third member will be appointed in accordance with the usual consultations between the two parties.

The motion by Senator Banks also proposes a different selection process altogether for the fourth and fifth members of the subcommittee, stating that the chair and the deputy chair each name a member.

In sum, the motion moved by Senator Banks constitutes a rescission and a wholesale replacement of the motion adopted by the National Security and Defence Committee at its March 2 meeting. Senate rule 63(2) states:

An order, resolution, or other decision of the Senate may be rescinded on five days' notice if at least two-thirds of the Senators present vote in favour of its rescission.

Again, I must assume that it is the long-standing practice of the Senate rules, which would apply to committees of the Senate as well. This is reflected in rule 96(7), which states:

Except as provided in these rules, a select committee shall not, without the approval of the Senate, adopt any special procedure or practice that is inconsistent with the practices and usages of the Senate itself.

A point of order based on rule 63(2) was raised by Senator Tkachuk and was summarily dismissed by the chair. Again, the chair gave no reasoning and cited no rules. Sadly, this is the way points of order are usually disposed of by Senator Kenny. This further demonstrates the chair's disdain for the rules of this place and for the minority members of the committee.

Again, in reference to the *Rules of the Senate*, rule 18(2) concerns ruling on points of order by the Speaker of the Senate. It states:

The Speaker shall decide points of order and when so doing shall state the reasons for the decision together with references to the rule or other written authority applicable to the case.

This rule should apply to the chairs of Senate committees as well. However, Senator Kenny gave no reason whatsoever for dismissing Senator Tkachuk's point of order. He simply stated:

That is not the case.

Senator Kenny then refused to allow Senator Tkachuk to appeal the ruling to a vote of the members of the committee.

In addition to breaching the common parliamentary practice and the Senate rules, the motion adopted by the committee enables members from only one party to make decisions for the entire committee. A steering committee of five members would have three Liberals and two Conservatives. Quorum for any steering committee, according to the Senate rules, is three. That means that three Liberal members of the steering committee could arrange to meet at a time when they knew other members were not available, and that the Liberal members could then decide whatever it is that they pleased.

I moved an amendment at that moment to stipulate that quorum for a meeting of the steering committee should require the attendance of at least one member from each party. This amendment was defeated by the Liberal members.

I believe that both the motion of Senator Banks and the process by which it was adopted violate the privileges of the minority members of the National Security and Defence Committee. I commend to honourable senators that they seek out the Senate committee transcripts from last Wednesday and again from last night from the Defence Committee to have a sense of the kind of debate, discussion and lack thereof that ensues.

I have one more area of concern. At the commencement of the current session, the committee submitted a budget request to Internal Economy that included committee travel to military bases throughout Canada. That budget has been approved by Internal Economy and by the Senate itself. At yesterday's meeting, Senator Zimmer moved that the committee's fact-finding trip to the East Coast military bases be scheduled to take place from July 5 to July 10. There was no consultation. In fact, there had been a general understanding at previous meetings that the base trip would be moved to the fall to accommodate senators' travel schedules.

The budget reported to the Senate by the committee clearly shows that it was to be a full and official trip of the whole committee with translation services, et cetera. By unilaterally changing the dates for travel, which I believe must always be

negotiated, Senator Kenny and the Liberals are trying to bypass the need for the leadership of both parties to agree to allow the committee to travel, and this is clearly an attempt to do indirectly what the committee cannot do directly, and should be ruled impermissible for that reason; namely, to schedule trips when minority members cannot travel.

As I have said on many occasions, we are a country at war. Our work as a committee should be focused on our troops, on veterans, on military commitments and on readiness, rather than on procedural tricks to prevent participation of the governing party. The specific concerns I have raised here today unfortunately reflect only a few of the serious breaches of parliamentary rules and privileges that arose at the most recent meeting of the Standing Senate Committee on National Security and Defence.

The attitude, the behaviour, the language and the contempt shown for his committee colleagues is offensive to the core, and disrespectful to this place. Even our attempt to put our challenges of the chair's ruling to a vote were overruled or ignored, and this is contrary to basic practice, according to section 821(1) of *Beauchesne's Parliamentary Rules & Forms*, which states:

All rulings of the Chairman may be appealed to the committee.

I fear that this committee is being rendered dysfunctional and may be setting a dangerous precedent for the Senate as a whole. Honourable senators, I believe there is a duty on the part of the leadership of the opposition caucus to deal with this conduct and with these dysfunctional relationships.

Should the Speaker find a prima facie case on a breach of privilege, I am prepared to move an appropriate motion at that time.

Hon. Wilfred P. Moore: I have a point of order.

The Hon. the Speaker: We are on a question of privilege. I will hear arguments on the question of privilege raised by Senator Wallin. I saw Senator Kenny rise first — are you yielding to Senator Moore, Senator Kenny?

Senator Kenny: Yes.

Senator Moore: Briefly, I thank His Honour and Senator Kenny.

I wish to draw to the attention of the chamber that the criteria for raising a question of privilege under rule 43(1) of the *Rules of the Senate*, among other things, states that a question of privilege must meet certain tests and must "*inter alia* (a) be raised at the earliest opportunity."

I am looking at the last item on the privilege sheet Senator Wallin submitted to the clerk today. It refers to an event that allegedly took place at the meeting of the committee that occurred on Wednesday, June 10. There was opportunity that day or the next day for questions regarding that meeting of the committee to be raised. That did not happen, so I submit that is not the problem before us and should be disregarded.

Hon. Colin Kenny: Honourable senators, I want to address the points raised by Senator Wallin on this question of privilege. The first point I want to address is from her letter dated June 16:

The chair disregarded a recent and clear directive of Internal Economy and breached Senate rules in a way that allowed the committee to deal with concerns regarding requests for contracts which has undermined the accountability of Senate finances and usurped the role of the deputy chair of the committee.

This point relates to our committee's budget and the process for hiring its contractors. First, the names of each contractor are identified in the committee's approved budget, a copy of which was printed in the *Journals of the Senate* on May 7, 2009.

Second, I remind honourable senators that the budgetary process included the approval of, first, the committee, then the approval of the subcommittee on budgets of Internal Economy, then the approval of the full committee of Internal Economy and finally the full Senate.

Furthermore, all expenditures related to this budget will be scrutinized and approved by the Senate's finance directorate and reported back to Internal Economy in the form of a post-activity report. There is no undermining of accountability of Senate finances.

As to the deputy chair, the Honourable Senator Wallin, she was present at the committee meeting on March 4, when the names of the contractors were first discussed. She was present on April 27 when the names and amounts were approved by the Standing Senate Committee on National Security and Defence and the budget was adopted. She was also present in the chamber on May 27 when this budget was adopted by the Senate. Senator Wallin was also present when the names, amounts and job descriptions were discussed in committee on June 15. The deputy chair also presented this budget to the Senate on May 27, 2009.

• (2020)

Finally, regarding the directive from Internal Economy, the Senate recognizes that committees are their own masters, and the main committee can override its subcommittee, the steering committee, any time it chooses. When the full committee is seized with an issue, that decision takes precedence over the subcommittee. Clearly, nine people have more moral authority than three people on a subcommittee. The full committee was well within its rights and its mandate when it dealt with staff contracts.

In Senator Wallin's second point, she claims the chair disregarded the rights of minority members of the committee and the process established in Senate rules for overturning a prior resolution of the committee.

I ask honourable senators to turn to rule 63(2) in the *Rules of the Senate*, which reads:

An order, resolution, or other decision of the Senate may be rescinded on five days' notice if at least two-thirds of the Senators present vote in favour of its rescission.

Unfortunately, honourable senators, this is not one of the *Rules of the Senate* that applies *mutatis mutandis* to committees. Committees are by nature informal and often choose to change their minds. Committees are at liberty to change their minds, and they regularly do. Rule 63 simply does not apply.

The third point in Senator Wallin's letter was her claim that the chair altered the nature of the committee activities planned, budgeted and approved by Internal Economy and the Senate, one effect of which is that the committee will not have translation services when it travels to military bases.

If honourable senators refer to the *Journals of the Senate* of May 7, 2009, they will find a copy of the third report of the Standing Senate Committee on National Security and Defence, which was presented to the Senate pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules* by the deputy chair, Senator Wallin.

If honourable senators look carefully at the budget report, they will see, under Activity 1, in the category for professional and other services, \$4,000 has been approved and set aside for translation and interpretation services for base visits to Charlottetown, Halifax, Greenwood, Fredericton and Gagetown, and under Activity 2 they will also find \$4,000 approved and set aside for translation and interpretation services for base visits to Kingston, Petawawa, Borden and Trenton.

Contrary to what Senator Wallin suggests, translation will be available for the base visits.

Finally, the fourth point raised by Senator Wallin: In her letter she states, "The Chair ignored a vote that should have resulted in the defeat of a motion, instead signing in another Liberal senator after the vote was called and allowing the same motion to be moved a second time."

I ask honourable senators to return to rule 63(1) of the *Rules of the Senate*. Rule 63(1) says:

A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, unless the order, resolution, or other decision on such question has been rescinded as hereinafter provided.

Once again, honourable senators, this is not a rule that applies *mutatis mutandis* to committees. As I stated earlier, committees, by their nature, are informal and frequently change their views. However, for the motion that Senator Wallin is referring to, which took place on June 10, 2009, I refer honourable senators to rule 65(1), which says that the Speaker shall decide whether the question has carried, and 65(2), which says:

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

I refer honourable senators to the unrevised transcript from June 10. There they will see that, while there was a call for a show of hands more than once, the chair only declared the motion carried once, and there was no request for a recorded vote.

For greater certainty, the matter was dealt with again on June 15 and was carried by the majority, and there was no appeal to that vote.

Honourable senators, I refer you to rule 43(1), which says:

The preservation of the privileges of the Senate is the duty of every Senator. A violation of the privileges of any one Senator affects those of all Senators and the ability of the Senate to carry out its functions outlined in the Constitution Act, 1867. Action to ensure such protection takes priority over every other matter before the Senate. However, to be accorded such priority, a putative question of privilege must meet certain tests. It must, *inter alia*,

- (a) be raised at the earliest opportunity;
- (b) be a matter directly concerning the privileges of the Senate, of any committee thereof, or any Senator;
- (c) be raised to seek a genuine remedy, which is in the Senate's power to provide, and for which no other parliamentary process is reasonably available; and
- (d) be raised to correct a grave and serious breach.

Traditionally, honourable senators, these proceedings are for serious breaches of privilege, not committee squabbles, and Senator Wallin is making a frivolous use of this rule. Her concerns are a procedural problem that is properly left to the committee, and I fail to see where she has provided that here, privileges have been breached in any of the traditional ways that we have come to understand.

Hon. David Tkachuk: Honourable senators, I was at those meetings. In order that I understand the logic put forward by the chair of the committee, we have a process for contracts, to my understanding, that is clearly stated by the Internal Economy Committee, and the process requires that both the chair and the deputy chair sign the contract.

My interpretation of the rule is that if there is a disagreement, there should be a discussion; if that discussion fails, there should be a meeting of the steering committee; and if that discussion fails, it should be referred to, unfortunately, the steering committee.

According to the interpretation of the rules by Senator Kenny, none of that is necessary because the majority simply passes the contract and ignores any concerns raised by the deputy chair by letter. We had to force the discussion in committee, then the majority simply ruled and that was that.

I do not mind the majority ruling, because that is what this is all about. The fact is that there was no process to any of this.

• (2030)

We in the Senate operate on a basis of, I always thought, as few rules as possible because, as gentlemen and ladies, I would think that in most cases the Senate historically has always felt it could solve its own problems without having to write rules for every little thing we did. That is why this place is so interesting and so different from the house where they have the Speaker run the

place and they have a rule for everything. That is not the way this place works. That is the way it will work if this kind of behaviour continues.

According to the chair, here is the way the process works: You call for a vote, you have a tie and then you say: There is a tie. I will sign in a new member. The vote fell when there was a tie. That is the way the process worked. If we allow this to continue, that will become the way the Senate will operate. The chairman simply says: We have a vote; there is a tie; gee whiz, I will get some new members, sign them in and we will do this over again; and if we do not succeed doing it over again now, we will succeed in doing it over again next week, which is exactly what they did. They just repeated the process.

The last item may be considered frivolous by some members or unimportant by others, but I have been here for 16 years and I have never seen anything like this. The fact is, when we have a trip, usually we sit around a table, work out our agendas, discuss it, have the reasons for it, and then we make every available effort to ensure that both sides are represented. We go and do the people's business, which is what we are supposed to be doing here in the Senate.

However, that is not what happened. I am interpreting here only because I have been here a long time and I figured this stuff out, but members opposite thought there was discussion that took place. Other members of the committee besides the chair thought discussions took place between us and that there was agreement. This is the reason why one of them made a motion to say that they would go between July 5 and July 10 and too bad. That is what happened, and the vote was passed. We said: There was no discussion. There was no agreement. There was no two parties getting together, figuring out where they want to go.

If that is the way it is going to work, it will be a darn interesting place. If one committee can do it, we can all do it, senators. We can all do it, every one of us. Then there are no minority rights, none whatsoever. It will all be about the majority, and that is not what this place is nor meant to be. If we let it carry on that way, we will not want to spend much time in this place.

That is exactly what happened. The date was chosen; a motion was passed with no consultation with members opposite, no discussion of the dates from July 5 to July 10. They said that is when we are going and that is that, which, honourable senators, is not the way to run committees.

Your Honour, I think this is definitely a case of privilege. I hope you find it so and I hope that this matter and all these matters are dealt with as soon as possible.

Hon. Joan Fraser: It occurs to me, Your Honour, that a good deal of this is more fitly referred to the Internal Economy Committee, but I want to address myself to one matter, and that is the discussion of steering committees.

I ask Your Honour to reconfirm in clear, unmistakable language the long-standing, reiterated policies, rules, in this place that quorum is not dependent upon the presence of representatives of both sides — not in the chamber, not in committee, and not, by extension, in my view, in the steering committee. The reason is simple: You could paralyze the

workings of the Senate or the committee or the steering committee just by boycotting it, and that is not what we are here to do. We are here to do, as Senator Tkachuk has noted, the people's business, not to facilitate paralysis.

On the matter of whether steering committees can or should include five members, I can recall many years ago being chair of a special committee, and the deputy chair of the committee, who was vastly more experienced and probably vastly wiser than I, put it to me that we should have a steering committee of five members and that one good reason for that was that if one of the members of the steering committee could not be present for travel requirements or conflicting committee assignments, the steering committee could continue to do its business. I found that argument persuasive; I still do.

Not all committees have steering committees of five members, but I find nothing inherently wrong with it, nor do I find it inherently wrong for the committee to revisit the resolutions adopted at its organizational meeting through the course of a session, because there may be good reason to do so. Circumstances may change. A member of the steering committee, for example, may resign from the Senate or retire from the Senate and need to be reappointed. I am aware of no rules that say that such decisions cannot be revisited.

Hon. Terry Stratton: I thank the honourable senator for her comments. I do not think anyone is making any objections to the senator's first points. You do not need to have a quorum in this chamber or in a committee with a member of the opposite side. We know that. We have been dealing that way a long time.

Can you name another committee in the Senate today, or the last five years, with a steering committee of five members?

Senator Banks: Yes.

Senator Stratton: The norm is three members. I think if there were an exception to it, there would be a discussion and a concurrence. As the honourable senator's wise and sane, sage former senator said, "I think it would be appropriate to . . ." and the senator agreed. That is the vast difference here that needs to be taken into consideration.

Hon. Sharon Carstairs: Thank you, honourable senators. A matter of privilege is the most serious thing that we ever deal with in this chamber. I have to say that what I think is going on here is more like a cat fight rather than a matter of privilege. It seems to me that this committee is highly dysfunctional. There would not seem to be much question or argument to that statement. Rather than a matter of privilege, it would seem to me that this should be the purview of the leadership of both sides to sit down and find a way in which this committee be made functional.

Honourable senators, I almost rose on a point of order because I found the language that Senator Wallin used to refer to another honourable member of this place to be, quite frankly, a violation of rule 51. I did not do that because I just thought it would make the matters worse. However, we are all honourable members in this place, and when we speak to one another we cannot use a vocabulary that implies that one of us is not honourable.

[Senator Fraser]

• (2040)

In terms of majority-minority, the reality is that, as much as I dislike it, we do not express frequently enough that, yes, majority rules in a democracy, but only with protection for minority rights. That protection is, to me, the absolute essence of democracy. If this committee is not respecting the rights of the minority, then I suggest that the leadership sit down, talk to one another, and find ways in which this committee be made to work. This issue is not, honourable senators, a matter of privilege. This issue is not a situation that, frankly, should engage His Honour in trying to prove or disprove that a prima facie case has been made.

Hon. Gerry St. Germain: Honourable senators, obviously, His Honour will make a ruling. When Senator Kenny spoke, he said something to the effect that committees do not operate rigidly but loosely. I could be wrong but that is what I heard. If I am wrong, I want to be corrected. I believe that Senator Kenny said the committee has a right to change its mind. I do not know how this works where a motion can be rescinded and then a vote, and then, by signing up another senator, another vote is taken.

Honourable senators, I think this is a dark day for the Senate that we have ended up in this situation. Obviously, there are explanations that are beyond those of us who do not sit on this committee. I hope, honourable senators and Your Honour, that we can resolve this issue. I do not think it does this institution any good. I call on all honourable senators to work towards a resolution.

Hopefully, I did not quote Senator Kenny incorrectly; it is not my intention to do so. I only wanted to understand what the honourable senator said in regard to this issue.

Hon. Tommy Banks: Honourable senators, I think the word that Senator Kenny used was "informal."

Your Honour, there is no matter or even question of privilege here. In respect to some of the things Senator Wallin has raised, subcommittees are empowered to act in some cases in the stead of a committee. It is absurd to argue that the committee cannot act in the stead of the subcommittee. Surely the committee, in that respect at least, is the master of its own procedures.

In respect of another matter to which Senator Wallin referred, no resolution was overturned, Your Honour. In respect of the number of people on the steering committee, if Senator Stratton looked at the record, he would find that in the Standing Senate Committee on Energy, the Environment and Natural Resources, under the chairmanship of the two senators who chaired that committee before I did, there were five members of the steering committee. When I was the chair of that committee, there were always five members on the steering committee. I cannot speak for other committees.

Senator Stratton: How many members of the committee were there?

Senator Banks: Twelve; no resolution was overturned.

In respect of another thing that Senator Wallin spoke about, the chair did not, does not and never has in this committee altered the nature of the committee's activities, ever. Every decision that has

been made in those respects by the committee has always been made by the whole committee, not by the chair and not by the steering committee. This is one of the few things, Your Honour, about which I can talk with certain knowledge, because, despite my short time here, I have been a member of that committee since the day it was formed. The resolutions that it made in its opening days included the fact that, with respect to work plans, travel plans, budget determinations, et cetera, and certainly with respect to reports, the entire committee deals with those matters. The entire committee always has, until the last few months — always — to the extent that, at the insistence of the chair, not every page, not every paragraph, not every line, but every word and every number of every proposal for a work plan and every one of the 21 or 22 reports that committee has made have been gone over, to the word, to the comma sometimes, by every member of the committee.

One of the earliest resolutions of that committee, Your Honour, was that it would be non-partisan. When it was first formed, it undertook that it would give credit where credit was due in the area of its purviews and that it would, however unflinchingly and objectively, provide criticism when that criticism was due. During the committee's first seven years, in which there was a substantial Senate Liberal majority in this place and an equal majority on the committee, if honourable senators wanted to find the most scathing criticism of the government's policies with respect to national security and defence, they needed to look no further than the reports of that committee. That criticism did not always stand us in good stead with our leadership or in our caucus, but we resolved always to tell the truth as we saw it.

The entire committee took part in every one of those determinations, in what to study and in how much money we asked to spend on it. That continues, Your Honour, to be the case.

I think it is useful for Your Honour to know, and for senators to know, the providence of the motion that I made proposing that the steering committee — and, it is still intact; it has not been overturned — be expanded from three to five members. It is because, as Senator Carstairs has pointed out and as Senator Fraser referred to, a quorum is three. The absence of any one of those members can stop the business of the subcommittee cold. It will stop working. It cannot function.

Last week, a meeting of the steering committee of the Standing Senate Committee on National Security and Defence was called, out behind the barn as we call it, to resolve a number of issues, including the wording of the letter to which Senator Tkachuk referred, and other matters. Senator Wallin declined to attend that meeting. When she came to the door of the room in which it was being held, she asked the following question: "Are you going to discuss committee travel?" The chair replied: "Yes, among other things." Senator Wallin said: "Then I will not attend the meeting," and she left. The steering committee could not per force deal with matters properly before it. I therefore brought them to the committee. It is as simple as that.

I submit, therefore, Your Honour, there is no point of privilege.

Hon. Hector Daniel Lang: As a new member to the Senate, I want to make observations. I have had a fair amount of legislative experience and, like my colleague Senator St. Germain, I must say that it is a sad day for the Senate — and I have only been here for about five months.

• (2050)

I have never been in any legislative body where, on one day, you deal with a motion and pass it, and then in the same sitting, in the same breath, you rescind it. I would say at the outset that that in itself is cause for concern. As Senator Tkachuk said, you will have a situation where if you do not get the vote the first time, you say, "Where can we go gather more votes," and deal with the same issue on the same date. That will take away from what I thought was the bipartisanship of the committees.

I recall, not too long ago, Senator Tardif standing up and talking about the bipartisanship of this house and how important it was for the conduct of our business. What I see happening here is the exact opposite. In fact, I see a polarization between this side and that side, which definitely brings in a question of privilege that is very clear to me: what is right and what is wrong.

I would be absolutely livid if I were on a committee and found that, without any consultation, the dates of a visitation by that committee to some part of Canada were changed and I was not taken into account. If that is not a violation of my privileges as a member of this house, what is? If that happened to anyone on that side of the house, they would be giving the same speech that I am giving now.

I would also draw to the attention of the house a call that I received from a member of the public who happened to be watching the proceedings of the committee last evening. They were absolutely appalled at the way the meeting was conducted, with the way some members were not acknowledged and dealt with. It was dysfunctional. I do not know how often I will agree with my good friend Senator Carstairs in the years to come, but as a member of this house outside of that committee, I have to agree that, yes, it is dysfunctional.

Your Honour, I submit that there is a question of privilege for all members in this house to consider.

The Hon. the Speaker: I thank all honourable senators for their interventions, and I will take the matter under consideration. We will now return to Senator Day.

BUDGET IMPLEMENTATION BILL, 2009

STUDY ON ELEMENTS DEALING WITH EMPLOYMENT INSURANCE—SIXTH REPORT OF NATIONAL FINANCE COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion by the Honourable Senator Day, seconded by Honourable Senator Banks, for the adoption of the sixth report of the Standing Senate Committee on National Finance, entitled: *The Budget Implementation Act, 2009*, tabled in the Senate on June 11, 2009.

Hon. Joseph A. Day: Honourable senators, I will return to the more scintillating discussion about Bill C-10 and matters of national finance. Honourable senators will recall that I was

dealing with the report of the study done by the Standing Senate Committee on National Finance for major aspects of Bill C-10, in particular the first budget implementation bill 2009-10.

I started to bring to honourable senators' attention, just before we had the previous discussion, the issue of extraordinary financing framework. This is an entirely new area, and it is critically important that we watch it closely. The basic message that I want to send to Senator St. Germain is the importance of the fact that we are authorizing \$200 billion of potential liability, and we do not have the structures in place to monitor it. The question we should be asking ourselves is: Are the institutions to which we have given this major additional authority properly equipped to handle this? That is what our Standing Senate Committee on National Finance will have to look into.

Honourable senators, the \$200 billion of extraordinary financing framework is made up of various components, and I will list some of them: \$125 billion to CMHC under the insured mortgage purchase program, where CMHC will go out and purchase mortgages from AGI and various companies; \$12 billion for the Canadian secured credit facility, which is a Business Development Bank matter; \$13 billion through additional credit privileges for the Export Development Corporation and Business Development Corporation; \$40 billion more of authorized credit facility for the Bank of Canada. Honourable senators will recall that it was a year ago that we first authorized the Bank of Canada to start investing in Canadian securities and private securities, many different things they had never invested in previously. We raised questions about that last year in our hearings on budget implementation, asking why was that necessary, and we were not able to have a representative from the Bank of Canada talk to our committee at that time. As well, there is \$10 billion through the new 10-year Canada mortgage bond launched in the fall of 2002.

Honourable senators, let me tell you a little bit about the new authorities under Export Development Canada. Senator Murray talked about that earlier this evening.

Export Development Canada's mandate is expanded to allow it to support financing activities in Canada. Export Development Canada now operates in Canada and can do so for the next two years. The minister can extend that authority by order-in-council, so they can continue to operate in Canada for an indefinite period. The authorized capital is increased by \$1.5 billion to allow institutions to make more loans. Contingent liabilities for corporations are increased from \$30 billion to \$45 billion. That is insurance. They insure business activity, and that is a contingent liability. If the business goes bad, they are responsible for that, and that has gone up.

The Canada Account limit has increased from \$13 billion to \$20 billion, honourable senators. What is the Canada Account? The Canada Account is used to support export transactions that EDC is unable to support. If their management says, "No, this is too risky and we cannot get involved," the minister can override and order EDC to get involved in those activities. Those are just some of the activities that I wanted to bring to your attention with respect to EDC.

The Business Development Bank Canada is responsible for managing Canadian-secured credit facility with funding of up to \$12 billion. Under this program, the Business Development Bank

Canada will purchase asset-backed securities for loans on vehicles and equipment that are brought together by various institutions. Business Development Bank Canada will buy those from them. Asset-backed securities: Where have you heard that one before?

These, honourable senators, are activities that were authorized in Bill C-10. I suggest that this is an extremely important area for us to be overseeing. The typical type of oversight is such that the authority to borrow, or an increase in authority, comes to us in the form of legislation or in the form of estimates. We do not have the necessity for estimates in this particular case.

Honourable senators, I see that my time has expired. I wonder if I might ask for five minutes just to conclude this report.

Hon. Senators: Agreed.

• (2100)

Senator Day: Eric Siegel from Export Development Canada came to talk to us. He told the committee that in January this year, the federal government provided close to \$350 million of new capital for EDC. However, this funding was not included in the Main Estimates, or in supplementary estimates referred to the committee because payments made under existing authorizations are included for information purposes only. There is no way we will see any of this funding.

We are authorizing such high limits — for indefinite periods, in certain cases — that we will not see this authorization come back to us again. It is like what happened here a few years ago when we authorized ministers to borrow. We gave borrowing authority to ministers so we never see those authorizations any longer.

Some parliamentarians say, why do we not see those authorizations anymore? It reminds us of what is going on and it is sort of a red flag. We were reminded that we had authorized ministers to spend that money without coming back to see us.

Honourable senators, a good number of points here deserve further work and scrutiny. In particular, I am extremely concerned about this credit facility. It is entirely new; we are allowing our institutions to do something they have never done before.

Let me conclude with two concerns: The first one involves the long-standing use by various governments in the past of the phrase, "The Statutory Instruments Act does not apply" with respect to this particular order. In this bill, there are 15 examples of that phrase. Why is that phrase there? The phrase that occurs on those 15 occasions has the effect of removing from Parliament the right to examine and study those particular orders or statements as regulations. They are not a statutory instrument for the purpose of review of the statutory regulations.

We recommend that an effort needs to be made to clarify the appropriate instances when that type of terminology appears. It appears more and more, and we want to know the justification for that phrase. If the justification is what it appears to be — attempting to avoid scrutiny of Parliament — then we must see that it stops.

[Senator Day]

The final point, honourable senators, is a concern that I have raised before, and it appears here again. It involves increasing reliance by several governments in the past, and the current government, on omnibus bills to bring forth budget implementation bills. Honourable senators will know that is a matter of considerable concern to the Standing Senate Committee on National Finance.

I will read to you from a February 23, 2005 report by the Honourable Senator Donald H. Oliver:

Honourable senators, we have before us a massive omnibus bill of some 23 separate parts. Bill C-43 ought to have come before us in at least three or more separate bills, one to deal with budget measures per se, one to implement the offshore agreements that were not mentioned by my learned colleague and one to provide the legal framework for the government's Kyoto plan.

Honourable Senator Oliver will remember that particular matter.

Your committee feels that this practice of using omnibus bills to introduce budget measures has the effect of preventing Parliament from engaging in meaningful examination of the myriad policy proposals contained in them. We recommended that this practice cease and we have suggested as an observation, the following options that might be considered by the Senate for dealing with such omnibus bills in the future.

We have said in the past, please do not do this anymore. It is being ignored by the draftspeople of these bills, so we are providing, as an observation, what we might want to do.

Divide the bill into coherent parts and deal with them separately, allowing committees to perform their job properly — like we did here, only do it before; delete all non-budgetary provisions, and proceed to consider only those parts of the bill that are budgetary in nature; defeat the bill by second reading on the grounds that it is an affront to Parliament by way of a reasoned amendment; and finally, establish a new rule of the Senate prohibiting the introduction of budget implementation bills that contain non-budgetary measures.

Honourable senators, those are our recommendations.

The Hon. the Speaker *pro tempore*: Is there continuing debate?

Hon. Irving Gerstein: Honourable senators, first, I want to indicate, as I did earlier this evening, how much I appreciate Senator Day's comments, particularly the clarity of his presentation. I want to acknowledge the difficulty of making a presentation, being interrupted for obvious reasons in the middle and then having to come back to the presentation.

Honourable senators, I rise to address the report on Bill C-10 of the Standing Senate Committee on National Finance, the Budget Implementation Act that this chamber passed on March 12 of this year. The National Finance Committee has spent many weeks giving detailed examination to the contents of this act, and I am not the only member of the committee who has been struck by the decisive, effective and timely help that this act provides to Canadians during the present global recession.

It became manifestly clear, honourable senators, as we examined this act that the government is taking action of an extraordinary scale to help all Canadians through these difficult economic times. As the president of the World Bank, Robert B. Zoellick, said only last week, Canada is a country that "offers lessons to others" about how to deal with this global recession.

I thank the chair of our committee, Senator Day, for his fine leadership of our study, and also the many witnesses who contributed to our understanding of the act.

However, we live in heated political times, honourable senators, and it is perhaps in this context that some members of the committee have sought to use our report to advance an alternative view. Against the advice of the Conservative members, the Liberal majority of the committee voted a recommendation into our report stating that employment insurance benefits should be made subject to a uniform national threshold of not more than 420 hours worked in one year.

Honourable senators, I applaud the concern shown by my Liberal colleagues on the committee for I believe they are motivated by the sincere desire to help the unemployed. However, this measure will give no real support to the people it sets out to help because it does not help the Canadian workers who now find themselves unemployed, especially long-tenured workers. It would, in fact, do great harm to many Canadians through a rise in payroll taxes, and the consequent loss of jobs. I view it as my duty, as a responsible member of the committee, to speak out against such a measure.

To begin, colleagues, let us remind ourselves of the purpose of the Employment Insurance program. What is Employment Insurance designed to do? Employment Insurance is a self-funded system that has two objectives: first, it provides income support for workers who have lost their job; and second, it brings unemployed Canadians back into the workforce by funding training and skills development.

I have used the term "self-funded." This aspect is the essence of the system. It means that businesses and employees fund Employment Insurance through the premiums they pay. As honourable senators know, these premiums are a mandatory deduction from the payroll, so any change to the system has a direct effect on payroll taxes. Honourable senators, we must bear this effect in mind when we consider any proposal to change Employment Insurance.

The plan suggested by the Liberal members of our committee to reduce the qualifying threshold to 420 hours in every part of Canada will have precisely such an effect. The plan suggested by the Liberal members of our committee will cost billions of dollars to implement and will increase payroll taxes by this same amount.

Millions of Canadians are dealing with financial uncertainty as they struggle through the global recession. They are working every hour they can to make ends meet and to provide for their families. If this proposal is enacted, these Canadians will be saddled with an increase of billions of dollars in their payroll taxes to fund these proposed changes at the moment when they can least afford it, at the moment of their greatest financial distress.

• (2110)

Not only would this be an additional burden on employees, honourable senators, but employers and small businesses would pay more payroll taxes as well. They would lose the incentive to employ new workers, resulting in it becoming harder for unemployed Canadians to find work right now, at the hour of their greatest need.

Higher taxes, fewer jobs, paying for small businesses — I do not think these are the consequences my Liberal colleagues on the committee intend. However, these consequences will follow as surely as night follows day if the 420-hour measure is introduced. In reference to EI, I recall the words of Jack Mintz, Professor of Public Policy at University of Calgary, writing recently in the *National Post*:

... shortening drastically the qualification period would encourage greater turnover of workers, result in a permanent rise in the unemployment rate and impose a high economic cost.

Honourable senators, I have talked about the tax implications of this proposed measure. Now, let us think of those many Canadians who have worked day in and day out for years and who now find themselves without a job. What of the hard-working Canadian on the auto production line who has just been laid off? What of the forestry worker who has lost his job after a lifetime of toil, always paying his taxes and playing by the rules? Is the current Employment Insurance system there for these people now that they need it? Honourable senators, the answer is a very clear “yes, it is.”

Under the current Employment Insurance system, the highest-qualifying threshold in those areas with the lowest unemployment, such as Ottawa, is 700 hours of work in the previous year. Every Canadian in a full-time job will work much more than that during this year. In fact, 700 hours over a 48-week working year averages 14.5 hours of work per week. The Canadians finding themselves unemployed in this global recession are very often long-tenured workers who have paid into EI for years.

For those Canadians who have so tragically lost their jobs in the avoidable tumult of the current global recession, the EI system is there. Employment Insurance is there for Ontario autoworkers, Quebec forestry workers, Alberta oil workers, and it is there for those workers from every corner of this country, from coast to coast.

These workers do not need lower qualifying thresholds for EI. A lower-qualifying threshold will do nothing to help them. What is more, the Employment Insurance system constantly adjusts itself to changing employment conditions. Since October 2008, 41 of the 58 Employment Insurance regions across Canada have automatically lowered their eligibility requirements due to the increased unemployment in those areas. This means that now 85 per cent of Canadian workers, and 100 per cent of workers in Ontario, Alberta and British Columbia, have a lower threshold to receive EI benefits.

I also wish to bring to your attention, honourable senators, the recent commitment made by the Prime Minister to work on historic changes that would allow self-employed Canadians to opt into the EI system.

Honourable senators, everyone on this side of the chamber and everyone in the government recognizes the severity of the situation facing Canada. It is a global recession of cataclysmic scale which is taking a heavy toll on many Canadians both financially and emotionally. We know that many families are having a difficult time putting bread on the table. We know that times are very tough.

However, this is precisely why the government is acting to help Canadians get back to work. This is why, in addition to extending the Employment Insurance benefit period by five weeks, the Budget Implementation Act expanded the Employment Insurance Work-Sharing Program. I can report that on account of this government's actions, over 120,000 Canadian jobs are being protected at this moment through EI work sharing.

This is why the Budget Implementation Act put \$1 billion more into training for people on Employment Insurance through the Labour Market Development Agreements signed with the provinces and territories. This is why unemployed Canadians who do not receive Employment Insurance will benefit from the \$500 million of extra training funds being provided through the labour market agreements.

This is a most important point. The current system funds training programs even for those who do not qualify for Employment Insurance benefits in order to help them back to work. The money available for their training has just been increased by half a billion dollars.

This is the fundamental difference between what the government is doing for Canadians and what the Liberal Party is proposing; the difference between providing practical training opportunities and forcing Canadians to fend for themselves.

The 420-hour plan, well intentioned though it undoubtedly is, would be ruinously expensive, would offer no sustainable solution to the problems of unemployed Canadians and would not help one Canadian find a job.

On the other hand, we have the actions of the Conservative government. Our government is doing what it takes in a responsible manner to help unemployed Canadians back to work. Funding for retraining has grown by a massive amount so that unemployed Canadians can acquire new skills and take their rightful place in the Canadian workforce of the future.

This is the right policy for Canada and this is the right for policy for unemployed Canadians. Corinne Pohlmann, Vice-President of the Canadian Federation of Independent Business, in a May 28 press release said:

... rather than examining an expansion to Employment Insurance (EI) benefits which can hurt a firm's ability to find staff, government should consider helping SMEs by making it easier to hire and train new employees.

Let me also remind honourable senators that leading up to the budget the government performed an extraordinary consultation exercise. For weeks upon weeks, Minister Flaherty and other members of the government traveled to every corner of the land. They consulted Canadians from every walk of life and in every

sector of society as to what Employment Insurance should be. As senators may know, this was the most comprehensive set of pre-budget consultations in Canadian history.

The clear answer was this: Canadians want to be properly trained and equipped to find work. This is the heart of the matter. The Conservative government passionately believes in the dignity of work. As Conservatives, we believe that every Canadian should be able to enjoy the satisfaction and the self-confidence that comes from productive employment.

Consequently, the government's consistent aim in every policy it has created to meet the demands of the global recession has been to help Canadians find jobs and retain them. It is a well-worn saying but it is truer at this time than ever before: Give a man a fish and you feed him for a day; teach him to fish and you feed him for a lifetime.

It is not only the Conservative government that knows this to be true. I can do no better than to quote the words of David Dodge, a distinguished former Governor of the Bank of Canada and now one of Michael Ignatieff's closest economic advisers:

I think the Prime Minister's right, that we do have to concentrate on improving the skills of people, and with that improvement in skills . . . we will find opportunities going forward.

Honourable senators, this government is taking action through the Budget Implementation Act and through many other means to help unemployed Canadians find their rightful place in the workforce. The Liberal proposals mean well, but by dramatically increasing payroll taxes, they would lose Canadian jobs and harm small- and medium-sized business. This cannot be right. It would be an economic failure but, more than that, it would be a moral failure for any government to follow such a policy.

I ask honourable senators to join me in urging committee members on the other side of this chamber to reconsider their 420-hour EI proposal.

Hon. Pierrette Ringuette: Would the honourable senator take a question?

Senator Gerstein: Of course.

Senator Ringuette: I appreciated his very enthusiastic speech, as it is one of my favourite modes, so to speak. The honourable senator has said that the Liberals would increase payroll taxes — EI premiums.

Could the honourable senator tell members of the committee how much the five-week extension in all regions of the country will cost the federal coffers and where that money will come from?

Senator Gerstein: Honourable senators, Benjamin Disraeli is said to have remarked, "There are three kinds of lies: Lies, damned lies, and statistics." The fact of the matter is that the program we have initiated is what provides the most responsible program for Employment Insurance funding in this country.

• (2120)

Senator Ringuette: I will ask my question again, in English, so that I may have an answer.

What is the cost of the five additional weeks, under Bill C-10, in all areas of the country?

Senator Gerstein: Honourable senators, the government will not pursue an irresponsible plan when someone can receive one year's worth of benefits for only 52 days' work. This is an offence to hard-working Canadians, especially long-tenured workers whom the Liberals ignore. We have the responsible plan for this country.

Senator Corbin: Answer the question.

Senator Ringuette: I hope that you have a responsible plan because you do not seem to have a responsible answer. Could we have five minutes more?

The Hon. the Speaker: It would be up to honourable senators.

Senator Ringuette: Do we have five minutes more?

The Hon. the Speaker: On debate, Senator Eggleton.

Hon. Art Eggleton: Since the honourable senator could not give the answer, I will suggest an answer. While I do not have the five-week costing, there would be no payroll increase because the money would come from the stimulus package. That exact same thing is proposed in the motion that comes from the committee with respect to the proposed 420-hour qualification. We are in a recession and we have a stimulus package to try to help the people who are hurt by the recession and to get the economy moving again.

Many people who are unemployed do not receive Employment Insurance. In fact, the majority of the unemployed people in this country today do not receive Employment Insurance. What about them? This is a difficult time and a stimulus package that helps them will help the economy. The money they receive will be spent in a short time because people need it to put food on the table, clothes on their backs and to pay the rent. They need this kind of money to help their families to survive.

When we put out a stimulus package, how can we ignore the majority of the unemployed who do not qualify for EI? That is what we are saying. We must get help to more people through the stimulus package money, not a payroll increase. No one has suggested that this change be permanent. We have said that the recession, just like the stimulus package, is temporary in response to the recession. Therefore, use stimulus package money to help by expanding the Employment Insurance program to reach more people.

Currently, we have 58 different levels of qualification — 58 regions with different levels of support under Employment Insurance. At a time when there was prosperity, before the recession, we recognized that there were pockets of high unemployment that needed to have particularly low qualification hours. It went as low as 420 hours, which was the low qualification point on the system, and as high as 900 hours. We chose 420 hours so that no one would be penalized. We did

not propose 360 hours, as you can see, but went with 420 hours because it is already part of the system. That was at a time when there was not a recession. Today, we are in a general recession, and everyone is hurting in every part of the country. Under these conditions, there should not be 58 different plans, although you might want to return to that plan in better times. During this recession, we should consider everyone in this country on a national standard at a similar level, and not above 420 hours.

Where would the money come from? It would come from the economic stimulus package. The 420 hours amount to less than \$1 billion per year, and we are talking about two years. Given how slowly some of the stimulus money is flowing, the money could come out of that fund. This proposal to reduce the hours to qualify will help more people.

Another part of the proposal is to eliminate the two-week waiting period at the outset of application for EI. Imagine people becoming unemployed in this recession and they have to go through a two-week waiting period before they qualify, not to mention the processing time. These conditions are unacceptable in the kind of recession that we have today. We need to give people a helping hand so they can help themselves. We need to give them a good base of support so that they can retrain and find opportunity to get back into the job market, which is difficult to do when unemployment is rising. That is what these measures are about. I hope that honourable senators will support the committee's report.

(On motion of Senator Comeau, debate adjourned.)

STUDY ON ELEMENTS DEALING WITH
THE NAVIGABLE WATERS PROTECTION ACT
(PART 7)—NINTH REPORT OF ENERGY,
THE ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Energy, the Environment and Natural Resources entitled: *Report Addressing Bill C-10, Navigable Waters Protection Act*, tabled in the Senate on June 11, 2009.

Hon. Mira Spivak: Honourable senators, I have a few mild comments about the amendments to the Navigable Waters Protection Act. It is important that the views and concerns expressed by witnesses who appeared before the committee be put before this house. The evidence presented to your committee was clear. Virtually all of the witnesses agreed that the Navigable Waters Protection Act was in need of amendment. An act written in 1882 and amended in 1886 is almost, by definition, perilously antiquated.

Your committee also heard that a committee of the other place took up the task of reviewing the proposed legislation. It heard in the main from industry representatives and made clear its intent to hear from others. However, the process was hijacked in response to "the global economic crisis," as the Parliamentary Secretary to the Minister of Transport told your committee.

The Parliamentary Secretary conceded that it was an unusual move to amend this antiquated law by means of Bill C-10, the Budget Implementation Act, but asserted in his words that it was "very imperative."

Parliament has approved that the Minister of Transport has the authority to forget about some aspects of the law that has stood for more than one century to protect the right to navigate streams and rivers, lakes and inlets, wetlands and, until rational amendments are made to the act, the odd drainage ditch.

The bill is now law, however, our committee heard what the House of Commons committee was not given the opportunity to hear. We have heard the consequences, and we know that Parliament can do better.

• (2130)

The first consequence is to the reputation of Parliament. Parliament's lack of consultation with stakeholders is a lack of consultation by the department and a failure by the committee in the other place to hear from any of the paddling, hunting, fishing or environmental groups, save one, whose members are most affected by these changes. More than 2 million Canadians, at a minimum, venture out in canoes or kayaks, and there are 6 million recreational boaters.

Canadians assume that a measure of fairness exists in the conduct of the nation's business, but this process did not meet that standard. The University of Ottawa's fine Ecojustice Environmental Law Clinic made the excellent point that, "At the end of the day, the Navigable Waters Protection Act debate is about the kind of democracy we embrace in Canada." Given the way that this issue has been handled, and Parliament's acquiescence in the passage of Bill C-10, "a degree of trust has been breached."

The second consequence, in the words of our witnesses, was that we still have a Navigable Waters Act that fails to define what constitutes a navigable water. In the absence of a definition, it is generally held that wherever a canoe can float, that body of water is navigable.

Your committee heard the testimony of officials who hold that a foot of water is needed to prevent a loaded canoe from striking bottom, but we heard the testimony of experienced paddlers who said unequivocally that just four inches of water will float a loaded contemporary canoe, very different from the birchbark variety.

The contradiction certainly needs to be resolved objectively. Instead, we have a ministerial order that was issued May 9, exempting waterways less than 30 centimetres — that is one foot deep. Ecojustice, whose client is the Mountain Equipment Co-op, a major retailer of outdoor equipment in Canada, made the point that the order exempts a multitude of waterways currently used by recreational paddlers, and the further point that there are significant economic interests associated with ecotourism, with fishing and angling communities, and with the wilderness adventures that draw customers first to the equipment retailers for supplies.

The third consequence is that it is left to the minister to decree whether development on this river or stream, or that wetland area, is subject to the law and must have a permit before construction begins.

Your committee heard a great deal of evidence from officials that we need this change to reduce their workload to a manageable level, to eliminate all the minor works and minor waterways that are simply given a rubber stamp anyway and have been rubber-stamped for some time.

As Senator McCoy so astutely pointed out, either we have made these amendments in haste to ease approvals on large infrastructure projects to stimulate the economy or we have not. If the chief aim is to eliminate minor works and minor waterways, then surely the amendments were misplaced in the budget bill.

Rather importantly, as Mr. Stephen Hazell, executive director of the Sierra Club of Canada, pointed out, the minister could also exempt such major projects as the proposed highway bridge across the Ottawa River, connecting Ottawa to Gatineau, a bridge that would, if some get their way, run roughshod over a protected area in the middle of the Ottawa River. It is that sort of stimulus project, rushed through, that some fear we have enabled.

In the real world, it is unlikely that the construction of one more bridge across the Ottawa River in this area will further impede navigation. However — and here is the crux of the matter — the Navigable Waters Protection Act is a trigger for an environmental assessment prior to construction.

Your committee heard that the Sierra Club did something that no others, including Transport officials, have done. Its staff looked at the environmental assessment registry and found that NWPA was the only trigger for an environmental assessment in 107 of 173 bridge and culvert projects in the registry — more than 60 per cent of them. If no NWPA permit is required for a “stimulus-spending” bridge, then no environmental assessment will be conducted.

Some 163 Building Canada Fund projects — 163 of 431 — in the words of Transport Canada officials, are within 30 metres of water and stand to “benefit” from these amendments — benefit by being fast-tracked, benefit by skipping an NWPA permit that could trigger an environmental assessment. It is a strange perspective among officials entrusted with executing the law.

The value of environmental assessments, as your committee was reminded, is their ability to inform decision-makers to achieve sustainable development. Without them, we might get unsustainable development.

A Transport official told your committee that the ministerial discretion now available under NWPA does not entirely exempt projects from the legislation. They merely exempt projects from application for approval in advance of construction. If someone files a complaint after the fact, then a full review and modifications could be required. This sort of decision-making, apart from the fact that someone has to know this has happened, is what so many fought so hard in the 1980s to bring to an end through new environmental assessment laws.

Your committee also heard testimony that, on so-called minor waterways, an unapproved obstruction might injure a canoeist or it might not have a natural portage around it. The paddler might

be charged with trespassing. There is a wide range of unintended potential consequences to these orders. It is stunning that regulators, legal drafters and lawmakers have made no effort to examine them before May 9.

From Aboriginal groups, your committee heard that they believe the government failed in its duty to consult as it is required to do under section 35 of the Constitution Act, 1982. As a consequence of these amendments, fewer Aboriginal consultations are likely to occur in future on a project-by-project basis. Works over minor waters that no longer require application for approval may have the potential to infringe on Aboriginal rights, but the minister and his officials need not investigate.

I am reminded of a project carried out many years ago by the First Nations in northern Manitoba. While the province viewed the land as vacant and published resource maps to that effect, the bands, with the aid of GPS, were able to demonstrate that their traplines, fishing camps, gathering grounds and ceremonial areas occupied virtually every square kilometre.

Government officials need to be reminded that absence of evidence is not evidence of absence. It is a very unfortunate consequence of these amendments that they will no longer be required to consult with First Nations on many projects.

These amendments also cast a dark shroud on transparency. The minister can, and has, issued orders that skirt the Statutory Instruments Act, which Senator Day has talked about, the law that requires regulations to be examined and, by extension, through Treasury Board policy, gives the public and interested parties the opportunity to comment, and not incidentally to know what is law and the rationale that supports it. The Statutory Instruments Act also authorizes a joint committee of Parliament to scrutinize regulations after the fact to determine, among other things, whether they are constitutional and whether they are consistent with the enabling legislation.

• (2140)

Without any of that coming to pass, the public has lost a valuable parliamentary tradition. Your committee has recommended that Transport Canada do a better job on any future changes to the act, its regulations and in its five-year review, and I agree.

Of more immediate concern, your committee wants the minister to replace his order of May 9 with regulations, ASAP. I would suggest that if he concurs and proposes a time frame that is not unreasonably delayed, then consultations that should have taken place before we passed Bill C-10 may find their way into the regulation-making process. Many of the concerns presented by our witnesses to your committee could be addressed.

The Hon. the Speaker: Is there further debate?

(On motion of Senator Mitchell, debate adjourned.)

NATIONAL SECURITY AND DEFENCE

BUDGET—STUDY ON NATIONAL SECURITY POLICY— FOURTH REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on National Security and Defence (*budget—release of additional funds (study on the national security policy)*) presented in the Senate on June 11, 2009.

Hon. Pamela Wallin: Honourable senators, it is my duty to move the fourth report of the Standing Senate Committee on National Security and Defence.

The Hon. the Speaker: Is there debate, honourable senators?

(On motion of Senator Comeau, debate adjourned.)

LIBRARY OF PARLIAMENT

OPERATIONS OF PARLIAMENTARY BUDGET OFFICER WITHIN LIBRARY OF PARLIAMENT—THIRD REPORT OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Joint Committee on the Library of Parliament, entitled: *Report on the Operations of the Parliamentary Budget Officer within the Library of Parliament*, presented in the Senate earlier this day.

Hon. Sharon Carstairs moved the adoption of the report.

She said: Honourable senators, your Joint Committee on the Library of Parliament was requested by the Speakers of the Senate and of the House of Commons to examine the role of the Parliamentary Budget Officer within the Library of Parliament.

When the Federal Accountability Act, Bill C-2, was passed by both chambers, it established the Parliamentary Budget Officer. It is clear from this legislation that this officer was to be located and funded through the Library of Parliament. In reviewing the speeches made on Bill C-2 in both chambers, it is interesting that some members of this place, and members of the other place, believed that the Parliamentary Budget Officer was to be an officer of Parliament. This is simply not the case.

The Parliamentary Budget Officer is an officer of the Library of Parliament. It is in this role that your committee conducted its investigations, although one of our recommendations is to review this legislation within three years of the date of his appointment to examine the effectiveness of this office in its present structure.

Honourable senators, your committee met with the Chief Librarian and the Parliamentary Budget Officer. In addition, we met with Alan Darling, hired by the Chief Librarian to help him establish the protocols of this new office. We met with a group of eminent former parliamentarians who had helped to formulate the concept of the PBO. In addition, we met with the Auditor General, officials of the Privy Council Office and officials of the Treasury Board Secretariat.

Your committee has made 10 recommendations to the Speakers of the Senate and the House of Commons. We have made the recommendations in this manner for two reasons: First, it was at

the Speakers' request that your committee undertook its work. Second, it is necessary to understand the unique role of the Library of Parliament.

The Library of Parliament reports through the Speakers. The Library of Parliament achieves its budget through an application by the Speakers. It is in this way that the Library of Parliament maintains its independence from the executive branch of government. Your committee exists to provide assistance and advice to the Speakers of both chambers.

The 10 recommendations unanimously agreed to seek to clarify the role of the Parliamentary Budget Officer, both in its relationship to the Library of Parliament but also to parliamentarians. We believe there are two roles for the Parliamentary Budget Officer. One is to provide a series of independent reports to Parliament on the fiscal state of the nation. The other is to provide individual parliamentarians with information and to provide similar information to parliamentary committees at their request.

Since his role is to serve Parliaments and parliamentarians, we recommend that reports generated within his office must first be presented to Parliament and to parliamentarians before they are released to the media. In addition, we recommend that work performed for an individual parliamentarian or a parliamentary committee must be given to that parliamentarian or parliamentary committee, and only at their agreement may this report be released to the media or put on the website of the Parliamentary Budget Officer. In addition, it is recommended that there shall be no release of reports during a general election.

Your committee learned that the Parliamentary Budget Officer was not effectively using all the resources presently available in the Library of Parliament and, as a result, a silo mentality was developing between the Parliamentary Budget Officer and the Library of Parliament. Your committee believes this is an ineffective use of resources, both personal and service, and it is an inappropriate use of resources. The committee has recommended that as a senior officer of the Library of Parliament, the Parliamentary Budget Officer has a responsibility to participate fully in management activities of the library. Your committee wants an action plan as to how the Parliamentary Budget Officer will move forward in this relationship.

At the time of the development of the Parliamentary Budget Officer, the notional amount of \$2.7 million was discussed as the need of the PBO when fully operational. This amount has not been realized. Given the needs of the PBO, your committee has recommended that a budget of \$2.8 million for the fiscal year 2009-10 be provided to the Parliamentary Budget Officer. However, this is conditional on compliance by the PBO with all other recommendations in this report.

Honourable senators, your committee very much values the work performed by the Parliamentary Budget Officer and wants to ensure that this work continues and indeed is enhanced. Our final recommendation to the Speakers is to urge them to act as soon as possible to make the Parliamentary Budget Officer located in the Library of Parliament an efficient, well-financed service for all parliamentarians.

I want to thank all members of the committee for both their dedication and hard work. Unanimous committee reports, which represent the views of both chambers and of four political parties, are not common and in this case reflect, in my view, two things. All parties agreed on the importance of the Parliamentary Budget Officer and all parties wanted it to work. Everyone around the table was open to making the committee work and I, along with my co-chair, Peter Goldring, from the House of Commons, are deeply appreciative of their effort.

Hon. Donald H. Oliver: May I ask a question? Did the honourable senator's committee or did she have an opportunity to discuss the recommendations she has just explained to this house with the Parliamentary Budget Officer? If so, how did he respond to each of them?

• (2150)

Senator Carstairs: The Parliamentary Budget Officer was given a copy of the report after it was tabled in both chambers. If the honourable senator is talking about after the report, then the answer is no. However, during his two presentations to the committee, enough of these issues were raised with him that he should be cognizant of what would find its way into the report. I believe the same could be said of the Chief Librarian.

Senator Oliver: Did you discuss budgetary matters with him when he appeared before your committee?

Senator Carstairs: Yes, Senator Oliver, we invited both the Chief Librarian and the Parliamentary Budget Officer to appear before us last week. We had agreed within the committee — I think this is a fair comment and Senator Stratton can concur — that there was a need for additional funding. However, we wanted clear budget numbers. We wanted to know what this money would be spent on. We wanted to know how it would be spent within the overall framework of the Library of Parliament.

We asked them both to come before us, and they both agreed that the \$2.8 million figure, \$1.8 million already having been received, was, in fact, a legitimate number for the full operation of the Parliamentary Budget Officer.

Hon. Joseph A. Day: The honourable senator started out by reminding us that in Bill C-2, the Accountability Act, the Parliamentary Budget Officer was clearly intended to be part of the Library of Parliament. I agree wholeheartedly.

Did you explore the possibility of removing the Parliamentary Budget Officer from the Library of Parliament and having him as a stand-alone office? Did you consider that situation?

Senator Carstairs: I have to say that we did not at this juncture, and that is why we asked for a review to be conducted three years from the date of his appointment as the Parliamentary Budget Officer, which, in fact, is two years from now. We felt that we needed to spend the three years examining how he was functioning within the Library of Parliament to determine for ourselves whether that was the best structure or perhaps a different structure would be the method by which the PBO should function.

Hon. Joan Fraser: I would like to ask the honourable senator to clarify something for the record. It has to do with what I think is a certain ambiguity in the wording of recommendation 4 on page 13, and it reads as follows:

That the Speakers of the Senate and the House of Commons ask the Parliamentary Information and Research Service of the Library of Parliament and the Parliamentary Budget Officer to standardize their service agreements with the parliamentarians and committees.

I would just like the honourable senator to confirm for the record that this recommendation does not mean that the library or the Parliamentary Budget Officer should treat the Senate and the House of Commons, parliamentarians or committees in one standardized way; it means that they should get together and approach the Senate in a standardized way, and separately, the House of Commons, in a possibly different standardized way.

Senator Carstairs: I thank the honourable senator. The honourable senator is absolutely right.

We found in our study that they were not talking to one another. As a result, there was no sharing of the resources of the Library of Parliament and that the Parliamentary Budget Officer was doing outside contracts rather than having himself provided with services that were already available within the Library of Parliament.

We were struck by the fact that if this was going to work within the present structure as provided within the mandate, they had to work together. If honourable senators read the paragraph immediately before that, I hope it provides some clarity. It says:

In the opinion of the Committee, in order to facilitate the establishment of the PBO within the Library of Parliament and maximize economies of scale and the pooling of expertise, these two services that serve parliamentarians and parliamentary committees must harmonize their services.

This recommendation is for the Parliamentary Budget Officer and the Chief Librarian. The recommendation is not for the Senate or the House of Commons. It will not change the relationship between the Library of Parliament and the Senate, or the Library of Parliament and the House of Commons.

Hon. Terry Stratton: Senator Carstairs has given an accurate description of what transpired. It was an interesting experience to watch four political parties from the House of Commons and two from the Senate sit down and pull this off. Believe me; it was not there in the beginning at all.

As we progressed through it, we came to the realization that what we were doing was about Parliament and how it operates. Once we came to that realization, we pursued that essence. Gradually, by consensus, and some arm-twisting, we were able to pull it off. I enjoyed the experience. It was difficult, but I enjoyed it, because to watch people from opposite ends of the spectrum come together and come up with a unanimous report speaks volumes for what you can accomplish by the use of consensus. We kept focused on the objective. We realized how to achieve that objective and it was a remarkable road to travel.

I would like to make one cautionary remark. It will be interesting to watch the Parliamentary Budget Officer after receiving this report. My sense is that after he appeared before us in camera the second time — I am not telling tales out of school — he got the message. We did ask him, and in the first interview, he said that, no, the work that he did automatically went on his website. It does not matter if it was from a parliamentary committee or from a parliamentarian; irrespective of privacy of Parliament, he put it on the website.

The second time, he got it. He said that he accepts and believes that the work done by a parliamentary committee or a parliamentarian should remain private until it is authorized for release by that committee or by that parliamentarian. When we got that sense of where he was coming from and that he had come a long way, we thought this gentleman deserves the opportunity to work there.

However, it is still, in my view, a tentative situation between the Chief Librarian and the Parliamentary Budget Officer, and we can see only over time, as Senator Carstairs has said, how well they can work together on this. It will be interesting to watch.

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

Hon. Senators: Question.

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

(Motion agreed to and report adopted.)

• (2200)

THE SENATE

MOTION TO URGE GOVERNMENT TO CHANGE SPOUSAL BENEFITS OF MEMBERS OF FOREIGN SERVICE AND ARMED FORCES EMPLOYED OUTSIDE CANADA ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Hubley:

That,

Whereas the spouses of members of the foreign service and members of the armed services also serve Canada when they accompany their family member to foreign postings; and

Whereas if they are outside the country for more than 2 years these spouses become ineligible to collect benefits for which they paid premiums while employed in Canada; and

Whereas upon return to Canada they should be eligible for benefits while they seek employment;

Therefore the Senate of Canada urges the government to introduce legislation to change the eligibility requirement from 2 years to 5 years for spouses of foreign service officers and spouses of members of the armed services who live outside the country and who meet all the other eligibility requirements; and

That a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.

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

(Motion agreed to.)

RULES OF THE SENATE

MOTION TO AMEND RULES 86(1)(R) AND 86(1) (T)—DEBATE ADJOURNED

Hon. Colin Kenny, pursuant to notice of April 21, 2009, moved:

That the *Rules of the Senate* be amended:

(1) In rule 86(1)(r), by deleting the words “, including veterans affairs”; and

(2) By adding, after rule 86(1)(t), the following:

“(u) The Senate Committee on Veterans Affairs, composed of twelve members, four of whom shall constitute a quorum, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to veterans affairs generally.”

He said: Honourable senators, I will reserve my time to speak at a later date.

(On motion of Senator Kenny, debate adjourned.)

NATIONAL FINANCE

MOTION TO AUTHORIZE COMMITTEE TO STUDY STATE OF PENSION SYSTEM—DEBATE ADJOURNED

Hon. Art Eggleton, pursuant to notice of June 3, 2009, moved:

That the Standing Senate Committee on National Finance be authorized to examine the state of the pension system in Canada in view of evidence that approximately five million Canadians may not have enough savings for retirement purposes;

In particular, the Committee shall be authorized to examine:

(a) Old Age Security/Guaranteed Income Supplement;

(b) Canada Pension Plan/Quebec Pension Plan;

(c) Private Savings — includes employer-sponsored pension plans, Registered Retirement Savings Plans (RRSPs), and other investments and savings;

That the study be national in scope, and include proposed solutions, with an emphasis on collaborative strategies involving federal and provincial governments; and

That the committee submit its final report no later than November 30, 2009, and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

He said: Honourable senators, I rise to speak to this motion requesting that the Senate authorize the Standing Senate Committee on National Finance to conduct a comprehensive study of the Canada pension system.

I believe our pension system in Canada is in trouble. Honourable senators, it is estimated that roughly five million Canadians — one third of our workforce — are not building enough of a private nest egg to avoid a significant drop in living standards when they retire. As Keith Ambachtsheer of the C.D. Howe Institute put it:

When the stock market was soaring and the economy was stronger, one hardly heard of any worries about private pensions. Many baby boomers were confidently facing retirement since they were thought to be healthier, better educated and wealthier than their parents' generation. But now, with the collapse of the stock market as well as the economy, the boomers' easy coast into retirement has changed.

Honourable senators, many Canadians are worried, not only because of the stock market conditions, but they find their pensions to be wanting when they examine them. They are worried about their retirement security, their pension affordability, contributions and benefit levels, and if they will retire when they want to. According to an HSBC insurance survey released last week, only 17 per cent of Canadians aged 30 to 70 feel they are financially prepared to retire. Eighty-three per cent of Canadians do not know how much income to expect once they stop working.

Pensions affect everyone — employees, employers, taxpayers, governments and non-working Canadians as well. If many seniors' living standards fall and some slide toward the poverty line, the impact on Canadians and the country as a whole would be staggering. As the Government of Ontario review correctly stated, this situation would lead to a more cash strapped elderly and a rising bill for society including: “declining markets for goods and services purchased by seniors, declining tax revenues and increasing public welfare costs.”

Honourable senators, we need to learn about our pension system. We need to understand where the system is working and where it is failing. We need to find solutions to ensure that our aging population can live in dignity and respect.

As reporter Stephen Chase of *The Globe & Mail* pointed out: “It’s a problem . . . that some have called a defining issue for this generation.” Jim Leech from the Ontario Teacher’s Pension Fund put it this way:

As Tommy Douglas and national Medicare defined public debate in the 60’s, the natural gas pipeline and C.D. Howe in the 50’s and Brian Mulroney and free trade in the 80s, pension reform could be defining issue of the first decade of this century.

Honourable senators, our pension system is designed with two objectives in mind: to prevent poverty among the elderly and to prevent a significant fall in the living standards of workers upon their retirement. To achieve these goals, as in many other countries, the Canadian pension system comprises both private and public elements. Public elements include the federal Old Age Security, Guaranteed Income Supplement, the Canada Pension Plan and the Quebec Pension Plan and other schemes established by the provinces — for example, Ontario’s Disability Support Program.

As a result of the publicly financed Old Age Security, OAS, and Guaranteed Income Supplement, GIS, Canada has gone a long way in lifting seniors out of poverty. It has resulted in the lowest incidence of poverty among seniors in all developed countries.

However, as the Special Senate Committee on Aging reported a few months ago, it has not lifted all Canadians out of poverty. This is especially true for seniors living in big cities, immigrant seniors who do not qualify for GIS and seniors with dependents. The government would do well to adopt the Aging Committee’s recommendations in this regard to help seniors live with dignity.

Honourable senators, success in achieving the second objective seems to be more difficult in these uncertain times. Success is usually measured by reference to a suitable, but much debated, replacement rate — the substitution of retirement income for wages from employment.

The Canada Pension Plan and Quebec Pension Plan are a good start to achieve this income. Both are contributory, earnings-related social insurance programs that provide a monthly taxable benefit to retired contributors. Over 5 million people receive CPP benefits and almost 1.7 million benefits receive QPP benefits. The benefit levels average \$4,900 for women and \$6,500 for men. They are based in part on their contributions while working, and the level of pay and contributions. However, they are also limited by the parameters of the program that dictate that the maximum benefit payable is 25 per cent of the average industrial wage.

Some, including the Aging Committee, have recommended increasing CPP contributions because they do not do enough for all Canadians. Relative to many countries in the Organisation for Economic Co-operation and Development, Canada’s public retirement income programs are modest. They put a lot of strain on the private part of the Canada pension system.

As a result, occupational pension plans and other forms of private savings play an important role in providing retirement income security and in achieving a suitable replacement rate. Private elements include various forms of savings — some of them tax shelters — such as registered retirement savings plans, RRSPs, the recently initiated Tax-Free Savings Accounts and especially occupational pensions provided voluntarily by employers or unions, or under their joint sponsorship.

Occupational pension plans come in two basic forms; defined benefit and defined contribution. The defined benefit plan means pension contributions are managed by professionals, and benefits are paid depending upon years of service and salary during final years. Also, the pension benefit is predetermined. It is not subject to investment performance and is an obligation of the sponsor.

Benefits under defined contribution plans, on the other hand, work exactly the same way as an RRSP. They are the responsibility of the individual to do their own investing and depend entirely on the market value of the funds in your account at the time of retirement. If markets have been bad, like they are today, your retirement lifestyle will be less than if markets had been booming.

• (2210)

As Jim Leech pointed out, “. . . millions of citizens will never get the retirement they want.”

Sadly, these Canadians may be the lucky ones. They actually have an occupational pension plan. Studies have shown that participation by Canadian workers in occupational plans is at an all-time low of 23 per cent. The remaining 77 per cent of Canadians with no pension coverage must rely on growth in Registered Retirement Savings Plans, home equity and non-sheltered savings to supplement public pension benefits.

Most Canadians have not managed to set aside nearly enough for 20 years of non-working life. RBC Wealth Management in 2007 found in a survey of 3,000 people that those past 55 years of age had saved only \$102,628. That was 2007. The stock market losses since then would have cut those figures dramatically.

Registered Savings Plans have been depleted by the market meltdown as well and are expected to provide slim returns through an uncertain global recovery. As the Toronto Dominion Bank Chief Economist Don Drummond pointed out:

People are probably going to be disappointed in the type of payout they will get. If you could do 5 or 6 per cent [returns] over the next decade, I think you would be doing extremely well.

Will you be able to live on a 5 per cent or 6 per cent return on \$102,000 worth of investment?

According to Statistics Canada, the median amount in RRSPs for these taxpayers nearing retirement is about \$60,000. That is only enough to buy an annuity of approximately \$3,000 a year during retirement.

Honourable senators, we are in extraordinary times and the system needs to respond to this reality. We need to look at the entire system because its decline should provoke great concern. Let me be clear; I am not saying the pension system is in collapse. Even in its present shape, the pension system continues to ensure that millions of Canadians will enjoy some decency in their standard of living during their retirement, which lessens or eliminates their dependence on needs-based public pensions and enables them to purchase goods and services from others.

Moreover, the current system provides a useful means to encourage savings by workers who might otherwise be tempted to spend what they earn and to ensure their savings play an

important part in sustaining Canada's economy. However, as funds diminish, as the proportion of Canadian workers enrolled in occupational pension plans declines and as older people come to represent an increasing segment of the Canadian population, as the demographics clearly point out, each of these economic effects is likely to change significantly and, I am afraid, not for the better.

The cost to individual Canadians will be both broad and dire. Retirees who depend to a considerable extent on their RRSPs and savings are likely to experience an immediate decline in their standard of living and may slide into poverty with little possibility of finding new jobs to regain their position. The cost to the country as a whole could be staggering.

Honourable senators, we can expect an increase in the number of older Canadians living without income from occupational pension plans, declining markets for goods and services purchased by seniors, declining tax revenues and increasing public welfare costs.

The financial cost of poverty in Canada is already too high. The Ontario Association of Food Banks estimated poverty-related costs at \$7.6 billion in additional health care expenditures and \$8.6 to \$13 billion in lost productivity. We do not want to add to the problem of seniors spending their “golden years” falling into poverty.

Furthermore, once overall pension enrolment drops below a certain level, the occupational pension system as a whole will become increasingly difficult to sustain. This is likely to happen sooner rather than later if enrolment in the public and private sectors continues to diverge so considerably. This is why we need to act now and conduct a comprehensive study on the pension system in Canada. We need to make it stronger and ensure that it is providing for the needs of Canadians.

Hon. Consiglio Di Nino: It was my intention to adjourn the debate.

Hon. Grant Mitchell: Honourable senators, I wish to speak briefly in support of the motion. I believe very strongly that it addresses an issue of immediate importance, one that will become increasingly significant as the demographics of Canadians and of Canada change. Therefore, I urge my colleagues in the Senate to support this motion and refer this study to the National Finance Committee.

I should like to emphasize a couple of points that have been made by Senator Eggleton. The first one is with respect to defined benefit pensions, which are the gold standard of pensions. In Ottawa, in this environment, it is easy to become complacent to believe that everyone's retirement will be taken care of because most of the people we know and work with have defined benefit pensions. They are extremely valuable pensions, and I actually believe that people take them for granted.

If a person retires with a \$100,000 pension, consider for a minute how much of their own money they would have to have invested at today's interest rates in order to pay themselves \$100,000 a year in income if they did not have that pension. At 3 per cent interest, they would have to have in the order of \$3 million in the bank to pay themselves a \$100,000 pension. As interest rates increase, that \$3 million of course goes down, but who knows how significantly and how quickly interest rates will increase.

[Senator Eggleton]

My point is that a defined benefit pension plan is very valuable and can be taken for granted by people like us who live and work in this environment. It also has implications for all those Canadians who do not have defined benefit pensions.

Many Canadians are limited and are left to fend for themselves, and they generally do that with RRSPs. Consider that \$1 million seems like a lot of money to have in your RRSP. Again, if you invested that \$1 million at 3 per cent or 4 per cent at today's Government of Canada interest rates to protect your principal, as a defined pension essentially does, with that \$1 million, you would receive an annual income of \$30,000 a year. Yes, you could buy an annuity or you could cut into the capital, but once you begin to cut into that capital, it does not go much further or longer or pay you much more for much longer than you might think.

The fact is that if you were to bump that \$30,000 to \$40,000 or \$50,000 on \$1 million and you were taking \$10,000 or \$20,000 a year out of the principal, you would run out of money in 15 or 20 years. You would likely run out of money in your retirement before you died.

Pensions generally become increasingly problematic as the population ages. Fewer people are funding the pensions that are now supporting more elderly retirees. That in and of itself is an issue that needs to be significantly addressed. It is not an issue that has just become relevant because of this downturn; it is a longer-term issue. It has become heightened, and our focus has been brought to bear because of the economic downturn and the problems in the stock market. In fact, it is a longer-term issue that transcends that particular problem.

The even greater issue, in my mind, is this belief amongst many Canadians who do not have pensions and who think that their \$500,000, \$400,000 or \$1 million of savings will be sufficient for them to retire on. At today's interest rates, with the kind of security that people want in their retirement — that is to say, using Government of Canada or provincial government bonds — it will not be enough to retire upon.

• (2220)

Perhaps there is no easy solution to this, and perhaps this study will not find an easy solution to that problem, but it will begin the process of a much broader communication to Canadians that they need to understand that the mathematics of their RRSPs may not be as compelling as they think it is.

I will provide a couple of statistics to underline this point. For the 2007 tax year, 24 million or 25 million people filed taxes. About 25 per cent of those people made an RRSP contribution, and the average contribution was \$2,700. If you were to make a \$2,700-contribution to your RRSP for 30 years, that amounts to less than \$100,000. Those people are not on track to a very comfortable retirement.

A study recently done by RBC showed that 68 per cent of Canadians over the age of 18 actually have RRSPs. In 2007 only one third of those people made a contribution, so they are not contributing to RRSPs every year. As well, the average RRSP contribution to the RRSP fund of that 68 per cent of Canadians

is about \$72,000. That is a long way from \$500,000, and \$500,000 is a long way from a comfortable retirement.

The Finance Committee could make a tremendously valuable contribution in identifying the problem and identifying some solutions, as well as in communicating to Canadians that there is a real urgency for those who will depend on their RRSPs and savings as their only funding for retirement.

Hon. Joseph A. Day: I wish to ask a question of Senator Mitchell.

Honourable senators, I want to thank Senator Mitchell and Senator Eggleton for their comments on the matter. The National Finance Committee has already started discussions on whether this would be an appropriate area of study for our committee, whether we could do the study with all the other work we would like to do, and what the parameters of the study would be.

The discussion we have had this evening will be helpful to us in our deliberations. It would be helpful to our deliberations if honourable senators enter into the debate. Perhaps we could deal with this by way of an inquiry rather than have a motion directing the committee to study it. The committee will, of course, consider this matter, along with others, and make its decision and recommendation back to the Senate in due course.

(On motion of Senator Di Nino, debate adjourned.)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF SENATE COMMITTEE SYSTEM

Hon. Donald H. Oliver, pursuant to notice of June 9, 2009, moved:

That notwithstanding the Order of the Senate adopted on Wednesday, March 25, 2009, the Standing Committee on Rules, Procedures and the Rights of Parliament which was authorized to examine and report on the Senate committee system as established under rule 86, taking into consideration the size, mandate, and quorum of each committee; the total number of committees; and available human and financial resources, be empowered to extend the date of presenting its final report from June 30, 2009 to October 30, 2009.

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

Some Hon. Senators: Question.

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

(Motion agreed to.)

(The Senate adjourned until Wednesday, June 17, 2009 at 1:30 p.m.)

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Committee Authorized to Extend Date of Final Report on Study of Senate Committee System.	
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