CANADA

Debates of the Senate

3rd SESSION • 40th PARLIAMENT • VOLUME 147 • NUMBER 18

OFFICIAL REPORT
(HANSARD)

Tuesday, April 20, 2010

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

CONTENTS

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

Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
Publications Centre: David Reeves, National Press Building, Room 926, Tel. 613-947-0609

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

THE SENATE

Tuesday, April 20, 2010

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

Prayers.

SENATORS' STATEMENTS

WORLD MALARIA DAY

Hon. Mobina S. B. Jaffer: Honourable senators, Africans are facing genocide by malaria. One million Africans die of malaria every year. On behalf of Senator Segal, Patrick Brown, member of Parliament, and the All Party Parliamentary Malaria Caucus, I rise to invite honourable senators to an event this evening to reflect on World Malaria Day.

Today is a special day because grade 10 students from Senator Segal's area are coming to tell us a story about malaria. Twenty students and their teachers will attend to share with us their experience with malaria. This group, The Not So Amateur Amateurs, will perform a 10-minute play under the direction of Ms. Kristine Harvey.

Honourable senators, in 2007, I accompanied the Prime Minister to Uganda for the Commonwealth conference. As part of that, and on behalf of our country, I, along with our officials, visited a boarding school of senior students, who were the same ages as the students performing for us this evening. The students were pleased to meet with us. They could not thank Canadians enough for helping them to acquire insecticide-treated nets.

They proudly told us that they now miss less school. In the past, they missed up to eight weeks of school, but now were missing only three weeks of school. One of the students proudly pointed out that their grades were improving. I was very proud and truly happy that day to be Canadian. I had returned to my country of birth with my Prime Minister, Stephen Harper.

When I met with the principal my mood quickly changed. He told me they had limited nets and faced the hard task of choosing which students received one. He told me it was like playing God.

Honourable senators, the principal went on to tell me that one of his hardest jobs is to contact parents to tell them that their precious child has died of malaria. Often, because of the distance to where the parents live or because of the lack of parents' resources, he has to bury the child without the parents present.

The principal told me that when parents send their children to school, they say goodbye to their child and say, "If you return, I want you to become a doctor, lawyer or teacher." When we say goodbye to our precious children, we say, "When you return from school, I want you to become a doctor, lawyer or teacher."

On this World Malaria Day, I know that each of us will count our blessings and will want to work to stop the annual genocide of Africans by malaria.

Senator Segal and I ask all honourable senators to come and encourage the enthusiasm of these students. I know that you will agree with me after seeing their performance that we can be very proud of these and other students who look beyond our borders to improve the lives of fellow students.

[*Translation*]

Please attend this evening to encourage these students and hear their message. They need your support.

[*English*]

In the three minutes it has taken to give this declaration, six children have died in Africa. In Africa, a person dies of malaria every 30 seconds.

Hon. Hugh Segal: Honourable senators, April 25 is World Malaria Day. It will be a day of unified commemoration of the global effort to provide effective control of malaria. Malaria is spread through mosquito bites. Every 30 seconds, a child dies of malaria, and 50 million pregnant women are at risk of malaria each year.

I am proud that the city of Kingston began Canada's first citizen-driven initiative aimed at saving lives from malaria, one village at a time. Kingston's Buy-a-Net campaign, headed by founder Debra Lefebvre and supported by nurses from across Canada, has provided tens of thousands of malaria nets to areas in need the world over. Her charitable organization is volunteer-driven, with a board of directors made up of caring, concerned and involved Kingstonians who recognize malaria as a deadly disease that is so easy to control and overcome. Undoubtedly, their efforts have saved the lives of thousands of children already. Kingston is the first Canadian city to proclaim National Malaria Eradication Day.

As Senator Jaffer said, Buy-a-Net is focusing on Uganda where an estimated 320 children under the age of five die every day. The deadliest strain of malaria, falciparum, is most prevalent in Uganda and accounts for 95 per cent of all cases.

The price to save lives from malaria with a bed net is $7. It is such a small sum to allow this life-saving work of educating, distributing, monitoring and evaluating a successful malaria prevention program. The breakdown of $7 includes $5 for the bed net; $1.20 for education, distribution, monitoring and evaluation; and $0.80 for administration costs.

The program has prompted individual Kingstonians and Kingston businesses to step up to the plate to assist with fundraising. Just last week, Totally Clips Hair Salon hosted a cut-a-thon to help raise awareness for Buy-a-Net. They offered haircuts at $12, and 100 per cent of the proceeds went to Buy-a-Net.

Honourable senators, malaria is a deadly disease affecting millions worldwide, so many of whom are children. It is also a disease that can be prevented and treated with so little effort — a bed net for prevention and, for those infected, a cost of $3 to treat and provide medication for a child suffering with malaria.

Honourable senators, funding for prevention and treatment of malaria has increased tenfold according to Roll Back Malaria, the global malaria partnership, but more needs to be done to eradicate this most eradicable disease. I urge all honourable senators to participate and encourage your areas of Senate representation to do the same.

This evening at 6 p.m., in Room 256-S, a group of young Kingston actors, The Not So Amateur Amateurs, will perform about the work of the Canadian Red Cross, the Buy-a-Net malaria prevention group, and Spread the Net, and their efforts to control malaria. I invite honourable senators to join them in their attempts to spread the word and to join Senator Jaffer in her remarkable leadership on this issue.

[*Translation*]

Hon. Lucie Pépin: Honourable senators, last Friday, Princess Astrid of Belgium and Professor Coll-Seck, the Executive Director of Roll Back Malaria, visited Parliament.

That visit, co-organized by Senator Jaffer, aimed to raise awareness of malaria.

Every year, 500 million people contract this disease, which is transmitted by mosquitoes, and one million people die from it. Malaria is the leading cause of death in children under the age of five in sub-Saharan Africa. Somewhere in the world, a child dies of malaria every 30 seconds.

Pregnant women are another vulnerable group. They are four times more likely to contract malaria.

Children who were exposed to malaria in the womb are at risk of more serious diseases transmitted through the infected placenta. They have weakened immune systems and they may suffer from growth deficiencies and delays in cognitive development.

Like Princess Astrid, I would like to see malaria on the G8 agenda for child and maternal health in June.

We must act quickly, because every moment we waste costs another life, even though every malaria-related death is preventable.

This infectious disease is controllable and treatable. Sleeping under mosquito nets treated with anti-malarial insecticide can decrease infant mortality worldwide.

Quick and universal access to treatment would eliminate even more deaths. Preventive treatment during pregnancy can significantly decrease the number of premature and stillborn babies.

• (1410)

Effective preventive measures and treatments exist, but access is often a problem. Malaria primarily affects people in rural areas who have few ways to protect themselves from mosquitoes and very limited access to treatment once infected.

A number of stakeholders are working to make malaria prevention measures and treatment available and affordable. I would like to recognize the work of Senator Jaffer, who supports these efforts.

Honourable senators, April 25 is World Malaria Day, a day that gives us a chance to make a difference. I invite everyone to learn more about this disease. I am sure that Senator Jaffer will be pleased to share much more information.

If you can, support the work of organizations like Roll Back Malaria to make malaria a thing of the past.

[*English*]

CANADA FOUNDATION FOR INNOVATION

Hon. Wilbert J. Keon: Honourable senators, the Canada Foundation for Innovation, known as CFI, is an independent corporation created by the Government of Canada to fund research infrastructure. The mandate of the CFI is to strengthen the capacity of Canadian universities, colleges, research hospitals and non-profit research institutions to carry out cutting-edge research and technology development that benefits Canada.

Since the creation of the CFI in 1997, its investments, totalling $4.5 billion as of March 31, 2009, have led to groundbreaking discoveries across the spectrum of disciplines. Whether focused on health, natural resources and energy, information and communications technology, the environment or social sciences, research facilitated by CFI-funded infrastructure is recognized for its world-class excellence.

Studies have shown that foundations are an important and effective instrument for the Government of Canada in the delivery of research and education programs, where expert knowledge, partnerships, multi-year funding, long-term planning and independent merit review are critical.

The arm's-length nature of the foundation model allows organizations such as the CFI to address challenges in a highly effective, non-partisan manner. By working with institutions, the CFI ensures that applications for funding are based on solid institutional strategic research plans.

Although the CFI is not alone in supporting innovations in Canada, it is the only national organization used in providing the infrastructure required to conduct high quality research in all fields of investigation.

Recently, an evaluation of the CFI was conducted by an independent third-party international review panel. The Government of Canada is pleased to announce that following an overall performance evaluation and the value-for-money audit

of Canada's Foundation for Innovation, the independent international review panel has declared that CFI is the most successful research funding organization of its kind in the world. Our government is proud of the CFI's accomplishment. We recognize that in the global economy, knowledge, research and innovation are at the heart of economic growth and success. That is why the current government has provided over $1.34 billion to CFI since 2006.

We congratulate the CFI and wish it continued success in its work. We also congratulate Dr. Eliot Phillipson, who is retiring as president after a very successful reign.

NATIONAL VICTIMS OF CRIME AWARENESS WEEK

Hon. Bob Runciman: Honourable senators, I rise today during National Victims of Crime Awareness Week to draw attention to a problem that puts the safety of our children at risk and leaves organizations that work with children in a vulnerable situation. I am referring to the National Parole Board's rubber-stamping of pardons for those with criminal convictions, even when those convictions are for sexual offences.

We read today that Karla Homolka will be eligible to apply for a pardon in a few short months from now.

According to *The Globe and Mail*, nearly all of the sexual offenders who apply for pardons in Canada are granted one by the parole board. Over the past two years, only 41 of 1,554 sex offenders had their applications rejected. Honourable senators, along with many other Canadians, I was shocked to read these statistics.

There are many reasons why forgiveness is commendable and why a pardon may be appropriate. Who wants to see a young person's future constrained by a prank that left him or her with a criminal record? However, I am not talking about the teenager who finds that a criminal conviction for a youthful indiscretion dashes his or her future dreams. No, this is a case of pardons being issued for serial sexual predators. I share Prime Minister Harper's disgust with this practice and I am encouraged that Public Safety Minister Vic Toews has promised to put a stop to it. There has been some media criticism of the government's haste in this matter, but there is good reason to act quickly — the protection of our children. In fact, more needs to be done because, unfortunately, stopping future pardons to sexual predators will not solve the problem alone. According to the RCMP, there are nearly 15,000 pardoned sex offenders out in our communities.

What can we do to ensure organizations that work with children or other vulnerable people can identify sexual offenders when they are screening volunteers? Some churches and volunteer groups have stopped screening for potential pardoned sex offenders because stricter enforcement of the rules on police searches is making it impossible for them to weed out sexual offenders who have received pardons.

As it stands, the way the rules are written and are being enforced, only the individual being screened can request a vulnerable sector search, which would reveal a pardoned sex offence. Honourable senators, that is unacceptable.

There is a relatively simple solution to this problem. If the existing rules, either in legislation or regulation, do not allow organizations to screen for sexual offenders who have received pardons, then we must change the rules. Our primary focus must be on keeping the most vulnerable members of our society out of harm's way. We have the ability to fix this problem, and it is our responsibility to do so.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of delegates from Buy-a-Net, Spread the Net of the Canadian Red Cross, and the performance group, The Not So Amateur Amateurs, and their director, Ms. Kristine Harvey.

They are guests of the Honourable Senator Jaffer.

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

Hon. Senators: Hear, hear.

[*Translation*]

ROUTINE PROCEEDINGS

NATIONAL DEFENCE

CANADIAN FORCES PROVOST MARSHAL— 2008 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 2008 annual report of the Canadian Forces Provost Marshal.

MILITARY POLICE COMPLAINTS COMMISSION— 2009 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 2009 annual report of the Military Police Complaints Commission.

CANADIAN FORCES GRIEVANCE BOARD— 2009 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 2009 annual report of the Canadian Forces Grievance Board.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Gerald J. Comeau (Deputy Leader of the Government) presented Bill S-6, An Act to amend the Criminal Code and another Act.

(Bill read first time.)

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

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

• (1420)

CANADIAN NATO PARLIAMENTARY ASSOCIATION

TRANSATLANTIC FORUM, DECEMBER 7-8, 2009—REPORT TABLED

Hon. Pierre Claude Nolin: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the Transatlantic Forum, held in Washington, D.C., U.S.A., on December 7 and 8, 2009.

[*English*]

HEALTH HUMAN RESOURCES POLICIES

NOTICE OF INQUIRY

Hon. Wilbert J. Keon: Honourable senators, pursuant to rule 56 and 57(2), I hereby give notice that, on Thursday, April 22, 2010:

> I will call the attention of the Senate to health human resources policies in Canada.

ABORIGINAL AFFAIRS

NOTICE OF INQUIRY

Hon. Patrick Brazeau: Honourable senators, I give notice that, two days hence:

> I will call the attention of the Senate to the issue of accountability, transparency and responsibility in Aboriginal affairs in Canada.

[*Translation*]

QUESTION PERIOD

INDUSTRY

FOREIGN OWNERSHIP OF CANADIAN SATELLITES

Hon. Francis Fox: Honourable senators, my question is for the Leader of the Government in the Senate and has to do with lifting the existing restrictions on foreign ownership of Canadian satellites.

I would like to begin by quoting an excerpt of the budget documents tabled by Mr. Jim Flaherty. I quote:

[*English*]

> In Budget 2010, the government is acting to remove the existing restrictions on foreign ownership of Canadian satellites.

That statement is troubling.

We are in a context where satellite capacity in this country is limited, already fully allocated and leased to Canadian operators, such as Bell ExpressVu and Shaw Direct. Capacity is then sub-leased to Canadian broadcasters, among others, to serve Canadian needs from sea to sea to sea. In the past, we tilted Canadian satellites to give coverage to northern parts of this country. However, they were Canadian satellites and we had control over them.

Satellite capacity in the United States is also fully allocated in the context of growing demand. The minister probably knows that, with the advent of high definition and three-dimensional film, the demand for bandwidth and satellite space has increased dramatically and the U.S. is likely to bid for capacity on Canadian satellites. They will probably outbid Canadian parties because of their greater financial strength based on the bigger markets they enjoy.

Can the minister indicate what measures the Canadian government will take to ensure that Canadian interests continue to have access to these formerly Canadian satellites?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, as Minister Clement has stated, competition creates economic growth, innovation and better options for consumers. We should always remember the consumers in this picture. By acting in year two of *Canada's Economic Action Plan* to remove foreign investment restrictions in the satellite industry, we are strengthening our commitment to consumers.

However, Minister Clement has said that the issue of foreign investment in the telecom industry will be carefully examined and the government will report to Canadians.

Senator Fox: Honourable senators, I acknowledge the fact that the minister recognizes the importance of the issue. In so doing, will the minister and her government consider having this issue fully explored in a parliamentary and Senate committee before

taking action, so that Canadians from coast to coast to coast who will be affected by these developments will have the opportunity to make their points of view heard within Parliament?

Senator LeBreton: I thank the honourable senator for the suggestion. I believe there are many vehicles by which Canadians, as well as the various stakeholders, can express their views. We have already seen a vigorous debate on the business pages of our newspapers.

As I indicated in my first answer, Minister Clement will carefully examine the issue of foreign investment and will report on the matter. We will wait until that examination happens before we decide how to proceed.

Senator Fox: Honourable senators, I will show my age by saying that I was in Parliament when Mr. Diefenbaker and Mr. Mulroney were in Parliament. They spoke about the importance of parliamentary institutions and fully debating issues in Parliament that are important to Canadians.

I ask the minister what credibility we will have on the international scene after successive Canadian governments, both the Liberal governments of the past and the Mulroney government, have gone to international organizations to bid for additional orbital slots to better serve Canadians. What credibility will we have with these organizations that give access to orbital slots and additional spectrum if our position is that we will take it and resell it to the newly-acquired, foreign, satellite-owned companies?

Senator LeBreton: The honourable senator is getting ahead of himself by assuming what our position will be. I have already said that Minister Clement will study and consider all the implications of foreign ownership in the telecom industry and then report.

With regard to the institution of Parliament, we need to take no lessons from the opposite side. I remind honourable senators that, when their party was in government, they took us into the war with Afghanistan without a single solitary word expressed in Parliament. When we recommitted to Afghanistan, the commitment was the result of a full parliamentary debate.

Senator Fox: How did we go from satellites to war in Afghanistan?

Senator LeBreton: The senator asked about the institution of Parliament.

HEALTH

MALARIA

Hon. Mobina S. B. Jaffer: Honourable senators, my question is to the Leader of the Government in the Senate. Genocide is occurring in Africa due to malaria. Every year, one million Africans die as a result of malaria. Every 30 seconds, a person dies of malaria in Africa. In Uganda alone, 320 people die of malaria each day. In some countries in Africa, 40 per cent to 50 per cent of the health budget is spent on malaria.

We all accept that Canada needs to play a leadership role to combat malaria. A $10 net saves four lives for five years. There is so much we can do.

What is Canada doing to control malaria in the world, particularly in Africa?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the spread of malaria is a serious issue, not only in Africa but in other parts of the world. I will take the honourable senator's specific question about malaria as notice.

However, I repeat what I have said before: We doubled aid to Africa in 2009, a year ahead of our G8 partners, and the commitment of the Canadian International Development Agency to Africa is strong and ongoing.

With specific regard to malaria, I will take the honourable senator's question as notice.

Senator Jaffer: Honourable senators, 90 per cent of deaths from malaria occur in Africa. What specific programs are in place for women and children who suffer from malaria in Africa?

Senator LeBreton: I will take the question as notice.

[*Translation*]

FINANCE

MORTGAGE PROTECTION

Hon. Céline Hervieux-Payette: Honourable senators, my question is for the Leader of the Government in the Senate. Canadians' ratio of debt to net income now sits at approximately 146 per cent. This figure clearly indicates that we are headed towards a financial crisis that could equal the 2008 crisis in the U.S.

New mortgage rules announced by the Minister of Finance, Jim Flaherty, went into effect yesterday in order to reduce the number of Canadians tempted by low interest rates and rising housing prices and who commit to a mortgage that they may no longer have the means to pay should interest rates increase.

The Conservative government repeatedly tried to persuade the Canadian public, wrongly, that the housing bubble was not about to burst and made no tangible efforts to prevent Canadians from going into debt in such a volatile area. What additional measures has this government taken to force financial institutions to exercise more caution when providing mortgages guaranteed by the government?

• (1430)

[*English*]

Hon. Marjory LeBreton (Leader of the Government): The honourable senator underscored in her question the problem that the government acknowledged. Changes were made to avoid a situation like that which occurred in the United States with regard to the mortgage market and problems created by people taking on mortgages they could not afford, thereby starting the whole financial meltdown.

The government has taken a number of measures to help consumers, as the honourable senator knows. These include protecting consumers in regard to debit and credit cards.

There are many suggestions as to how government can encourage banks and consumers to be more fiscally responsible. However, we live in a free economy, honourable senators. The government has taken measures in the banking and mortgage industries over the last two years, culminating in the changes that came into effect yesterday.

Based on reports I have seen, experts do not believe Canada is yet in a position — and hopefully never will be, as was the case in the United States — where people are so overextended that they cannot afford to pay their bills to keep themselves in the homes they have purchased.

Senator Hervieux-Payette: Honourable senators, I wish to salute our colleague, Senator Pierrette Ringuette, for the work she has done on credit cards. I am happy the minister recognized this work and made some changes. It is a good step in the right direction.

However, in his 51-page report, Alexandre Pestov, of the Schulich School of Business, said:

> According to the CMHC financial statements, the corporation has only $8 billion equity backing $200 billion in assets. Once defaults rise, the Canadian government will have no choice, but to bail out CMHC. The scale of bailout will likely dwarf all other financial emergency responses done by the Canadian government in the history of Canada. Higher national debt, increased taxes and reduced social services will be the direct result of the Harper government's intervention to maintain an illusion of the Canadian housing market health.

What steps will this government take to prevent CMHC from the need to be bailed out with the hard-earned money of Canadian taxpayers once mortgage rates start to increase and Canadians default on their mortgage payments?

Senator LeBreton: The honourable senator is reading the opinion of one person that is not shared by others. She is running around like Henny Penny crying that the sky is falling. Other experts believe that, although there is concern, Canada is in no way in the same position as was the United States. The Department of Finance Canada and the minister will closely monitor the situation.

To go as far as to say it will be necessary to bail out CMHC is the opinion of one particular individual quoted by the honourable senator. I will refer the statement to the Ministry of Finance and ask if they wish to comment on it. I will be happy to table their reply as a delayed answer.

[*Translation*]

TRANSPORT

CANADA POST OFFICE CLOSURES— BILINGUAL SERVICES

Hon. Maria Chaput: Honourable senators, my question is for the Leader of the Government in the Senate. In Manitoba, there are 31 post offices designated as bilingual, and two of them are in urban areas. One of those two urban offices designated as bilingual is located at 208 Provencher Boulevard in Saint-Boniface. This post office has provided services in both official languages for many years. It is a federal office where services of equal quality in both official languages are available for the two language communities.

Now we hear that Canada Post is thinking of closing this office. It would be shameful to close one of the two urban offices designated as bilingual.

My questions are as follows. Has the minister responsible for Canada Post carried out an impact analysis of the closure of this fully bilingual office on French-language services to the public?

Has he considered the impact in terms of loss of French-language services, which runs counter to the purpose of the act? Will he ignore the impact this closure will have on the urban francophone community's right to be served in its own language? On what criteria did he base this decision?

Lastly, could the minister ensure that she obtains answers to these questions before the final decision is made?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, hopefully the activities of Canada Post follow the guidelines set out to provide bilingual service. A set of criteria exists to provide bilingual service in post offices in regions where the population requires such service. Hopefully, Canada Post would respect those criteria.

With regard to the potential closing of this post office, I will forward this matter to the minister responsible for Canada Post to ask for an explanation. From the honourable senator's question, I am unsure if the closure has been announced definitively or if it is rumoured. I will be happy to obtain as much information as possible on this particular case.

[*Translation*]

Senator Chaput: Honourable senators, the minister mentioned the criteria the federal institution is to use, and that is what worries me, because as everyone knows, Saint-Boniface has a large French-speaking population.

Does this large francophone population in Saint-Boniface meet the criterion of 5 per cent of the total population of Winnipeg? Maybe not, but there is a vital francophone community. The situation is disturbing.

I believe that the closure of this office is more than a rumour, but I hope that the final decision has not yet been made. Could the minister obtain the answers to my questions?

[*English*]

Senator LeBreton: I absolutely support what the honourable senator said with regard to Saint-Boniface being a large and vibrant francophone community. For any agency of government

to encompass Saint-Boniface within the greater Winnipeg area in order to water down the numbers would be a reprehensible act. Saint-Boniface is an area that should be judged to stand alone in terms of the services provided by the federal government.

As I said earlier, I am happy to get to the bottom of the affair.

Hon. Robert W. Peterson: Honourable senators, it is my understanding that there is a moratorium on all post office closures. Would the leader inquire whether that policy has been changed?

• (1440)

Senator LeBreton: Honourable senators, it does not matter who the government is; Canada Post always seems to be the issue.

When our party was in opposition and Senator Carstairs was the Leader of the Government, honourable senators from our side were asking similar questions. Canada Post stories never seem to end. I will certainly add the honourable senator's question to the list when I ask the minister about this particular matter.

[*Translation*]

HUMAN RESOURCES AND SKILLS DEVELOPMENT

PETITION FOR EXTENDED EMPLOYMENT INSURANCE BENEFITS

Hon. Jean-Claude Rivest: Honourable senators, my question is for the minister and concerns employment insurance. On the weekend, I saw a woman on television who had managed to collect several thousand signatures, not just in Quebec, but across Canada. She had collected 30,000 signatures and that number could soon reach 100,000.

Under current employment insurance legislation, a person diagnosed with cancer can receive benefits for only 15 weeks. People with cancer have to have treatments, of course. There are periods of remission and relapses. They go through extremely difficult situations. The person I am talking about is circulating a petition across Canada calling on the employment insurance administration to look into the possibility of giving seriously ill people, like this woman and so many Canadians, the same treatment as pregnant women, who, I believe, receive benefits for aproximately 50 weeks. The woman in question estimated that this would cost the government roughly $200 million or $300 million. Given that the government expects a surplus in the employment insurance fund, could the minister find out whether the department has indeed received this woman's petition and whether it is possible to consider such a change to employment insurance?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I do not know whether the department has received the petition. This is obviously a sad state of affairs. I am uncertain as to whether there are programs within government that can deal with these situations. I am not so sure the Employment Insurance Fund is the proper vehicle, though it may well be.

The specific question was whether the government had received the petition, and I do not know that, but I will certainly find out if we have.

ORDERS OF THE DAY

MOTOR VEHICLE SAFETY ACT CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Michael L. MacDonald moved second reading of Bill S-5, An Act to amend the Motor Vehicle Safety Act and the Canadian Environmental Protection Act, 1999.

He said: Honourable senators, I am pleased to rise in this chamber this afternoon to present an amendment to change both the Motor Vehicle Safety Act and the Canadian Environmental Protection Act, 1999, in order to implement the North American Free Trade Agreement provisions on the importation of used vehicles. I am making this presentation on behalf of the departments of Transport, Infrastructure and Communities Canada and Environment Canada.

Some of you may think this is a relatively dry and uninspiring topic. You would be right, so I invite you all to fill up your glasses and try to bear this out with me.

The Motor Vehicle Safety Act regulates the manufacture and importation of motor vehicles and safety equipment like tires and child seats. The Canadian Environmental Protection Act, 1999 helps to prevent pollution and protects the environment and human health. The changes proposed by this bill allow administrative amendments to the trade components of these two laws and ensure we will comply with our trade obligations under the North American Free Trade Agreement. Right now, imported vehicles more than 15 years old are not required to meet safety or emissions standards, but under the current rules, the Motor Vehicle Safety Act only allows for the importation of used vehicles from the United States. The Canadian Environmental Protection Act, 1999 allows for the importation of used vehicles as long as they meet Canadian standards at the time of manufacture.

In 1994, the North American Free Trade Agreement came into effect, creating one of the world's largest free trade zones and laying the foundation for strong economic growth and rising prosperity in Canada, the United States and Mexico. NAFTA has

shown us how free trade increases wealth and competitiveness and delivers real benefits to families, workers, manufacturers and consumers. It is important to honour these commitments defined in the agreement.

The predecessor to the North American Free Trade Agreement was the Canada-U.S. Free Trade Agreement signed in 1988 by Prime Minister Brian Mulroney and President Ronald Reagan. The objectives of this agreement were to eliminate barriers to the trade of goods and services between the territories of the parties, give us fair competition within the free trade area, liberalize conditions for investment within the free trade area, establish effective procedures for the joint administration of this agreement and the resolution of disputes and lay the foundation for further bilateral and multilateral cooperation to expand and enhance the benefits of the agreement.

The Motor Vehicle Safety Act was amended in 1993. The amendment established the Registrar of Imported Vehicles to regulate and monitor the importation of vehicles. It assures that vehicles purchased by Canadians at the retail level in the United States are fully compliant with the Canadian federal vehicle safety requirements before these vehicles are licensed by the provinces and territories.

The Registrar of Imported Vehicles also provides information to potential importers, responding to an average of 750 calls a day through its call centre. What is unique about the program is that it is fully funded by those that are importing the vehicles from the United States through a processing fee paid for each imported vehicle.

Following the Canada-U.S. Free Trade Agreement, the North American Free Trade Agreement was signed in 1992 by U.S. President George H.W. Bush, Canadian Prime Minister Brian Mulroney and Mexican President Carlos Salinas. NAFTA is a regional agreement between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America to implement a free trade area.

The objectives of NAFTA are to eliminate barriers to trade in and facilitate the cross-border movement of goods and services between the territories of the parties; promote fair competition in the free trade area; increase investment opportunities in the territories of the parties; promote and enforce intellectual property rights in each party's territory; create effective procedures for the implementation and application of this agreement for its joint administration and for the resolution of disputes; and establish a framework for further trilateral, regional and multilateral cooperation to expand and enhance the benefits of the agreement.

While NAFTA was signed in 1992, its automotive provisions did not come into effect until January 1, 2009. These provisions require that Mexico, the United States and Canada allow the importation of used vehicles from each other. Like under the Canada-U.S. Free Trade Agreement, imports will begin with older vehicles and gradually expand over the next 10 years to include all used vehicles.

Prior to the automotive provision of the North American Free Trade Agreement coming into force, the American government already had a program where it considered requests for importation of vehicles from other countries. Our American friends consider each vehicle on a case-by-case basis to see whether they meet their safety standards. Hence, their rules do not need to change in order to meet the North American Free Trade Agreement requirements.

• (1450)

The Mexican government has already implemented a reciprocal provision. The President of Mexico issued a decree on December 22, 2008, to allow duty-free entry into Mexico as of January 1, 2009, of used light and heavy vehicles from Canada and the United States that are 10 years old or older.

Canada cannot implement the NAFTA automotive provisions under the current Motor Vehicle Safety Act nor under the current Canadian Environmental Protection Act, 1999. The coming-into-force date of the North American Free Trade Agreement automotive provisions has already passed so there was urgent need for changes to these two acts so Canada complies with its trade obligations and is not subject to challenges under NAFTA.

As some background, honourable senators, the Motor Vehicle Safety Act first came into effect in 1971. It established comprehensive minimum safety standards for the design and performance of vehicles manufactured or imported for use in Canada. It is the cornerstone of Canada's federal road safety program. Since its inception, it has been amended twice with, as I mentioned before, the last changes being made in 1993. This act has played an important role in the decline of Canadian deaths and injuries from vehicle collisions.

The Canadian driving environment is very different from that of our NAFTA partners. Our safety standards were developed to meet certain unique requirements while still harmonizing, to a large extent, with the United States. For example, the decreased daylight levels in Canadian winters necessitates daytime running lights on vehicles in Canada. In addition to driving conditions, we have other unique requirements to ensure safety, such as requiring speedometers to display kilometres per hour instead of miles per hour. Many of these standards are not visible to the naked eye but affect the safety of individuals. For example, the mechanism for attaching child restraints is stronger in Canada than in most other countries.

It is important to maintain the level of vehicle safety. The cost of collisions in Canada has recently been estimated at $62.7 billion each year. This estimate of the social costs of motor vehicle collisions includes both direct and indirect costs. Direct costs are things like property damage, emergency response, hospital and other medical care and insurance administration, out-of-pocket expenses by victims of motor vehicle collisions and traffic delays like lost time, extra fuel use and environmental pollution. Indirect costs are the human costs of collisions, like partial and total disability of victims, productivity and workplace loss, as well as the awful cost of the pain and suffering of victims and their families.

Our government is working to make our roads safer for Canadians and their families. These changes will not affect that work. I should note, honourable senators, that Transport Canada is reviewing the Motor Vehicle Safety Act as a whole to determine

whether other changes are needed to the act to ensure the safety of Canadians on our roads. Newly imported vehicles will still need to meet the same safety requirements as domestically assembled vehicles.

Used vehicles imported from the United States are already addressed under the Motor Vehicle Safety Act. These vehicles must be manufactured to meet American safety standards and, if and when they are imported to Canada, must be certified to meet the additional Canadian safety standards before being registered by the provinces or the territories. Through this arrangement, we ensure these used vehicles meet Canadian safety requirements. Vehicles from Mexico will need to meet the same safety standards.

The Canadian Environmental Protection Act, 1999 came into force on March 31, 2000, following an extensive parliamentary review of the original 1988 act. It is the government's principal legislative tool to prevent pollution and to protect the environment and human health. It provides for an integrated engine and fuel approach to reducing harmful emissions from vehicles and equipment. While it is a modern piece of legislation, amendments are required from time to time to keep pace with various international commitments, such as NAFTA.

Currently, the Canadian Environmental Protection Act, 1999 regulations allow us to import used vehicles, provided that they meet Canadian or U.S. standards at the time of their manufacture. Environment Canada's vehicle emission regulations are harmonized with those of the United States.

Amendments to the Canadian Environmental Protection Act are required to provide the authority to develop regulations to address the importation of used vehicles from Mexico that are not compliant with Canadian standards. These regulations will be developed with respect to the North American Free Trade Agreement obligations only, and any vehicles imported into Canada from Mexico will be required to be modified in compliance with the Canadian emission standards and any applicable provincial and territorial requirements.

The amendments to the Canadian Environmental Protection Act would implement the relevant North American Free Trade Agreement provisions by providing the authority to allow the importation of used vehicles from Mexico that are not compliant with Canadian emission standards conditional on a declaration being made at the time of their importation that Canadian emission requirements will be met and that the vehicle will be certified in accordance with regulations. Therefore, the implementation of this bill will allow Canada to match the existing used vehicle importation measures of both Mexico and the U.S., our NAFTA trading partners.

Provincial and territorial governments have been consulted because any imported vehicle will be licensed and operated within Canada. They have expressed no concerns regarding this proposal. Commercial importers are supportive of the proposed changes. As the proposed amendments affect only owner-used vehicles, we do not believe that the changes will have a significant effect on manufacturers as the target markets for these vehicles are different. While we believe that the number of used vehicles will be minimal, the amendments will give consumers and commercial importers more choice by enabling the importation of vehicles from Mexico.

In 2009, Canada imported 124,000 used vehicles from the United States compared to approximately 1.5 million vehicles bought new in Canada. Due to the harmonization of many Canadian and American safety standards, the imported vehicles coming from the United States were already manufactured in a manner that made it relatively easy to modify them to meet Canadian standards. We imported about 11,000 vehicles from the entire world combined that were over 15 years old, the threshold for extension from all Canadian environmental and safety standards. As the Mexican market is different from Canada's, the harmonization of safety standards does not yet exist, and we anticipate that there will be a small number of vehicles that can meet our standards at this time.

The changes to the acts themselves are few and the proposed bill is fairly short. For the Motor Vehicle Safety Act we need to amend the definition of "vehicle." For both the Motor Vehicle Safety Act and the Canadian Environmental Protection Act, 1999, we need to modify clauses to specifically note that imports from Mexico will be accepted as long as they satisfy the requirements of the regulations.

For the Canadian Environmental Protection Act, this will mean that the importer must make a declaration to this effect. These regulations will specify the vehicle's safety and emissions standards that will have to be met in order to provide for an equivalent level of safety and environmental protection as currently exists for all vehicles currently imported and sold within Canada.

The government estimates that one year to a maximum of two years after proclamation will be needed to draft and implement the safety regulations under the Motor Vehicle Safety Act and under the Canadian Environmental Protection Act, 1999.

The government remains committed to addressing road safety by exercising its powers and authorities under the act and by supporting Road Safety Vision 2010, a joint initiative between the federal, provincial and territorial governments and other partners. The federal government can achieve and demonstrate leadership among its road safety partners by maintaining the integrity of the Motor Vehicle Safety Act.

• (1500)

As I have already mentioned, Transport Canada is reviewing the Motor Vehicle Safety Act to determine whether other changes are needed to the act to ensure the safety of Canadians on our roads and the efficiency of the Canadian vehicle safety regime developed and operated under the authority of the Motor Vehicle Safety Act.

The government is also committed to protecting the environment by exercising its powers and authorities under the act and harmonizing with the emission regulations of other countries that have the most progressive emission standards. This approach provides for combined environmental and economic benefits.

In addition to our responsibilities for the environment and road safety, we cannot forget the importance of better positioning Canada to compete for investment and market opportunities. The automotive trade provisions of the North American Free Trade Agreement open the doors to Canadians to export used vehicles to both the United States and Mexico. However, this opportunity could be lost if we do not demonstrate our commitment to upholding our end of the agreement.

In conclusion, I remind honourable senators that with these amendments, we will enable the implementation of the NAFTA automotive provisions, maintain road safety by limiting importation to vehicles that provide a level of safety comparable to that of similar Canadian specification vehicles and continue to protect the environment by ensuring that imported used vehicles meet Canadian environmental standards once certified for use.

We believe these proposed amendments are the right approach to take. They strike the right balance to allow us to meet our current trade obligations, while at the same time protecting the safety of the travelling public and the environment. I urge honourable senators to give this legislation their unanimous support.

(On motion of Senator Tardif, debate adjourned.)

WORLD AUTISM AWARENESS DAY BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Munson, seconded by the Honourable Senator Mercer, for the second reading of Bill S-211, An Act respecting World Autism Awareness Day.

Hon. Judith Seidman: Honourable senators, it is my pleasure to rise today to speak to Bill S-211, an act respecting World Autism Awareness Day.

I know that the sponsor of this bill, Senator Munson, is a tireless advocate for those affected by autism, and I commend him for his efforts and commitment to this important issue that we are only beginning to understand.

Bill S-211 was introduced in the last session of Parliament where it received the support of senators and was sent over to the other place, adopted at second reading and sent to a committee of the other place.

This government recognizes that autism spectrum disorder is a serious health and social issue affecting many Canadian families and individuals from all walks of life. That is why the Minister of Health, the Honourable Leona Aglukkaq, last year declared April 2 as World Autism Awareness Day across Canada.

Speaking on that occasion, the minister said:

> The Government of Canada is pleased to recognize World Autism Awareness Day and to pay tribute to the many individuals and families in Canada who struggle with the disorder every day. We join many nations around the globe in marking this day and using it to raise important health and social issues related to autism.

Indeed, honourable senators, the sooner we can find effective ways to treat and mitigate the symptoms of autism, the better.

A 2007 study published in *Archives of Pediatrics & Adolescent Medicine* estimates that the total social cost of autism in the United States is $35 billion, and that the lifetime per capita incremental societal cost of autism is $3.2 million. However, honourable senators, numbers never tell the whole story. Studies show that autism puts greater strain on marriages and families. Caring for an autistic child requires a great expenditure of time, which always leads to less time for other family members and adds another layer of pressures to daily living activities.

For parents and families, Autism Spectrum Disorders present a life-long challenge of caring for their loved ones and ensuring they are accessing the most effective treatment.

For researchers, ASD is an especially complex topic, as it affects individuals differently and has far-reaching implications. A great deal of valuable research has been completed to date to uncover the origins of ASD, as well as the most effective treatments and the long-term implications of this disorder. However, more research needs to be undertaken to gain a more solid understanding of this complicated condition.

I want to share with honourable senators today some recent activities in the area of autism research. The Canadian Autism Intervention Research Network, CAIRN, is a group of researchers, clinicians, parents and policy-makers dedicated to ASD research as a way to find better treatments and diagnostic techniques.

While many treatment and diagnostic methods have proved to be effective, some still do not have a sound evidence base. As such, some children with ASD may not receive the most effective treatments for their condition because much about ASD remains unknown. This situation points to the need to have the most up-to-date research available, and institutions such as CAIRN are contributing to this research.

The government supports the important work of CAIRN, as well as other research initiatives and institutions. In 2007, the government provided funding to CAIRN to translate its website into French. The CAIRN website is among the best-known sources of up-to-date, evidence-based information on ASD. I am pleased to say that it is now available to Canadians in both official languages.

Furthermore, in 2008 the government committed $75,000 to the Offord Centre for Child Studies to support the 2009 CAIRN conference held in early October and to enable CAIRN to revise its website to make up-to-date information available to all Canadians.

The 2009 CAIRN conference provided an important forum for parents of children with ASD, individuals with ASD, researchers, clinicians and policy-makers to come together to share new research, different points of view, challenges and stories, but all

with a view to raise awareness about autism. It was also at this conference that the early exciting findings of the Pathways in ASD study were shared. The Pathways in ASD study is a one-of-a-kind collaborative research study that focuses on understanding how children with ASD grow and develop over time.

The Canadian Institutes of Health Research is one of the funders of this existing initiative, led by Dr. Susan Bryson, Eric Fombonne and Peter Szatmari of McMaster University. They are working to understand the different developmental pathways that children with ASD follow and to identify predictors of good outcomes that can be used to develop new intervention programs.

To date, approximately 440 children from five different locations across Canada have been enrolled in this study, making it the largest of its kind in the world. The study will examine a number of factors, including social competence, communication skills, behaviour and ability to function independently that influence areas of development related to the child, the family and the community as a whole. The results of this study will be a valuable resource in ensuring the best outcomes for children with ASD, both through the development of new programs and interventions, as well as by furthering our understanding of their needs and strengths. I understand that this project has been designed to fill important evidence gaps on the developmental pathways of children with ASD. Pathways in ASD will also provide important evidence-based information for policy-makers and researchers alike.

• (1510)

Substantial resources have been devoted to ASD research. Since 2000, the Canadian government has invested approximately $35.3 million in autism-related research projects through Canadian Institutes of Health Research.

CIHR is supporting a strategic training initiative in health research, led by Dr. Eric Fombonne from McGill University, which will contribute to training the upcoming generation of autism researchers and will aim to uncover the mysteries of autism. Building on the autism research training program that trained over 40 PhD and post-doctoral students conducting autism research in various disciplines, from molecular genetics to outcome-intervention studies, this latest project will expand the program. The program will address the pressing needs of Canadians affected by autism, as well as their families and service providers, by building research capacity in this area.

CIHR is also funding the autism research of Dr. Susan Bryson and Dr. Lonnie Zwaigenbaum and their team at the University of Alberta, who are examining early development of autism by following infants at increased risk of the disorder because they are siblings of children with autism. The ultimate goal of their research is earlier identification and treatment. Research such as this is building our understanding of autism and our capacity to treat it.

Furthermore, along with Genome Canada, CIHR provides support to the Autism Genome Project. This initiative will help to increase our understanding of the genetics of ASD, which could, in the long term, lead to earlier diagnoses.

While research is an important aspect of the work being done to better understand ASD, another pillar of knowledge is in the area of surveillance. As was announced in November 2006, the federal government, through the Public Health Agency of Canada, is developing options for ASD surveillance. Recognizing that autism surveillance is new globally and may be technically challenging, the Public Health Agency of Canada has been working with researchers to see what can be done in Canada.

Indeed, between November 2007 and May 2008, the Public Health Agency undertook a consultation process to examine options for the development of an ASD surveillance program for Canada. As well, in December 2008, the Government of Canada approved funding for Queen's University to expand their existing ASD surveillance program. This activity now includes children in Manitoba, Southwestern Ontario, Prince Edward Island, and Newfoundland and Labrador.

It is important to remember that all stakeholders in ASD want the same thing — better treatments and early diagnosis for those affected by ASD, so that ultimately they can enjoy better outcomes. This government is pleased to be supporting this by working with partners and stakeholders to promote autism awareness by investing in activities that support a stronger evidence base.

The more we share, the more we gain, and by translating discoveries and knowledge into new, effective, evidence-based therapies, we can provide true hope for Canadians living with autism and their families.

I know that in declaring April 2 as World Autism Awareness Day, the minister has contributed to raising awareness of this condition across Canada.

Hon. Suzanne Fortin-Duplessis (The Hon. the Acting Speaker): Are honourable senators ready for the question?

An Hon. Senator: Question.

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

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

CANADIAN PAYMENTS ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Hubley, for the second reading of Bill S-202, An Act to amend the Canadian Payments Act (debit card payment systems).

Hon. Stephen Greene: Honourable senators, I rise today to continue the debate on Bill S-202. I also believe it is my obligation to stress the importance of maintaining a strong financial sector.

Through these challenging times, Canada's financial system has remained stable, well-capitalized and underpinned by one of the most effective regulatory frameworks in the world.

The health of our financial institutions has helped to prevent our country's financial system from succumbing to a worldwide financial crisis.

Canada has seen no bank failures, and the government has not had to inject equity or otherwise bail out any banks. I repeat again: There have been no bank bailouts.

Over two years into the global liquidity crisis, Canada's banks and other financial institutions remain sound, well-capitalized and less leveraged than their international peers, all of which reflect a rigorous regulatory regime.

The relative fitness of our banks can be explained by our approach, whereby capital requirements for regulated financial institutions are above minimum international standards and set higher than in other jurisdictions. However, the worldwide financial turmoil has demonstrated that it is prudent to ensure the government is equipped with a broad range of flexible tools to safeguard financial stability.

Accordingly, *Canada's Economic Action Plan* proposed further measures to enhance flexibility and responsiveness to support financial institutions and the financial system in the event of extraordinary circumstances. These measures were consistent with the government's commitment to implement the G7 and G20 plans of action to stabilize financial markets and restore the flow of capital.

The measures include broadening the authority of the Minister of Finance to promote financial stability and maintain efficient and well-functioning markets; providing the Canada Deposit Insurance Corporation with greater flexibility to enhance its ability to safeguard financial stability in Canada; and, more important, the government's economic action plan built on these measures through both a task force on financial literacy and landmark new consumer-friendly improvements in areas such as the provision of clear and simple summary information on credit card application forms and contracts.

Our Conservative government introduced these measures because we believe that increasing consumer protection will help those who use credit cards or who are applying for one. We believe the best consumer protection is one where there is disclosure, competition and choice.

Canadians are among the most avid users of credit and debit cards in the world, and that use is growing. That is why we are ensuring that Canadians have access to credit on terms that are fair and transparent. Indeed, our government's new rules will strengthen the disclosure requirements on federally regulated financial institutions that issue credit cards so that consumers are better equipped to make informed decisions. Improvements to ensure the provision of clear and simple summary information on credit contracts and credit card application forms, and clear and timely advance notice of changes in rates and fees were also included in the government's announcement.

I should note that the announcement was widely applauded. Casey Cosgrove at the Canadian Centre for Financial Literacy observed:

> Understanding interest rates, fees and increases to monthly payments are key challenges many Canadians face when managing their credit cards. The measures announced by the government today will contribute to financial literacy by bringing clearer and more transparent information to consumers.

• (1520)

The Globe & Mail's Boyd Erman wrote:

> What the federal government is forcing on the . . . bankers – measures such as demanding clearer disclosure on rates – are common-sense rules that curb some of the more unseemly practices of the industry . . . .
>
> . . . what the federal government is doing is a . . . important part of creating a better credit culture in Canada, one in which borrowers learn to live within their means.

In recent months, these payment cards have garnered a growing amount of attention. Issues respecting credit cards and interchange fees are obviously important to Canadians.

For instance, the Standing Committee on Finance and the Standing Committee on Industry, Science and Technology held joint hearings on credit and debit card systems last year. As well, as we all know, the Senate Committee on Banking, Trade and Commerce, under the brilliant leadership of Senators Meighen and Hervieux-Payette, also studied the matter and delivered a number of recommendations related to cardholders and merchant acceptance rules and limits on debit card interchange fees, which our government has accepted.

More importantly, in response to the concerns raised at such hearings and following the suggestion of groups like the Canadian Federation of Independent Business, or CFIB, our Conservative government released a code of conduct for the credit and debit card industry in Canada.

The purpose of the code is simple: to demonstrate the industry's commitment to ensuring that merchants are fully aware of the costs associated with accepting credit and debit card payments; providing merchants with increased pricing flexibility to encourage consumers to choose the lowest cost payment option; and allowing merchants to freely choose which payment options they will accept.

Banks will no longer be able to issue premium credit cards that cost merchants more to process without first asking consumers whether they want them.

Credit card companies, like Visa and MasterCard, will not be allowed to enter Canada's low cost debit market by piggybacking on the existing Interac Association network.

Merchants who accept a company's credit card cannot also be required to accept their debit product.

Payment card networks under the code will abide by certain policies, including increased transparency and disclosure, notice of any fee changes, no penalty for cancelling contracts, and allowing merchants to provide discounts for different methods of payment.

Feedback to the code has been exceedingly positive.

The Canadian Federation of Independent Business cheered:

> . . . the Code constitutes an important step. We are particularly pleased that government is being proactive in helping to lay the groundwork in advance of major expected campaigns on the part of Visa and MasterCard in the debit industry. These developments will create a better future for merchants and help ensure a fair and transparent credit and debit market . . . .

The Retail Council of Canada heralded the announcement, declaring that the Finance Minister deserves:

> . . . a great deal of credit for tackling this important and complex issue, and merchants across Canada appreciate the introduction of the Code.

The Canadian Federation of Independent Grocers added:

> . . . the Code of Conduct is a very positive step and we are encouraged that many of the concerns we have raised on behalf of independent retail grocers have been heard by the Government.

Mark O'Connell, President and CEO, Interac Association, applauded it as well, stating:

> By taking this step, Finance Minister Flaherty is recognizing the importance of debit payments in Canada and the concerns that have been raised, particularly by merchants . . . .
>
> . . . the principles of the proposed Code provide a solid framework on which to build . . . .

"It is a huge victory for us," said Diane Brisbois, President and Chief Executive Officer of the Retail Council of Canada. "We got almost 95 per cent of what we wanted," said Catherine Swift, President of the Canadian Federation of Independent Business. "It is much better than we expected," said Anu Bose, a spokesperson for Options Consummateurs, an influential Quebec-based consumer group.

The Canadian Federation of Independent Grocers welcomed the announcement. TD Bank said it would sign on to the code immediately, as did the Interac Association. "We think the minister did a good job of balancing the interests of all participants," said the President of TD Merchant Services. BMO Financial Group also said it "strongly supports" the code.

The Consumers Association of Canada said it welcomed the code. The Interac Association, which operates Canada's existing debit network, said the code helps provide a level playing field. "It is a good day for the health of the Canadian payment system," said Mark O'Connell, President and CEO of Interac.

When the draft code was released last fall, our government felt it important not simply to impose a made-in-Ottawa approach to such a complex issue. That is why we invited all Canadians to participate in an open consultation. All interested Canadians were invited to provide comments on the proposed measures and how they should be monitored. The comment period closed this past January.

As announced in Budget 2010, our government examined the remarkable feedback received and is making it available for adoption by credit and debit card networks and their participants.

To monitor compliance with the code, the government is also proposing to amend the Financial Consumer Agency of Canada's mandate to enable it to monitor compliance with the code.

In addition, Budget 2010 also announced that the government is bringing forward legislation to provide the Minister of Finance with the authority to regulate the market conduct of the credit and debit card networks and their participants if necessary.

According to the *Toronto Star*, with the adoption of the code, the Minister of Finance has "fundamentally changed the rules of the game." He has given the banking industry 30 days to adopt the code and 90 days to become in line with its provisions.

Honourable senators, it is clear through our actions that our government is serious about protecting consumers in their dealings with financial institutions. We will continue to remain vigilant in ensuring that our financial system stays competitive and that consumers receive the highest possible standard of service. Our actions reflect the current economic reality by allowing Canadian consumers to identify and take advantage of the best possible financial products and services for their respective needs and circumstances. This approach has long been demonstrated to be more effective than the sort of heavy-handed regulatory restrictions favoured by others, which can have unintended punitive consequences for both financial service providers and their consumers.

Bill S-202, for its part, calls for the government to designate Interac, as well as Visa and MasterCard debit products through the Canadian Payments Act, which will make these payment systems subject to the oversight of the Minister of Finance. This designation would require intrusive and unprecedented government control of the payment card networks, as well as another layer of bureaucracy, which would not be a targeted and efficient way to deal with a limited number of merchant-related issues. Further, since Visa Debit is not yet offered in the Canadian market, it cannot be designated under the act.

In addition, as senators are well aware, the Standing Senate Committee on Banking, Trade and Commerce did not recommend that the government designate debit card payment systems. However, our Conservative government has recognized the vital importance of a safe and efficient payments system to consumers, merchants and payment system providers. That is why in Budget 2010 we announced the creation of an independent task force to conduct a comprehensive review of the Canadian

payments system and make recommendations to the Minister of Finance. The task force will review the safety, soundness and efficiency of the payments system, whether there is sufficient innovation in the system, the competitive landscape, whether businesses and consumers are being well served and whether current payment system oversight mechanisms remain appropriate. The task force will launch later in the spring and report to the Minister of Finance by the end of 2011.

Honourable senators, the policy decisions we have made as a government reflect and respond to the current situation while never losing sight of where we want to be further down the road. The government has provided the smart and sensible policy decision making that Canada needs now.

I urge all honourable senators not to respond to this legislation and instead focus on legislation that will build on Canada's strengths during this global recession.

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

[*Translation*]

Some Hon. Senators: Question!

The Hon. the Speaker: It was moved by Senator Ringuette, seconded by Senator Hubley, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(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 Ringuette, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.)

• (1530)

[*English*]

CRIMINAL CODE

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

On the Order:

> Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Lang, for the second reading of Bill C-268, An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years).

The Hon. the Speaker: On April 15, 2010, Senator Cools rose on a point of order to question whether Bill C-268, An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years) is properly before the Senate. She asserted that the bill "offends Senate rules, the established law of Parliament and the constitutional independence of both houses." She noted that the bill passed the House of Commons this session based on its Standing Order 86.1. While recognizing the control each house has over its own proceedings, she argued that the House of Commons could not pass Bill C-268 under that particular standing order since, at the time of prorogation, a previous version of the bill had been before the Senate. As part of her argument, Senator Cools explored a range of parliamentary issues. When they spoke later, Senators Banks, Carstairs, and Fraser found the points raised by Senator Cools to be intriguing.

[*Translation*]

Senator Comeau, during his intervention, questioned Senator Cools' position. He explained that, as a result of prorogation, Bill C-268 from the last session is no longer before either the Senate or the House of Commons. The Bill C-268 now before the Senate for second reading is a new bill. It was received by the Senate from the other place in this session. He also cautioned against passing judgment on how the House of Commons chooses to conduct its business. Senator Comeau did not see any breach of the Rules or the practices of the Senate, concluding that the bill is properly before us.

[*English*]

Honourable senators, it may be helpful to consider some larger questions related to this point of order before turning to the specifics of this case.

As honourable senators know, prorogation of Parliament is one of the prerogative powers of the Crown, exercised on the advice of the Prime Minister. Prorogation brings to an end all business before Parliament. As Erskine May, at page 274 of the 23rd edition, puts it:

> The effect of a prorogation is at once to suspend all business, including committee proceedings, until Parliament shall be summoned again, and to end the sittings of Parliament.

This does not mean, however, that business from a previous session cannot be revived in a new session. The just-cited reference to Erskine May goes on to explain that public bills can be "carried over by order from one session to another." Similarly, the House of Lords can carry public bills over to a new session in certain circumstances. In other words, in the United Kingdom mechanisms have been established to revive business from a previous session in a new session.

[*Translation*]

Such an approach is also followed in Canada. In the Senate, this is routinely done by the referral of papers and evidence from past sessions to committees for work in a new session. In the House of Commons, bills are regularly revived in a new session of the same Parliament, and the process has been essentially automatic for Private Members' Public Bills since 2003. Government bills are also occasionally reinstated, based on separate orders of the Commons. Practices allowing for the reinstatement of bills also exist in at least some provinces, including Alberta, Manitoba, Ontario, and Quebec. Reinstatement of bills in a new session is not an unusual feature in modern parliamentary practice.

[*English*]

To turn to the specific issue raised by Senator Cools, much of the debate on the point of order dealt with the Standing Order 86.1 of the House of Commons and how it should be applied and interpreted. As honourable senators know, each house is master of its own procedure, within the bounds of the Constitution and the law. Just as honourable senators would object to the other place examining Senate procedures, it is inappropriate for the Senate to question those of the Commons. As noted in Beauchesne, sixth edition, at citation four, one of the most important privileges is the right for each chamber "to regulate [its own] internal proceedings . . ., or more specifically, to establish binding rules of procedure." This point has been made at different times in Speakers' rulings here.

[*Translation*]

We can, however, refer to the House of Commons Journals, the official record of the decisions of the other place. For March 3, 2010, we find the following entry:

> Accordingly, Bill C-268, An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years), was deemed introduced, read the first time, read the second time and referred to a committee, reported with an amendment, concurred in at report stage and read the third time and passed.

[*English*]

Honourable senators, this makes it clear that, at the beginning of the session, a new Bill C-268, which was identical in content and number to a bill from the last session that had died on the Senate Order Paper was introduced in the House of Commons, read a first time, and passed all the necessary stages. The bill was, accordingly, introduced here the following day. The message accompanying the bill, as passed by the House of Commons on March 3, 2010, was in the normal form. The message stated that it was:

> ORDERED,
>
> That the clerk do carry this bill to the Senate, and desire their concurrence.

[*Translation*]

Based upon the already-noted principle that neither house should delve into the proceedings of the other, the Senate does not question the proceedings of the Commons, and accepts at face value a duly attested message received from that house. The Commons *Journals* do make clear, it must be emphasized, that the bill was introduced there on March 3. It was therefore a new bill from this session. The issue of which house had control of the bill last session is not relevant. The bill from the last session was not returned to or retrieved by the House of Commons. The same number was kept for ease of reference, as explained at page 1154 of the second edition of *House of Commons Procedure and Practice*.

[The Hon. the Speaker]

[*English*]

It may be of interest for honourable senators to learn that this type of situation actually occurs frequently. Since the third session of the 37th Parliament, at least nine bills, in addition to Bill C-268, have passed the House of Commons at the start of a session as a result of reinstatement provisions, and then proceeded immediately to the Senate. Of these bills, no less than five have received Royal Assent.

Procedures surrounding Bill C-268 thus fully respected parliamentary procedure and practice, and so debate can continue.

On debate, the Honourable Senator Carstairs.

Hon. Sharon Carstairs: Honourable senators, it is with pleasure that I rise this afternoon to address Bill C-268.The purpose of this bill, as indicated by its sponsor both here and in the other place, is to increase sentences for those involved in trafficking. The sponsor of this bill in the other place, Joy Smith, states that such a bill will prevent the trafficking of children for sexual purposes.

Honourable senators, if the bill accomplishes this goal, then, of course, the principle of the bill is worthy of both our consideration and support.

• (1540)

I do not think anyone in this chamber believes that such activity, the trafficking of children for sexual exploitation, is anything but deeply offensive. For that reason, honourable senators, any attempt to prevent it is worthy of support. However, from my examination of the bill, I am not sure that it accomplishes the noble goals laid out by Ms. Smith and Senator Martin. The bill seeks to amend section 279 of the Criminal Code of Canada by doing two things. It makes specific mention of the age of a child — under the age of 18 — and provides for a minimum sentence.

Section 279 of the Criminal Code defines trafficking but, interestingly, within its definition it does not speak of sexual activity. It speaks of trafficking for the purposes of labour; it speaks of trafficking for the purposes of organs; but it does not reference sexual activity in its definition. Therefore, I was surprised that the author of this bill made no attempt to amend Part V of the Criminal Code of Canada, particularly sections 150 to 160, which is the part of the Criminal Code that specifically addresses the issue of sexual offences. I believe that this part of the Criminal Code needs to be amended, in addition to section 279, which Bill C-268 does amend, to achieve the goal of not only the sponsor of the bill but all of us assembled here.

I sincerely hope this bill will be referred to the Standing Senate Committee on Legal and Constitutional Affairs since it contains a Criminal Code amendment. The bill is something the committee must examine carefully. In addition, the bill may become somewhat problematic since sections 150 to 160 of Part V of the Criminal Code have not been opened in this bill. The question becomes whether our committee can amend the bill by opening those sections of the Criminal Code.

Honourable senators, I believe we are all supportive of ensuring that traffickers of children for the purpose of sexual exploitation are punished severely.

My second concern with this bill is its failure to differentiate between those who traffic for the purpose of forced labour and those who traffic for the purpose of sexual exploitation. Honourable senators, these two types of trafficking are not the same thing. Forcing a child or an adult to work is a bad thing. The International Labour Organization states that 14 million persons a year, old and young, are forced to work, and that evil must be stopped for it is a form of work slavery. However, when placed on a scale with children and adults whose bodies are used by others for sexual activity for which they have not given their consent, I believe that sexual exploitation is the greater evil. Yet, this bill in no way differentiates between these two activities.

The third issue in the bill that I want to address this afternoon is the provision dealing with minimum sentences. I recognize that the provision of minimum sentences is becoming more common, and in cases where a crime is, if you will, black and white, perhaps a minimum sentence is understandable. However, I suspect that each and every one of us have a difference of opinion as to whether a provision of the Criminal Code, under any circumstances, can be black and white.

For example, when a person chooses to have several drinks and then gets behind the wheel of a motor vehicle and drives, thereby endangering his or her passengers, those sharing the road, and even himself or herself, the situation is black and white. However, if a man has a few drinks just before his wife goes into premature labour and his only thought and consideration is getting her to a hospital, and he drives to do so, is that situation absolutely black and white? Perhaps it is not.

That is why, honourable senators, I am a strong believer in judicial discretion. Only a judge, and sometimes a jury, hear all the details of a case, and every case should be considered on its own merits. I am concerned that if minimum sentences are imposed in legislation, it will become all too easy for the minimum sentence to become the reality. In other words, five years becomes the norm even though, after hearing the testimony, a judge may determine that an offence was so egregious that a prescribed minimum sentence is far too low. I recognize that judges can impose much higher sentences within a prescribed framework, but my examination of recent use of minimum sentences shows that far too commonly the minimum is now the norm.

Honourable senators, what has drawn us as legislators to impose minimum sentences with greater frequency? I think the frequency is in part due to the input of victims and victims groups who frequently despair at sentences that they view as far too short. With the greatest respect to those victims and to those who represent them, they frequently do not have all the facts before them. Only the judges and the juries have all the information.

Honourable senators, I want to speak to you briefly as a victim lest you think I do not understand the victim's perspective. I was about seven years old when I was first sexually assaulted. I know that I was at least seven when I was a victim for the first time because my hair was short. I was my older sister's twelfth birthday present, although I was actually born a few hours into the next day.

My sister became my champion and caregiver, as my mother was ill. She also became the keeper of my long ringlets. She dutifully brushed them around her finger each night and tied them in rags. In the morning she would take out the rags and again brush them around her finger and send me on my way to school or play. She married when I was seven and a half. My hair was immediately cut, as my mother, who had the care of five other children, was not as devoted to my ringlets.

I lost not only my ringlets, however; I lost my protector. Shortly after my sister married, I found myself alone one evening in our home in Halifax. I never knew how this happened but there was clearly a serious communication breakdown. I did what I had been instructed to do if I found myself in this situation. I called a family friend who lived close by, and he said he would come immediately.

Honourable senators, the reality of sexual assaults of children is that they are in large part committed by someone whom the child knows; a parent, siblings or a friend.

This man arrived in my home and the sexual assaults began, to be repeated on other occasions when I was unable to hide. My favourite hiding spot was a clothes closet that ran from the front hall under the stairs and was deep and dark. I learned that I could support myself among the coats with my hands on the rod and that I could cover my hands with other coats, thereby keeping my feet off the floor when I heard him call and when he opened the door.

Honourable senators, like all children, I was told that I could not tell. I was threatened that no one would believe me, and so I lost my voice. I could not hurt my parents, his friends, by telling on him, because he told me I would not be believed. Yes, I felt the guilt that many children feel. Did I do something to precipitate this abuse? Was it my fault? Many children feel that sense of guilt.

I found my voice only when I saw him watching my younger sister. Like many pedophiles, he liked only younger children, and I was becoming older. I was also becoming heavier, because I decided that one way to deal with my guilt was to eat a great deal, and I struggle with a weight problem to this day.

Once I saw him eyeing her, I was able to say in a loud, clear voice that if he touched her I would tell. That loud voice, honourable senators, has stood me in good stead in the rest of my life.

• (1550)

You do not ever forget these events, but if you are lucky, you can learn to live with them. The most important qualities I learned from this were not to become a lifelong victim and to stand up to bullies, friends and foes alike, anywhere one meets them.

My husband wishes I did not do that quite so often. For example, two weeks ago, when the cab driver would not deliver us to our hotel in Bangkok because the Red Shirt anti-government protesters had circled the hotel, I got out of the cab and John followed. I dragged the suitcase through about 10,000 Red Shirts until I got to my hotel, when he said to me, "You were in full anti-bullying mode."

Honourable senators, I was lucky. My perpetrator was not a parent or a sibling, for that is far worse. I had the advantage of living in a middle class family where I had many advantages. I was bright. I had the advantage of being able to achieve an excellent education, and my abuse became an incident in my life. It did not consume me as it consumes so many.

Honourable senators, I tell you this personal history because I want you to understand that not all victims are the same. Neither are all criminals the same, nor all crimes the same. This is why I believe in the principle of judicial discretion. I trust our judges to do the right thing after they have heard all of the evidence. As a legislator, I do not believe that it is my duty or responsibility to tell judges what to do, which is what minimum sentences do.

By all means, let us recognize that the sexual exploitation of children is a horrendous evil. But let us also recognize the tradition of judicial excellence in this country, and let us not tie the hands of the judiciary in ways that do not help the child and that might result in sentences that are weaker or perhaps more unfair than what we would wish. The objective of this bill, as stated by the sponsor, is to protect children, which clearly has my support. Honourable senators, let us ensure that this bill does what the sponsor intends it to do: Protect our children.

(On motion of Senator Cools, debate adjourned.)

[*Translation*]

SUPREME COURT ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Claudette Tardif (Deputy Leader of the Opposition) moved the second reading of Bill C-232, An Act to amend the Supreme Court Act (understanding the official languages).

She said: Honourable senators, it is with great pleasure that I rise to introduce Bill C-232, An Act to amend the Supreme Court Act (understanding the official languages).

The summary reads as follows: "This enactment amends the Supreme Court Act and introduces a new requirement for judges appointed to the Supreme Court to understand English and French without the assistance of an interpreter."

[*English*]

As stated, the purpose of the bill is to ensure that judges appointed to the Supreme Court of Canada understand English and French without the assistance of an interpreter.

[*Translation*]

First, allow me to acknowledge the work of Member of Parliament Yvon Godin, who introduced this legislation in the other place.

I also stress the valuable contribution of the members of the Standing Committee on Justice and Human Rights, who paid particular attention to the testimony of many experts, and who carefully assessed that testimony. I want to mention the support of eminent legal experts, from the Association des juristes d'expression française du Canada, the Young Bar Association of Montreal, the Fédération des communautés francophones et acadienne du Canada, the Quebec Community Groups Network, the Commissioner of Official Languages, and the National Assembly of Quebec, among many others.

[*English*]

I underscore for honourable senators that all of the above organizations and associations have expressed their support for the intent of this bill.

[*Translation*]

Moreover, I wish to thank all the members of Parliament who spoke to this bill and who supported it.

It is a great honour for me to take part in the debate on Bill C-232 at second reading in the Senate. This legislation is about equity and fairness for all Canadians who choose to express themselves in either official language of the country.

In Canada, in the federal government, French enjoys equality of status, rights and privileges with English. Therefore, no lawyer who chooses to speak English or French should have to be heard through an interpreter before the country's highest court. As Member of Parliament Yvon Godin put it, at second reading of the bill during the previous session:

> Each party must be able to be heard in conditions that do not put him or her at a disadvantage compared to the opposing party. That is the purpose of my bill.

[*English*]

Bill C-232 will ensure that all Canadians will have the right not only to be heard, but also to be understood in either of Canada's official languages.

I have spoken on this issue in the past. I want to take this opportunity to reiterate my full support for the intent of this bill. On May 15, 2008, I stated in this chamber that

> Bilingualism and equality are at the core of the spirit of the Charter and of Canadian identity and values. Federal judges must have sufficient linguistic ability to understand legal arguments without the need for simultaneous translation, thereby ensuring the right of all citizens to be judged in the official language of their choice.

I remind honourable senators that linguistic duality is an integral part of our Canadian identity and history and that it is protected under the Canadian Charter of Rights and Freedoms. I also highlight the government's commitment to linguistic duality, as stated most recently in the Speech from the Throne on March 3, 2010.

• (1600)

I quote:

> We are a bilingual country. Canada's two official languages are an integral part of our history and position us uniquely in the world. Building on the recognition that the Québécois form a nation within a united Canada, and the Roadmap for Canada's Linguistic Duality, our Government will take steps to strengthen further Canada's francophone identity.

Honourable senators, here is the ideal opportunity for the government to strengthen Canada's francophone identity, by supporting this bill.

Honourable senators, I believe Bill C-232 is an essential piece of legislation that deserves our support. It is supported by many leading experts in the field of judicial and linguistic rights.

Canada today has advanced to the point where it can and, I believe, should take this step. Once passed, this bill will strengthen the rights of all Canadians and, in particular, will ensure justice and equality for all citizens in our country.

I remind honourable senators that one of the key roles of the Senate is to represent minorities. Bill C-232 goes to the heart of this responsibility. Its purpose is to correct an injustice faced by parties whose cases are heard by the highest court in the land.

[*Translation*]

Honourable senators, allow me to present a brief history of linguistic duality. My purpose is not to bore you, but rather to show you that Bill C-232 is part and parcel of the evolution of linguistic duality in our country.

Over the course of three centuries, the foundations of linguistic duality in Canada have evolved and developed, putting an indelible mark on our Canadian identity and the values we all hold dear. The Official Languages Act has celebrated its 40th anniversary.

It was in 1969 that the government of the Right Honourable Pierre Elliott Trudeau enacted the Official Languages Act, giving English and French the status of official languages of Canada. This act established a legal obligation for the government to serve all Canadians in the official language of their choice.

The year 1982 marked an important milestone, with the patriation of the Constitution. Language provisions were enshrined in the Canadian Charter of Rights and Freedom. The enactment of sections 16 to 20 of the Charter in 1982 entrenched in the Constitution the equality of English and French in the institutions of the Parliament and Government of Canada.

In 1988, a revised version of the Official Languages Act was passed. The new act had a much wider scope and introduced a right of recourse allowing any complainant to apply to the Federal Court to have his or her language rights enforced.

In the early 2000s, the Liberal federal government initiated an extensive consultation process that resulted in the introduction of the Official Languages Action Plan in 2003. With this plan, the government set out for itself a vision of linguistic duality and a consistent mode of governance.

In November 2005, a major step forward was taken when Parliament passed Bill S-3, thanks to the unflagging work of Senator Jean-Robert Gauthier. This bill clarified the scope of Part VII of the Official Languages Act. The legislation was amended to strengthen the rights of communities, so that the federal government would have a legal obligation to take positive measures to enhance the vitality of official language minority communities. In June 2008, the Conservative federal government announced the *Roadmap for Canada's Linguistic Duality 2008—2013: Acting for the Future*, designed to support official language communities in five sectors: health, justice, immigration, economic development, and arts and culture.

That, honourable senators, was a quick overview of the fundamentals and foundation of Canada's linguistic duality. Now, I want to take a closer look at how the courts have been called upon to help with the constitutional interpretation of language rights in Canada.

Since 1982, numerous cases have helped clarify the scope of language rights. For example, the *Mahé* case in 1990 confirmed the constitutional right of parents living in official language minority communities to manage and control their own schools. There was also the *Reference re Secession of Quebec* in 1998, which led to recognition of the principle of protecting minorities' rights. According to the Supreme Court, this is an underlying principle or constitutional value that must be taken into consideration when exercising constitutional or political power.

Over the past few years, the Supreme Court of Canada has given a more generous interpretation of language rights, which has had a significant impact on official language minority communities. One example is the decision in the *Beaulac* case of 1999 where the Supreme Court introduced the idea of substantive equality of the two official languages.

Beaulac radically changed the general view on language rights in Canada by moving away from a restrictive interpretation of language rights. In this case, the Supreme Court told the federal, provincial and territorial governments that language rights were to always be interpreted, within the context of their objective, in a way that would help maintain and strengthen official language communities in Canada and according to the substantive equality principle.

According to former Supreme Court of Canada Justice Bastarache:

> . . . in the context of institutional bilingualism, an application for service in the language of the official minority language group must not be treated as though there was one primary official language and a duty to accommodate with regard to the use of the other official language. The governing principle is that of the equality of both official languages.

• (1610)

In the *Beaulac* case in 1999, the Supreme Court of Canada made the following statement:

> This Court has recognized that substantive equality is the correct norm to apply in Canadian law. Where institutional bilingualism in the courts is provided for, it refers to equal access to services of equal quality for members of both official language communities in Canada.

[*English*]

According to a Supreme Court's ruling, supported by then-Justice Major:

> Where institutional bilingualism in the courts is provided for, it refers to equal access to services of equal quality for members of both official language communities in Canada.

[*Translation*]

> This principle of substantive equality has meaning. It provides in particular that language rights that are institutionally based require government action for their implementation and therefore create obligations for the State. It also means that the exercise of language rights must not be considered exceptional, or as something in the nature of a request for an accommodation.

The recent Supreme Court ruling in *DesRochers v. Canada (Industry)*, 2009, also confirms the importance of the guiding principle of substantive equality.

[*English*]

One of the reasons cited in support of the need to ensure that Supreme Court judges understand Canada's two official languages is the constitutional obligation set out in the Canadian Charter of Rights and Freedoms. Constitutional experts have noted that there is a trend towards a broader and more generous interpretation of language rights, suggesting that section 19 of the Charter guarantees not only the right to use one's preferred language before the federal court, but also the right to be understood directly in that language by all judges of the court.

[*Translation*]

That point of view gains tremendous significance in light of the fact that the Supreme Court also stated in the 1999 *Beaulac* ruling that section 16 of the Charter, which provides for the equal status and use of both official languages, confirms the substantive equality of language rights, including those guaranteed in section 19. As such, the court clarified that the equality of existing rights is a substantive equality. Parliament made a constitutional commitment when it included this obligation in section 16 of the Canadian Charter of Rights and Freedoms in 1982, thereby ensuring that both official languages are equal in terms of status and rights.

Changes to Part VII of the Official Languages Act in 2005 required the government to take positive steps to ensure the implementation of language rights and support the development of official language communities. This is an opportunity for the government to take positive steps by guaranteeing the appointment of Supreme Court judges who understand both official languages without the help of an interpreter, and to apply the principle of substantive equality of both official languages.

A number of legal decisions have confirmed and reinforced minority rights. However, we must look beyond legal recourse to resolve situations and to assert one's rights. Legal cases take time, energy and financial resources, and at the end of the day, they do not push governments to take action. Legal action cannot solve every problem. The government must step in and take the necessary measures.

In her remarks on *The Impact of the Supreme Court of Canada on Bilingualism and Biculturalism*, the Right Honourable Beverley McLachlin, Chief Justice of the Supreme Court of Canada, said, and I quote:

> In a constitutional democracy such as Canada, the protection of language rights, like other constitutional rights, is a responsibility shared by governments and the courts.

This comment makes it clear that governments must commit to advancing official language rights for all Canadians. Political action must not be ruled out. Our parliamentarians must demonstrate sustained leadership through their concrete actions. This is an opportunity for us, honourable senators, to show our leadership and commitment by supporting this bill.

It is important to me that we require Supreme Court judges to understand our country's two official languages without the assistance of an interpreter. We must put ourselves in the place of a citizen who might have appeared before the Supreme Court and who suffered an injustice because he was not properly understood, because the need for interpretation prevented a judge from grasping the nuances of the arguments in a timely fashion. Imagine the consequences.

[*English*]

The Supreme Court of Canada is the final court of appeal. It is therefore critical for Supreme Court judges to fully understand the subtleties and nuances of counsels' arguments. Simultaneous interpretation of arguments made before the Supreme Court has its limits and gaps can occur. It is crucial for judges to be able to connect all the points at issue when arguments are being presented. Interpretation produces a greater margin of error, and a counsel's case could be significantly damaged.

Why should French-speaking citizens be obliged to take such a risk when their cases are presented before the highest court in the land? If the shoe were on the other foot, would our English-speaking citizens accept having their cases presented with interpretation before unilingual francophone judges?

Based on his own personal experience at the Supreme Court, attorney Michel Doucet, the Faculty of Law at the University of Moncton, testified before the Official Languages Committee in the other place, on May 8, 2008. He stated:

> When you win a case by a nine to zero decision, that's far from being a dramatic situation, but when you lose a case in a five to four decision, as happened to me at one point, and you've pleaded that case in French, you then go home and listen to the English interpretation that was made of your argument before the court in which three judges didn't understand French. As the judges had to listen to the argument through the English interpretation on CPAC, you wonder about what they understood.
>
> I listened to the English interpretation of my argument, and I understood none of it.

• (1620)

[*Translation*]

I have to say that I have great respect for the work done by interpreters and translators. I recognize the complexity of their tasks and the difficult conditions in which these are sometimes performed. I do, however, admit that mistakes can be made in interpretation or in the translation of documents. Personally, when I review the remarks I made in the Senate or documents I sent out to be translated, I often notice inconsistencies between the two versions, and that is often due to a lack of knowledge of the context or of linguistic or cultural nuances.

Delivery also comes into play when we are passionately putting a point across. I can think, for instance, of Senator Segal and his eloquent and passionate speech on Senator Cowan's inquiry concerning parliamentary reform. He had to be asked to slow down, because the interpreters could not keep up with him.

Here are a few humorous examples. Members of the other place gave examples from personal experience during an election campaign. For instance, the phrase "Please post in window" in English was translated as something like "Please fencepost in the window."

[*English*]

If that did not translate well in English, I will attempt to explain the translation error. "Please post in your window" was translated into French as "please fencepost in your window." "Fencepost" is one of the possible French translations for the English word "post."

[*Translation*]

There is also the example of a lawyer who was pleading a case before the Supreme Court and mentioned a Mr. Saint-Coeur — "Coeur" spelled C-O-E-U-R — which the interpreter rendered as "Mr. Five O'Clock." These are just a few examples of the kinds of mistakes that can be made and how interpreters can misunderstand things. So what can happen when someone goes before the highest court in the land to seek justice?

Can we claim there is real equality when francophones who appear before the highest court in the country have to go through the filter of interpretation to be understood by unilingual English judges, who may not grasp the nuances and legal subtleties of arguments made in French? Can we talk about equality when pleadings are heard through the filter of interpretation, as good as it may be? Or when unilingual judges cannot sit when the other language is being used, depriving litigants of access to the whole bench?

[*English*]

In a letter published in the *Ottawa Citizen* on April 15, 2010, Graham Fraser, Commissioner of Official Languages, stated:

> Court interpreters sometimes miss nuance and tone. And even a single unilingual judge means conversations in camera have to take place in English only, even when the pleadings, the factums and the precedents were in French.

[*Translation*]

In 1986, nearly 25 years ago, Justice Wilson, who represented a more liberal, egalitarian movement within the Supreme Court, said in *Société des Acadiens du Nouveau-Brunswick* that the inequality of status of a litigant who must present his or her case to a bench where some judges speak only the other official language must eventually give way to the escalating standard of equal language rights. She added:

> At a certain point, for example, the steps taken to upgrade the bilingual capabilities of the federal judiciary will lead the public to expect access to a bilingually competent court. Those expectations would then be not only legitimate but also the subject of constitutional protection under ss. 16 and 19.

Justice Wilson's visionary interpretation is highly relevant to the debate we are engaged in.

Some could still argue that in French-language cases, unilingual anglophone judges should simply refrain from sitting to comply with the Charter. But can we claim there is real equality when litigants who speak one official language cannot benefit from the combined wisdom of the nine Supreme Court judges to decide their cases?

We must remember that all Canadians have the right to due process. In the previous session, at second reading of the bill, MP Yvon Godin stated:

> For example, when the Supreme Court was established — or any other court or institution for that matter — it was created for citizens, for Canadians as well as for Quebeckers.

The Supreme Court was not established to meet the needs of judges, but to serve citizens. Therefore, service provided to citizens should be in French or in English, our two official languages.

The statutes of Canada are drafted bilingually with neither language taking precedence over the other. In order to understand the subtleties of the law and to apply it justly, the judge must be capable of hearing the parties without the assistance of an interpreter in order to make decisions independently and impartially. Legislation and regulations are drafted in both official languages. Neither version is a translation of the other. Consequently, a judge who understands both official languages will have the necessary and requisite abilities to understand the nuances of the English and French versions.

This is what the Commissioner of Official Languages, Graham Fraser, told the members of the Justice and Human Rights Committee on June 17, 2009:

> Given the complexity and the extreme importance of the cases heard by this court, judges should be able to hear arguments presented to them without using an interpreter to understand nuanced and complex legal arguments.

On May 21, 2008, the National Assembly of Quebec unanimously adopted the following motion:

> That the National Assembly of Quebec affirm that French language proficiency is a prerequisite and essential condition for the appointment of Supreme Court of Canada judges.

In his speech before the vote on this motion, Jean Charest, Premier of Quebec, stated his position and emphasized the following:

> Our laws are a consolidation of who we are in all aspects of our lives in terms of our culture, our values and our choice of society. They also reflect our history. The law is a synthesis, in a way, of what we are. We have to make a connection between law and language. And knowledge of language is more than just knowing a few words. Rather, it is more like knowing . . . an interpretation or a translation. To know a language is to know a culture, a reality. Those who are called upon to interpret that reality and to make decisions that will have a very significant impact on our lives must know that reality through our language. That is what creates very good judges right from the outset, more than their knowledge of the law, the sections of the Criminal Code or the articles of the Civil Code. That is what we expect of those who sit on that bench and make decisions that will have a very significant impact on our lives.

• (1630)

[*English*]

Retired Supreme Court Judge John Major is on record opposing the bill, expressing his concern that "you would sacrifice competency" by requiring that a judge be bilingual. With all respect, honourable senators, I must tell you that I believe that this argument is ill-founded. This bill is very clear. Judges would continue to be selected based on merit, legal excellence and personal suitability. The bill would simply add an additional requirement that the judge understand both official languages without the assistance of an interpreter. This is the bill's fundamental intent, which is supported by most witnesses and jurists who testified in committee in the other place. They have indicated that the capacity to understand both official languages without interpretation should, in fact, be an essential competency for the position of Supreme Court judge. A judge at this level should be able to understand the language in which the case is pleaded.

According to Professor Webber, lecturer in law at the London School of Economics and Political Science:

> Major's contrast between language and competence suggests a stark disconnect between the legal competency of a judge and his or her linguistic abilities . . . understanding a case directly, unaided by interpretation, is part of the legal competency we expect of a judge. We understand that legal arguments by citizens and counsel include the ability to convince, to present, to employ rhetoric, and that part of the legal competency of a judge is to listen and to comprehend.

Bill C-232 does not exclude potential candidates for appointment to the Supreme Court of Canada. The concern that there is an insufficient number of qualified candidates is unfounded. In fact, more and more qualified bilingual lawyers aspire to be appointed to the bench.

Given the already large and growing number of highly skilled and capable bilingual lawyers across the country, regional representation will continue to be respected and considered in the selection of Supreme Court judges.

The Canadian Bar Association has a new provision in its code of conduct requiring lawyers to respect the official language of their clients, which is encouraging private law firms to hire a greater number of bilingual lawyers. In fact, many capable students with the ability to understand both official languages are entering law faculties.

It is becoming increasingly easy for our Canadian citizens to learn French. French immersion programs have proven extremely popular with Canadians across the country, and more and more of our English-speaking citizens, as well as those who have neither English nor French as their mother tongue, are very competent in both official languages. In my province of Alberta, for example, there are currently more than 33,000 students in French immersion; and in British Columbia, some 40,000 students. According to statistics provided by the national organization Canadian Parents for French, more than 300,000 students are presently enrolled in French immersion programs in Canada.

Honourable senators, these numbers have been increasing every year. That is the new reality in Canadian society. We saw it during the Olympic and Paralympic Games, where so many of our athletes and coaches could express themselves with great ease in both official languages.

An Hon. Senator: It is a long speech.

Senator Tardif: It is a long speech, but there is a lot to say, honourable senators.

[*Translation*]

According to Louise Aucoin, president of the Fédération des associations de juristes d'expression française de Common Law Inc., there are associations of French-speaking jurists in the four western provinces, Ontario, New Brunswick and Nova Scotia.

She said that over the past two years, a number of cases have been heard without interpretation, including the *Halotier* case before the Yukon Court of Appeal, the *Rémillard* case before the Manitoba Court of Appeal, the *Fédération franco-ténoise* case in the Northwest Territories, and the *Caron* case in Alberta. All these cases were heard in French without interpretation.

The merit of this bill is that it will send judges the message that knowledge of both official languages is an integral part of the terms of appointment. In other words, if they are aiming for the bench of a federally-appointed court or tribunal, they will be aware that knowledge of both official languages will be required.

Passing this bill would send a clear message to the faculties of law across the country: good comprehension of French and English is a prerequisite for eligibility for the most important positions in Canada's judiciary.

[*English*]

The University of Toronto told the committee in the other place studying this bill that they are willing to adjust and to do whatever is necessary to better prepare the next generation of lawyers. The University of Ottawa, the University of Moncton and McGill University already offer law students the opportunity to study in both French and English. The University of Western Ontario offers a special course for lawyers wishing to master the technicalities of legal vocabulary in French.

This is how far Canadian society has now come. The argument that there are insufficient candidates is based on an outdated description of the past and not on the realities of today and tomorrow.

[*Translation*]

Parliament has recognized the need for any federal court, including the Tax Court of Canada, the Federal Court and the Federal Court of Appeal, to be able to conduct proceedings in French as well as in English by appointing judges who understand both official languages without the need for an interpreter. Ironically, there is only one exception: the Supreme Court.

On May 8, 2008, Graham Fraser, the Commissioner of Official Languages, expressed his opinion before the House of Commons Standing Committee on Official Languages:

> . . . it seems to me that knowledge of both official languages should be one of the qualifications sought for judges of Canada's highest court. Setting such a standard would prove to all Canadians that the Government of Canada is committed to linguistic duality. I find it essential that an institution as important as the Supreme Court of Canada . . .

Would honourable senators agree to give me five more minutes?

Hon. Percy Mockler (The Hon. the Acting Speaker): Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Senator Tardif: I find it essential that an institution as important as the Supreme Court of Canada not only be composed of judges with exceptional legal skills, but also reflect our values and our Canadian identity as a bijural and bilingual country.

• (1640)

Understanding both official languages is already mandatory for some judges in several Canadian courts, and bilingualism is required for some 72,000 jobs within the federal administration. Why should the bar be set any lower for Supreme Court judges? We expect our prime minister to be bilingual, so I have a hard time understanding why we do not expect the judges of this country's highest court to at least understand both official languages. I would also point out that eight of the nine judges that currently make up the Supreme Court of Canada meet that criterion. Furthermore, the Chief of the Defence Staff, General Natynczyk, originally from Manitoba, his predecessor, General Rick Hillier, originally from Newfoundland, and the Chief Justice of the Supreme Court, the Right Honourable Beverley McLachlin, originally from Alberta, all understand both official languages.

According to Michel Doucet, in the current context:

> . . . the Canadian context today is ripe enough with regard to bilingualism for an amendment to be made to the Official Languages Act to eliminate the exception made for the Supreme Court of Canada.

In conclusion, honourable senators, given that Bill C-232 seeks to make the understanding of French and English without the assistance of an interpreter a requirement for judges appointed to the Supreme Court; given that the Official Languages Act provides for equality of status and use of English and French; given that the English and French versions of statutes are of equal weight at the federal level, and one is not the translation of the other; given that it is the right of any citizen to use French or English before Canada's courts, based on fundamental linguistic rights and the Official Languages Act, which already recognizes the importance of being understood without the assistance of an interpreter before federal tribunals; and given that problems with simultaneous interpretation can affect one's ability to understand the critical nuances of the respective languages, we should all support this bill.

Passing Bill C-232 would constitute a profoundly significant gesture for all Canadians, francophones and anglophones alike. This is a unique opportunity to send a clear message that we are acting on our commitments under the Charter of Rights and Freedoms.

Since respecting these rights is a reality, Parliament has a duty to enforce them.

We can be proud of the reputation of the Canadian legal system, which serves as a model around the world. By appointing judges who understand both official languages to the highest court in the land, we would be ensuring that decisions are as fair and just as possible.

This is directed in particular to the honourable senators from Acadia and Quebec who sit on the government side. I am appealing to your sense of justice, your sense of belonging to our country where linguistic duality has been a fixture for a long time. I urge you to vote in favour of this bill.

Last week we paid tribute to the remarkable contribution that the Honourable Jean-Robert Gauthier made to our linguistic duality. Bill C-232 is the next logical step in recognizing the equality of French and English.

[*English*]

I call upon all honourable senators' sense of justice and fairness. All Canadians, whether they are an English speaker from Quebec or a French speaker from the Yukon, should have the right to know that, if they find themselves before the highest court of our land, their case will be heard and decided absolutely on its merits, that they will be able to plead their case in either official language, and that their counsel is being heard and understood by the judges viva voce rather than by a interpreter's representation of counsel.

Honourable senators, I urge you to correct the inequity that presently exists by supporting Bill C-232.

[*Translation*]

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I would like to make a comment before I move adjournment.

The Honourable Senator Tardif told us that as Acadians and Quebecers, if we want to be fair and just, we absolutely must support this bill.

I do not need a lecture on linguistic duality and on the equality of Canada's two official languages. And I do not need to be told that we must approve this bill in order to support linguistic duality in Canada.

As an Acadian, I will make my comments when the time comes. Furthermore, Yvon Godin has nothing to teach me about the protection of minority language rights in Canada.

That said, I move adjournment of the debate.

The Hon. the Acting Speaker: It is moved by the Honourable Senator Comeau, seconded by the Honourable Senator —

Hon. Fernand Robichaud: Mr. Speaker, when a senator wishes to speak to a bill, he or she is given the opportunity to do so instead of moving adjournment, because adjournment puts an end to the debate for the day. In this case, if the Honourable Senator Rivest wants to speak—

Senator Comeau: I agree with Senator Robichaud. If Senator Rivest wants to participate in the debate now, I do not object, and I am willing to postpone my adjournment motion.

Hon. Jean-Claude Rivest: Honourable senators, I would like to begin by congratulating our colleague, Senator Tardif, on her remarkable speech, which conveyed her commitment and that of all parliamentarians in both the Senate and the House, as well as that of all Canadians, to protecting and promoting linguistic duality.

Honourable senators, I think it is very important for senators from across the country to participate in this debate. I think that Quebec senators should make a special effort, a clear and determined effort, to support linguistic duality and its expression in the bill currently before us on ensuring that Supreme Court justices understand both official languages.

People in French-speaking Quebec benefit from a somewhat more comfortable linguistic environment than that of our francophone compatriots in other parts of Canada. But I think that it is very important for all Quebecers, be they francophone or anglophone, to enthusiastically support any initiative that helps strengthen Canada's linguistic duality.

Naturally, as Quebecers, we have an interest in this bill, but we also have an interest in it as Canadians, because as Canadians, we must all live under the Supreme Court's jurisdiction.

• (1650)

We fully share the legitimate conviction of all Canadians that, in its makeup and in the people who work within it, the court must translate and display this linguistic duality that we hold dear and that is one of the fundamental characteristics of our country.

Honourable senators, we are talking about linguistic duality and the Supreme Court of Canada, and we have to be very careful because it is such an important institution. However, I would find it hard to understand, precisely because it is one of our country's most important institutions, if linguistic duality were not fully realized there. It would be ridiculous, or at least peculiar, if we said that the Supreme Court of Canada is such an important institution that there is no need for those sitting on its bench to know both of the country's official languages. This would be complete nonsense.

I think that the bill introduced by our colleague, Senator Tardif, will help to enhance the authority of the Supreme Court over all Canadians.

This is even more meaningful since, like many others — and probably honourable senators from other provinces have felt it even more — I have noticed a weakening of political leadership with respect to the country's linguistic duality. This does not show ill will, but it is always a very sensitive issue and, from every political party and viewpoint, whether we are anglophone or francophone and no matter what region we come from, we must not stop demanding that our political leaders strengthen their determination and take action on this issue. There must be no weakening of the will of Canada and the Canadian government to defend and promote linguistic duality.

I think that this initiative is coming at a good time because it gives the Parliament of Canada and all Canadians an opportunity to realize the importance of linguistic duality for everyone in our country.

As we know, this linguistic duality is fragile on the French side. We must constantly nurture it and try to strengthen it. This duality is fragile because of demographic changes in our country. When the Official Languages Act was passed, Canada was made up of francophones, anglophones and people from other origins. We were aware of the existence of two founding nations, as we used to call them. But Canada is changing: a very large number of Canadians come from other parts the world. It is said that in Toronto, about 60 per cent of the population was not born francophone or anglophone; these people come from everywhere. Therefore, we must constantly remind these new Canadians that

Canada is a bicultural and bilingual country, and that French and English have historic and inalienable rights. So, any action that strengthens Canada's linguistic duality has not only a political and administrative value, but also an educational value regarding the reality of our country which, incidentally, is envied by many others.

Thus, to some extent, the bill reaffirms, expands and strengthens our country's linguistic duality. Come to think of it, we can only be very receptive to this initiative and support it.

As Senator Tardif mentioned, this bill only adds one condition to the existing Supreme Court Act, one additional condition for those people who, some day, may be called to sit on the highest court in the country. The bill does nothing more. In a country that was founded on this duality, that lives it, defends it, believes in it, and whose people are attached to it, it seems eminently reasonable to ask those who sit on the bench of the Supreme Court to understand both languages without the help of an interpreter. It is not unreasonable to make that demand, particularly considering that those who are likely to be appointed to the Supreme Court of Canada are talented and have an intellectual breadth that allows them to know one, two or even three languages. To know both languages is not an obstacle or a challenge that cannot be overcome by anyone thinking of one day sitting on the bench of the Supreme Court of Canada. That requirement is not the end of the world. There are many citizens in Canada and elsewhere who do not mind learning other languages. It is a form of personal enrichment and it can have a very positive impact on the professional lives of people who, as jurists, want to make it to the Supreme Court.

Incidentally, in Canada — as Senator Tardif pointed out — this requirement exists in many areas. For example, can we imagine the governor general of Canada not understanding both official languages? No. We have always tried to appoint people who know both languages, and this requirement has not diminished the quality of the governors general of Canada.

Senator Tardif mentioned the Chief of the Defence Staff. Has the fact that the leader of the Canadian Forces speaks both languages diminished the quality of that position in any way? That is totally ridiculous. We could extend that line of thinking to the governor of the Bank of Canada or the auditor general.

In Canada, for extremely important positions in the Canadian administration, understanding both official languages is already a requirement. Why would that not be the case for the Supreme Court of Canada? I think this is basic logic.

What is more, we know that in Canadian politics, no one can be the leader of one of our major political parties without knowing both languages. Mr. Harper is a fine example of this, like Mr. Ignatieff and Mr. Layton. They are people who want to serve their parties and the ideals of their parties, and they express their attachment to their country and to linguistic duality by expressing themselves in both official languages. The same is true for some provincial premiers, for example in New Brunswick and Ontario.

So it is not an unreasonable requirement. It is a requirement, I agree, but it is not unreasonable in Canada to require that Supreme Court judges have a knowledge of both official languages.

Basically, it just enshrines the practice that already exists in so many other fields that involve a great deal of responsibility for Canadians, where members of a profession are expected to understand both official languages. Why should the requirements for Supreme Court judges be any different?

People will say that this could make it more difficult to recruit judges in some parts of Canada, and I understand that. We are talking about nine people. Why could we not manage to find one eminent lawyer in each region of Canada who has knowledge of French? We can find bilingual politicians and administrators, so why could we not find bilingual judges, especially since we are not talking about people lacking in intelligence, but rather people of superior intellect who can easily learn a second language?

• (1700)

It seems to me that it is not too much to ask of an eminent lawyer from any region of Canada to learn French if he or she wants to sit on the Supreme Court of Canada.

I do not agree with the argument that we cannot do this because it would prevent some regions from being represented on the Supreme Court of Canada. That is absolute nonsense. The position of governor general has been held by people from all regions, including the West, Quebec and the Maritimes. All these people had a knowledge of French. There are a number of other senior government positions that have been filled with people from all regions of Canada.

Senator Tardif made a very salient point about the Olympic athletes who sent a very strong message, young French Canadians who spoke both official languages.

Tens of thousands of Canadians in every region of the country do not aspire to the Supreme Court of Canada, but they are in immersion programs and learning the other language. And yet some people say that, because the individuals who want to sit on the Supreme Court of Canada are great minds, we should not require them to learn both of the country's official languages. It seems completely nonsensical to me.

More specifically for Quebecers, I wanted to close by saying very simply to Quebec that French is not in danger, because we have sufficient numbers to ensure our linguistic security, which is, of course, relative. Over the years we have introduced enforcement measures to protect the French language and culture that we hold so dear.

We Quebecers ask that the impoverished immigrants who arrive in Quebec preserve their mother tongue. We also ask them to learn English, because they have come to Canada and North America to work. And we also ask these immigrants to learn French, which is crucial for the development and preservation of our French society.

And yet we refuse to ask of judges — eminent lawyers who want to become Supreme Court justices — what that we demand of the poor immigrants who arrive here? This argument makes no sense, honourable senators.

The bill introduced by Yvon Godin in the House of Commons and presented here by Senator Tardif should be supported by all parliamentarians. And this is especially true here in the Senate, because the Senate has different duties and responsibilities in our parliamentary system from those of the House of Commons. We must protect and be particularly concerned about matters of individual rights and freedoms.

The Hon. the Speaker: Honourable senators, I regret to inform Senator Rivest that his time is up. Do you seek leave to continue for five additional minutes?

Senator Comeau: Honourable senators, traditionally the second person to speak on the matter has 45 minutes. However, we wish to reserve the 45-minute period for this side of the chamber.

Nevertheless, we are willing to grant an additional five minutes to the honourable senator.

The Hon. the Speaker: It is quite normal for a 45-minute period to be reserved for the government.

Senator Robichaud: Honourable senators, we could have established who was to have the 45-minute period at the beginning of Senator Rivest's speech. Given that he was the second speaker, perhaps Senator Rivest was ready to speak for 45 minutes.

I will not object, though, because I believe that in order to have agreement and a debate that allows everyone to have their say, the government should be entitled to its 45-minute period.

The Hon. the Speaker: Is it your pleasure, honourable senators, to grant Senator Rivest five additional minutes?

Hon. Senators: Agreed.

Senator Rivest: Honourable senators, I wanted to conclude my speech on this bill by thanking and congratulating Yvon Godin of the House of Commons and Senator Tardif. What they have brought before the Parliament of Canada is in keeping with the history, the values and the virtues of Canada.

[*English*]

Hon. Tommy Banks: Honourable senators, I wish also to thank and congratulate Senator Tardif on her clear and heartfelt introduction of Bill C-232 in this place. We should acknowledge that the author of the bill, Mr. Yvon Godin, is here below the bar.

As our colleague Senator Grafstein used to say, I will not presume to opine on this bill until I have heard further debate on it. However, I cannot help but point out — and I hope I do not cause offence in this respect — that we have to be careful when we are making law here that the law say what we mean it to say.

Despite the admonition of Senator Tardif that in Canadian law, neither is a translation of the other, I am afraid that I must point out to the committee to which I presume this bill will be sent for further study that their attention should be directed to the English version of the bill, which I fear is a flat-out, word-for-word translation and certainly not an interpretation of the French, if I understand it correctly.

From what Senator Tardif said, I take it to mean that clause 1(2) of the bill means to say that "in addition, any person referred to in subsection (1), and who understands French and English without the assistance of an interpreter, may be appointed a judge."

However, in the English version of the bill presently before us — and I hope that a real authority, not I, will be consulted in this — the syntax and grammar of this sentence, which I will read so we know what it says, is simply left-footed or backwards. It says:

> In addition, any person referred to in subsection (1) may be appointed a judge who understands French and English without the assistance of an interpreter.

You can appoint me 20 times and, with apologies, I will not understand both languages without the assistance of an interpreter. The bill, as presently before us, does not say what the author of the bill intended it to say. I hope that the committee will recommend an amendment to us that will correct that.

(On motion of Senator Comeau, debate adjourned.)

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

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

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Fisheries and Oceans, entitled: *Controlling Canada's Arctic Waters: Role of the Canadian Coast Guard*, tabled in the Senate on April 15, 2010.

Hon. Bill Rompkey: Honourable senators, I move:

> That the second report of the Standing Senate Committee on Fisheries and Oceans entitled *Controlling Canada's Arctic Waters: Role of the Canadian Coast Guard*, tabled in the Senate on April 15, 2010, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Fisheries and Oceans, the Minister of Transport, Infrastructure and Communities, the Minister of Foreign Affairs, the Minister of Indian Affairs and Northern Development, the Minister of National Defence, the Minister of Public Safety, the Minister of the Environment, and, the Minister of Natural Resources being identified as ministers responsible for responding to the report.

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

(On motion of Senator Comeau, debate adjourned.)

(The Senate adjourned until Wednesday, April 21, 2010, at 1:30 p.m.)

CONTENTS

Tuesday, April 20, 2010

PAGE

SENATORS' STATEMENTS

ROUTINE PROCEEDINGS

QUESTION PERIOD

ORDERS OF THE DAY

Available from PWGSC – Publishing and Depository Services
Ottawa, Ontario K1A 0S5